

# Migration to Scotland after independence



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# Summary

## Introduction

Scotland has been shaped by migration and, historically, that has meant young Scots leaving home to build their lives elsewhere. But recent migration, especially European Union (EU) migration over the past 20 years, has helped change this. Scotland has gone from being a net exporter of people, with projected population decline, to a country with a growing population, a greater international outlook and a culturally richer and more diverse society.

However, that is now at risk as a result of the Westminster government's 'hostile environment' approach to migration and the failure of UK immigration policy to address Scotland's distinct population situation.

UK migration policy is also damaging to business and the wider economy. Emerging evidence suggests that some sectors – food and drink, for example – are experiencing worker shortages and are struggling to fill vacancies.

Despite the positive migration story over recent years, the population of Scotland is again projected to begin to fall within the next decade. We need solutions for this and for broader demographic change because Scotland's population, like that of many other developed countries, is ageing. Indeed, Scotland is the only UK nation where the overall population and the working age population are projected to decline.

## A new approach

Independence would give Scotland control over migration policy to help grow its population. We would devise a humane, dignified and principled migration system and comprehensively reject Westminster's 'hostile environment'.

The proposals in this paper aim to deliver positive outcomes for our communities and public services and, crucially, for the people who want to live, work and raise their families in Scotland. As well as enriching Scotland culturally, people who have chosen to live and work here are helping to grow our economy – they help address skills shortages within key sectors and make an essential contribution to our population growth.

This government's approach would also be rooted in equity for the Global South. We would learn the lessons of the Windrush scandal and ensure robust protection of migrants' rights. This includes removing discriminatory barriers so that people from the Global South have equitable access to the Scottish migration system.

On independence, this government would maintain free movement within the Common Travel Area, reflecting our longstanding ties with our closest neighbours in the UK and Ireland.

Once Scotland is able to rejoin the EU, free movement of people within Europe would resume as a reciprocal right for Scottish citizens to live and work in the European Economic Area (EEA) and EEA citizens to live and work in Scotland.



## New visa routes

With independence, for people who will not enjoy free movement rights, the Scottish Government would offer a range of visa routes supporting people to live, work or study in Scotland, or visit or invest here.

**The main ‘Live in Scotland’ route** would be a new type of visa, allowing people to live and work in Scotland with their families without employer sponsorship, if they meet criteria set out in the Scottish immigration rules. This visa would give credit for a broad range of characteristics including age, education, skills and work experience, earning potential and language ability – and could include the opportunity to be credited for Gaelic as well as English. The Live in Scotland route would also incorporate a place-based element, supporting migration to rural and island communities within Scotland, therefore helping to tackle depopulation.

A new **‘Scottish connections’ visa** would provide an immediate route post-independence for people with a connection to Scotland to return or remain here. This includes:

- people with previous lawful residence in Scotland of at least five years
- people with an ancestral connection through a parent or grandparent, adapting the UK Ancestry visa route, currently open only to Commonwealth citizens
- graduates who studied in Scotland for their degree, adapting and significantly expanding the UK Graduate visa route
- British nationals who are not British citizens, adapting and slightly expanding the UK British National (Overseas) visa for Hong Kong to also include the much smaller number of nationals of UK overseas territories

This would be a five-year visa route, leading to settlement and citizenship if desired.

The **‘Work in Scotland’ route** would retain an employer-sponsored visa route, with simplified rules to allow more employers to interact with the immigration system and allow them to recruit internationally. We would also continue with and expand a **seasonal worker visa route**, removing the need for workers to be tied to a single employer, reducing the likelihood of exploitation.

In terms of attracting international students, the new five-year Scottish Connections visa would replace the two-year post-study work visa currently offered by the UK Government. This means international graduates of Scottish universities could apply straight after their studies to stay in Scotland to live and work for a further five years.

**On family visas**, this government would remove the minimum income requirement for family migration, introduced as part of the Westminster government’s ‘hostile environment’ approach. This would make it easier for families to choose Scotland as a place to live, also supporting family reunification.

The complexity of the immigration system would also be reduced for applicants, with visa fees being set at a level that ensures full cost recovery but does not seek to generate revenue. This could mean a saving of over £1,000 for an individual applying for a skilled worker long-term visa, compared to current UK levels. Sponsored working visas under three years, visas for shortage occupations and health and care visas are significantly cheaper but still above the cost of providing the service, so would still represent a saving to the applicant.

## A new approach to refugee and asylum policy

In an independent Scotland, this government would also make changes to asylum and refugee policy, rooting both systems in human rights and equality principles and the rule of law. There would be an emphasis on integration and support – in line with our New Scots strategy – from day one of their arrival.

Unlike current UK policy, people seeking asylum would have the right to work, have access to employability support and to public assistance through, for example our social security system, reducing the likelihood of destitution.

Those granted refugee status would be granted settlement status in Scotland. This would support longer-term integration and reduce the need for refugees to have to go through additional administrative processes to stay in Scotland on a permanent basis.

Finally, safe and legal routes would be available for displaced people and refugees, in part as recognition of the growing issue of climate refugees. This government would commit to engaging with partner countries and communities at risk of displacement from climate change to explore whether a humanitarian visa would play a part in our wider approach to climate justice.

## Conclusion

Migration is an issue of central importance to Scotland's economy, to the wellbeing of our communities, to the success of our businesses, and to the sustainability of our public services.

Independence would offer the opportunity to ensure that migration policy is set according to Scotland's needs so that Scotland can thrive.

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# Foreword by the Cabinet Secretary for Social Justice

Scotland's future success as a country is dependent above all else on the people who live here.

The Scottish Government believes that it is through our collective talents, together with the powers that come from being an independent state, that we have the best prospect of building a better Scotland for this and future generations.

Our vision is of a welcoming, international nation in which diversity is celebrated and which works in partnership with our closest friends in the rest of the UK, in Europe and the wider world to tackle the great challenges of our time. A country in which we show humanity and compassion to those fleeing persecution and conflict.

It is these values that will determine our approach to migration and asylum policy in an independent Scotland.

We reject utterly both the policy and language that the UK Government has used in recent years.

For Scotland, however, migration policy goes beyond celebrating diversity and pushing back against language that runs contrary to our values.

This is also about our economic prospects.

Twenty years ago, it was feared that Scotland's population was going to fall.

Through a combination of factors, including the policy of freedom of movement that came with EU membership, those fears were not realised.

However, uniquely among the nations of the UK, Scotland is now once again projected to face a decline in both our overall and our working populations.

The prospect of a falling population is one of the biggest policy challenges facing Scotland.

But despite having very distinct needs, we are subject to a uniform 'hostile environment' UK migration policy. That means Scotland's future is being determined by a Westminster government which says its ambition is to cut the number of people coming into the UK.

This paper shows that would be immensely damaging to Scotland. Higher migration leads to higher productivity, which is the key driver of higher living standards.

Migrants contribute to a higher national income, bring greater innovation, start more businesses and pay more in taxes than they receive in public services.

And the paper highlights the positive role that people who choose to live and work here make to the NHS and to vital Scottish industries, such as food and drink and tourism.



So here we set out a new approach: an immigration system that supports a stronger economy and better public services, rather than one which operates as a barrier to those goals; a system that adopts a managed, controlled approach which commands public confidence.

The UK Government has refused to adapt its migration policy to meet Scotland's unique needs and they have said they will not transfer powers over migration from Westminster to the Scottish Parliament.

So it is only through independence that we can gain the vital decision-making powers to ensure our migration policy works for – and not against – Scotland's interests.



**Shirley-Anne Somerville**  
**Cabinet Secretary for Social Justice**

# What our proposals would mean for Scotland

Migration policy would be key to Scotland becoming a successful independent state. This publication describes the Scottish Government's proposals for migration in an independent Scotland.

Under the Scottish Government's proposals:

- an independent Scotland would have humane, fair and compassionate refugee and asylum policies; we would be a good global citizen, welcoming New Scots from all over the world
- Westminster's 'hostile environment' approach to migration would end
- a flexible visa system would help Scottish businesses/employers to attract and retain the international talent they need to thrive
- control over migration policy would help Scotland grow its overall and its working population which, under current UK policy, are projected to decline
- Scotland's economy would benefit from moving away from the UK's restrictive approach to migration under Brexit towards EU membership, free movement of people and a sensible open and welcoming migration system

# What our proposals would mean for asylum seekers and refugees

Under the Scottish Government's proposals:

- asylum seekers and refugees would be welcomed from the day they arrive in Scotland; they would be supported and integrated into communities
- people seeking asylum would have the right to work, and therefore to pay taxes, and to access public services, including employability support
- people seeking asylum would have the right to access public funds, including social security
- the asylum process in an independent Scotland would be underpinned by an emphasis on fair, socially responsible and thorough decision-making, based on human rights and equality principles and the rule of law
- once people have been granted refugee status, the transition process should be as straightforward as possible

# What our proposals would mean for new migrants

Under the Scottish Government's proposals:

- it would be easier for people with the skills and expertise we need to come and contribute to our businesses, our communities and to our economy
- it would be easier for people with a genuine and lasting connection to Scotland to live and work here
- it would be easier for individuals and families to apply and to settle here, without needing sponsorship from an employer
- international students would be able to apply to stay in Scotland to live and work here for five years after the end of their studies, which could lead to naturalisation and citizenship
- visa fees would be set at a fair level that ensures full cost recovery but does not seek to generate excessive revenue, which could mean a saving of over £1,000 for an individual applying for a skilled worker long-term visa, compared to current UK levels

# Introduction



Scotland is a country that has been shaped by migration. For much of our history, that has meant young Scots leaving home to build their lives elsewhere<sup>1</sup> – often London or somewhere else in the UK, seeking opportunities that historically did not exist at home. Scotland played a significant part in the expansion and administration of the British Empire, where Scottish emigration often had negative consequences for indigenous lands, people and cultures in other parts of the world. Emigration also had negative effects in Scotland, as communities were broken up and, in some cases, forced to leave their homes.

Scots setting out for new shores made lasting positive impacts as well. Scotland became a centre of industry, commerce and shipping from the industrial revolution onwards and, in that time, Scottish emigrants made a significant contribution to their new homes. In the United States of America alone, famous Scots with a national and international profile include the environmentalist John Muir, born in Dunbar, and the industrialist and philanthropist Andrew Carnegie, from Dunfermline.

Today, while there is naturally a high volume of movement of people between the nations of the UK, Scotland consistently attracts more people than it sees leave – every year since 2001, net migration to Scotland from the rest of the UK has been positive.<sup>2</sup> Scotland has also benefitted from people from other countries coming here. Ireland, our closest neighbour outside the UK, is a country with which many people in Scotland have a close and special affinity. There is a long history of migration between Ireland and Scotland and the importance of these Irish connections is felt in communities across the country.

The twentieth century saw large groups of Italians arrive in Scotland, followed by people from Eastern and Central Europe – Poland and Lithuania especially – before and after World War 2. Commonwealth connections brought many south Asians to Scotland in the post-war period, from India and Pakistan, and EU membership opened Scotland to Europe. This accelerated significantly in the early twenty-first century, with many people from countries that joined the EU in 2004 and 2007 choosing to come to Scotland to live, work and study.

These waves of migration, and especially EU migration over the past 20 years, helped turn Scotland from a net exporter of people with projected population decline into a country with a growing population, enhancing its international outlook and the diverse nature of our society. That has required adaptation and change, from migrants and resident communities alike, to build a new, cohesive culture that recognises the contribution of all the people of Scotland.

That is now at risk because of the approach to migration, both in policy and rhetoric, adopted by the Westminster government. Independence would give Scotland the opportunity to devise a humane, principled approach to migration that is needs-based and delivers positive outcomes for our communities, public services and economy. Crucially, it would help those people who aspire to live, work and raise their families in Scotland to contribute to that inclusive culture and to thrive here.

The Scottish Government's arguments and proposals on migration in an independent Scotland are set out over several chapters.

The next chapter, on 'Migration and population', opens with an overview of how Scotland's population has changed in recent years and how it is projected to change in future. It highlights the role that immigration could play in addressing demographic challenges and supporting growth in our economy, the sustainability of our communities, and delivery of our public services.

The 'Safe, orderly and regular migration' chapter sets out the vision for migration policy for Scotland: a coherent immigration system which is simple to understand and navigate and which works as a whole system focused on meeting Scotland's needs.

In the following chapter, the paper reaffirms Scotland's commitment to free movement within the Common Travel Area, reflecting our longstanding social, cultural, family and economic ties with other parts of the UK and Ireland as well as resuming free movement within the EU as part of our common citizenship with our closest friends and neighbours.

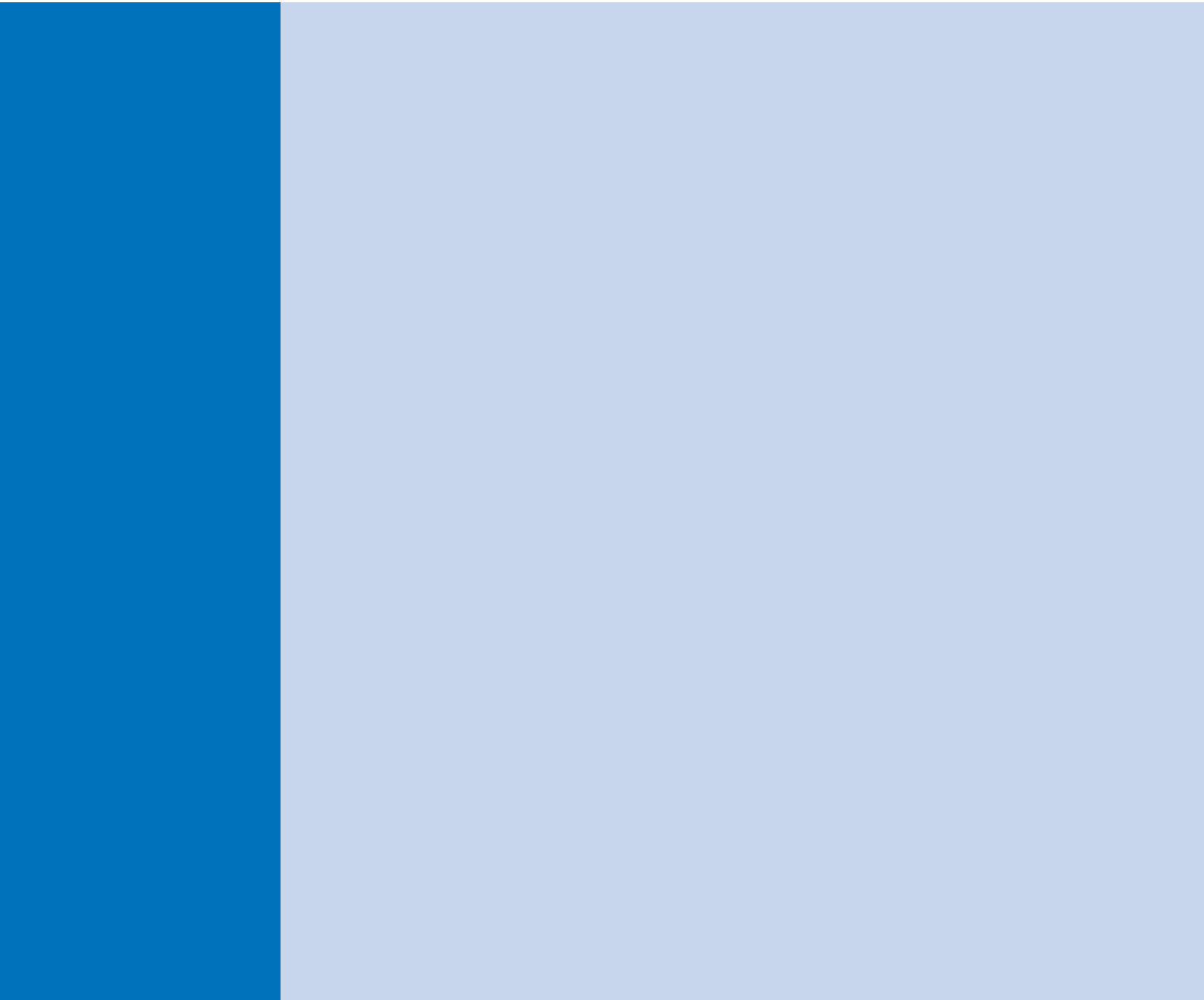
The 'Helping Scotland prosper' chapter describes how an independent Scotland would be able to put in place a managed immigration system for people from other countries, with routes designed according to the needs of our economy and public services, and which welcomes people who want to live, work, study, visit or invest in Scotland.

The chapter on 'Family migration' addresses the question of family migration which has gained significance in Scotland over the past decade. The Scottish Government's population strategy aims to increase net migration to Scotland, and to encourage settlement, especially in areas facing depopulation. This section of the paper outlines who would be eligible to come to Scotland through a family migration route.

The 'Asylum and protection' chapter details how Scotland would play a responsible role on the world stage, working collaboratively to offer a humane approach to supporting refugees and people fleeing conflict and persecution.

The penultimate chapter sets out the current Scottish Government's proposals for how the policy, law and delivery elements of the border, immigration and citizenship system would operate. A final chapter concludes with key reflections on Scotland's migration needs, and the opportunity independence gives us to enable the country to prosper.

# Migration and population



Scotland's population was 5,436,600 on 20 March 2022, according to the recent census. This is the highest figure ever recorded. Scotland's population is still growing, but that growth is slowing.<sup>3</sup>

The population grew by 141,200 (2.7%) since the previous census in 2011. This is a slower rate of growth than between 2001 and 2011, when the population grew by 233,400 (4.6%). The other UK censuses showed higher rates of population growth than in Scotland. In England and Wales, the population increased by 6.3% between 2011 and 2021. In Northern Ireland, the population increased by 5.1% over the same period.<sup>4</sup>

There were 62,941 deaths and 46,959 births in 2022, or nearly 16,000 more deaths than births. This was the largest natural decrease in a year on record and there were more deaths than births for the eighth year running.<sup>5</sup>

There were 2% fewer births than the previous year, continuing a declining trend in births in Scotland seen in previous years. This is the lowest number of births since 2020, and the second lowest since records began in 1855. The number of deaths fell by 1% compared to the previous year.<sup>6</sup>

Migration continued to be the sole driver of population growth, with 27,800 more people moving to Scotland than leaving in the year to mid-2021. This represented net migration of +8,900 from the rest of the UK, and +18,900 from international migration.<sup>7</sup>

The COVID-19 pandemic will undoubtedly have had some effect on these figures, both in terms of travel restrictions impacting decisions to move to Scotland and sadly on the number of deaths recorded.

Other factors that are likely to affect population numbers over the long-term include the challenges of declining fertility and an ageing population, the political and policy environment around immigration in the UK, and the ending of free movement from the EU.

## Public attitudes to migration

The first in-depth, representative survey of attitudes to immigration in Scotland since 2014,<sup>8</sup> research carried out by Migration Policy Scotland and published in September 2023,<sup>9</sup> found that attitudes to immigration in Scotland have warmed considerably. Key findings show that a majority (59%) of people in Scotland believe immigration has had a positive impact on Scotland; 48% believe it has had a positive impact on their local area.

A greater proportion of the Scottish public think immigration should be increased (38%) rather than decreased (28%), although those in favour of an increase mainly support a modest increase, while those supporting a decrease are more likely to want it to be reduced 'a lot'. Around a third (34%) think immigration should 'remain the same as it is'.

The report presents the Scottish survey data alongside data from two UK-wide surveys conducted earlier in 2023 (see Table 1, below).<sup>10</sup> While the surveys compared are methodologically distinct and therefore not directly comparable, they indicate higher levels of support in Scotland for a (modest) increase in immigration and lower appetite in Scotland for reducing immigration than is apparent in the UK-wide data.

**Table 1: Comparison of Scotland-level data with UK-wide data on attitudes towards preferred level of immigration (percentages)<sup>11</sup>**

Do you think the number of immigrants coming to [Scotland/ Britain] nowadays should be:	MPS Attitudes Survey (Scottish data)	Ipsos/British Future Tracker <sup>12</sup> (UK data)	Kantar Public & Migration Observatory <sup>13</sup> (UK data)
Increased (a little, a lot)	38	22	14
Remain the same	34	22	22
Reduced (a little, a lot)	28	48	52
Don't know	N/A	8	12

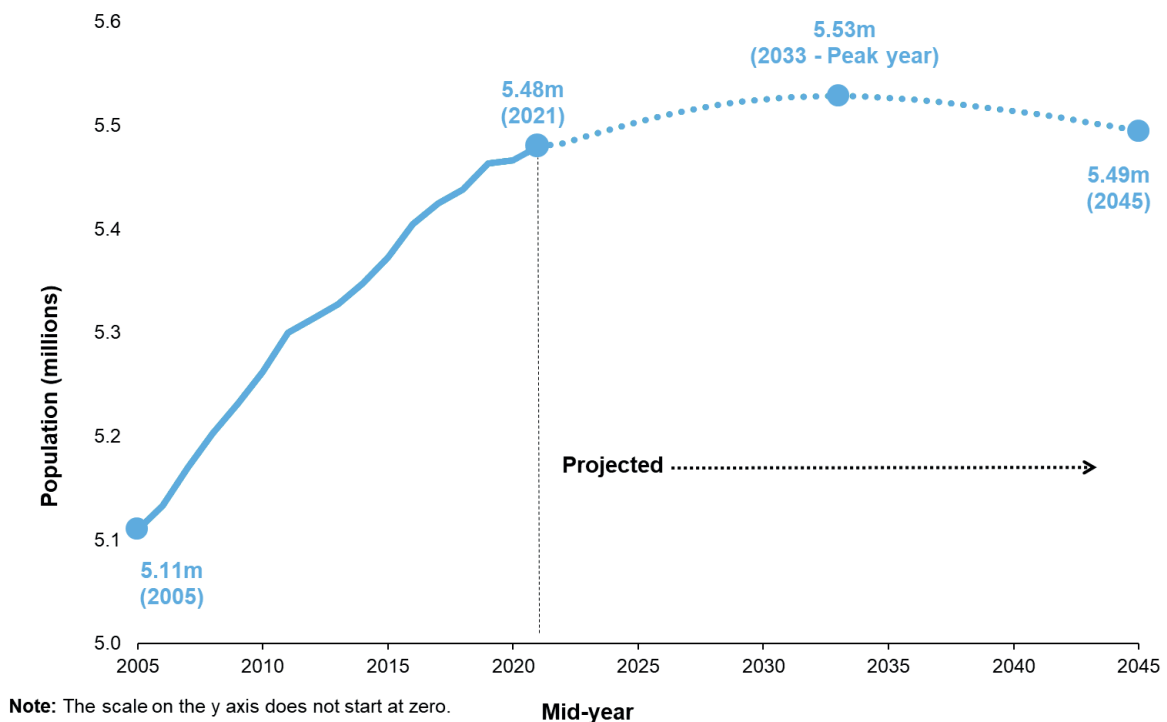
The last survey that allowed for direct comparison between results from Scotland and other parts of the UK on this question was conducted in 2014.<sup>14</sup> At that time most people in Scotland wanted immigration to decrease (58%), but far fewer than in England and Wales, where 75% wanted to see numbers reduced. The proportions in favour of an increase were similar for both nations at 10% (Scotland) and 8% (England and Wales); 23% and 13% respectively wanted immigration to remain the same.

## Population projections

In January 2023, the Office for National Statistics published a revised population projection for Scotland. This projection reflected higher than anticipated international migration to the UK than the previous 2020 projections. While this meant that the projection was a bit higher, it still predicts Scotland's population to begin falling in around a decade's time. It is projected that by 2050, the population of Scotland will be lower than the mid-2020 baseline.<sup>15</sup>

As shown in Figure 1, below, the population of Scotland is anticipated to peak around the year 2033, at a population of 5.53 million, before starting to fall.

**Figure 1: Population of Scotland, mid-2005 to mid-2045**



Source: Office for National Statistics (2023) [Projected Population of Scotland \(2020-based\)](#)

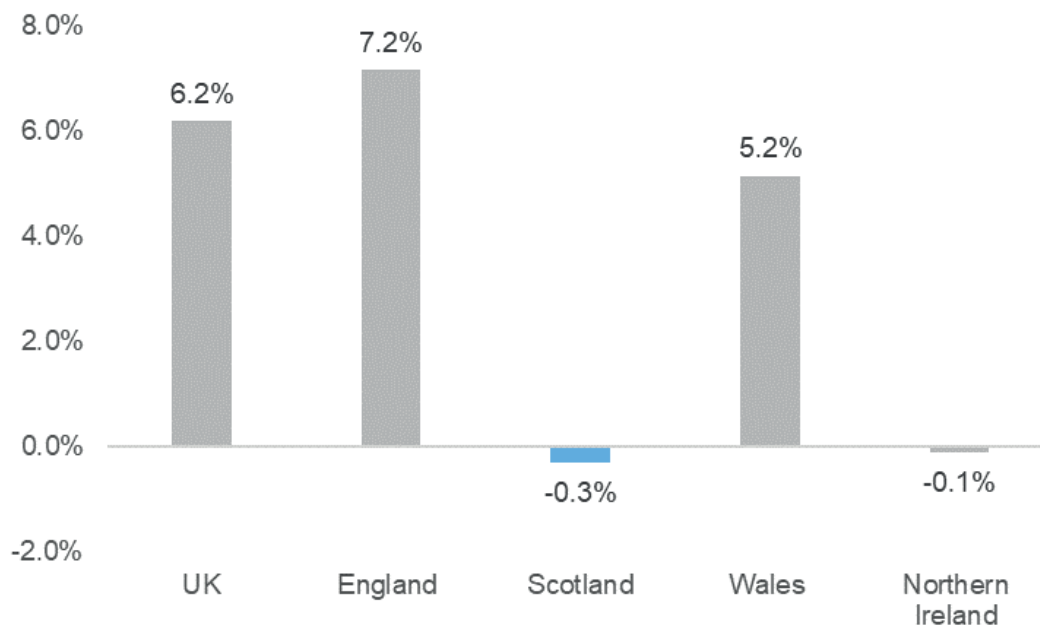


The Office for National Statistics prepares the UK projections, which show that the population of the UK as a whole is projected to grow by 6.9% to mid-2045.<sup>16</sup> Scotland is predicted to undergo less growth than the other UK nations in that timeframe, with an increase of 0.2%.

Scotland's population is also projected to age. The number of people aged 65 and over is projected to grow by 26% by mid-2045. The number of children is projected to decline: the number of people in Scotland aged 0-15 is projected to fall from 901,200 in mid-2022 to 739,200 by mid-2045 – a decline of 18%.

The working age population is projected to decrease slightly by mid-2045. In mid-2022, there were approximately 3.56 million working age people in Scotland, making up 64.9% of the population. In mid-2045, the working age population is projected to be 3.55 million, making up 64.6%. Scotland is expected to see the largest decline in the number of working age people in the UK – the segment of the population most likely to be in employment and contributing to the tax revenues that fund public services.

**Figure 2: Projected working age population change (%) across the UK, mid-2022 to mid-2045**



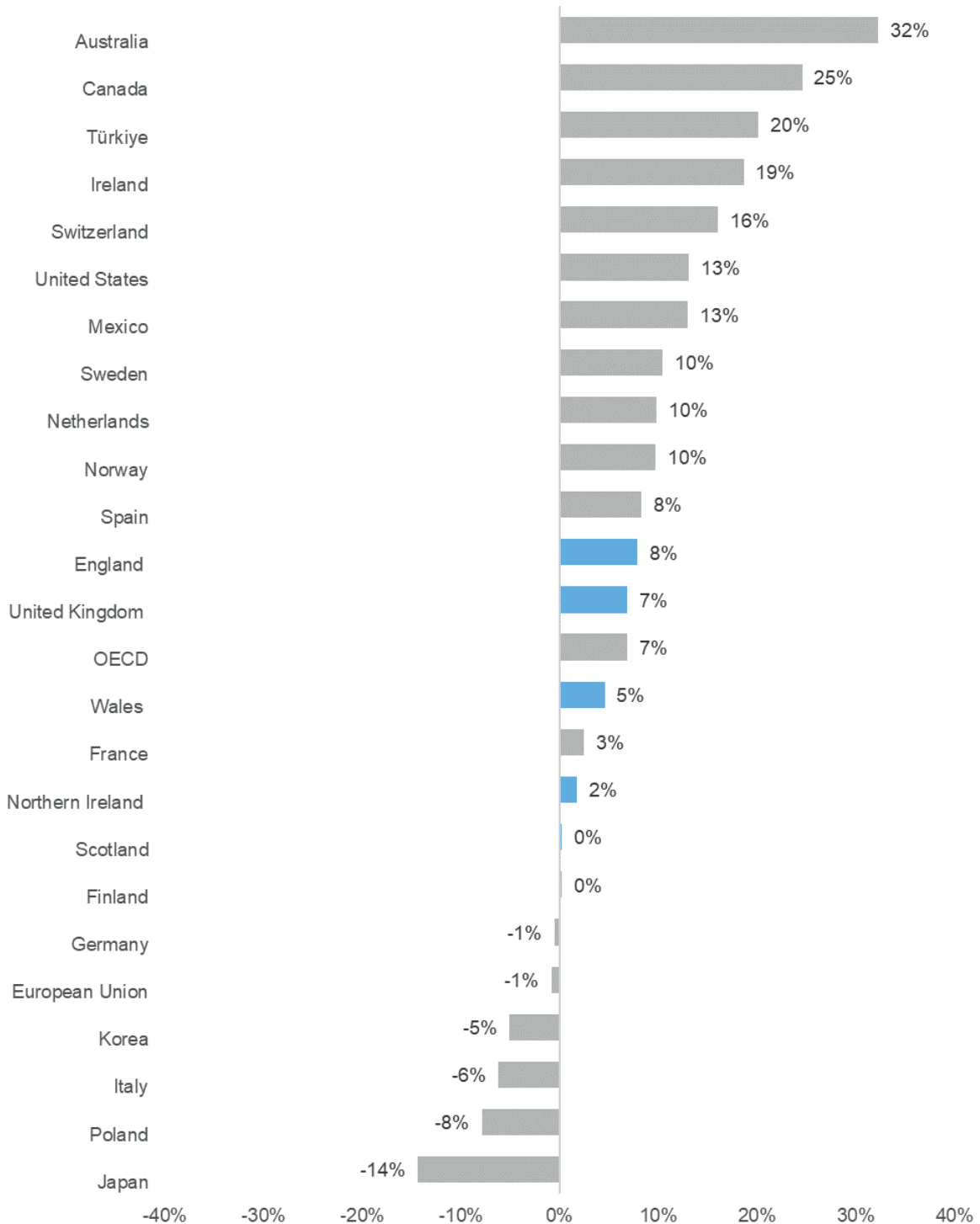
Source: Office for National Statistics (2023) [Projected Population of Scotland \(2020-based\)](#)

If these projections are realised, Scotland's share of the UK population overall will fall from 8.1% in mid-2020 to 7.6% by mid-2045.

These projections are based on past trends and assumptions about future levels of fertility, mortality and migration. They are not based on predictions about future political and economic changes or the future effect of current policy decisions. They do not account for the ending of free movement and changes to the UK immigration system. It is therefore possible that these projections may be based on an optimistic interpretation of future migration trends under the current constitutional arrangements.

Figure 3, below, shows projected change in the population of the UK compared to selected OECD countries, 2022-2045. It highlights that whilst the UK’s overall population is expected to increase by 7%, Scotland’s population remains stagnant during this same period and both projections are significantly lower compared to the majority of neighbouring EU countries.

**Figure 3: Projected change in the population of the UK compared to selected OECD countries, 2022-2045**



Source: Office for National Statistics (2023) [Projected Population of Scotland \(2020-based\)](#)

1 England, Wales, Scotland, and UK based on 2020 ONS migration variant projections, Northern Ireland based on 2020 NISRA projections; Source: [2020 ONS Projections](#)

2 OECD projections; Source: [2023 OECD Population Projections](#)

## Role of migration policy

Migration from EU countries has been particularly important for Scotland over recent years, but Brexit and the Westminster government's refusal to recognise the need for a tailored approach to immigration policy to address Scotland's particular needs for people and skills risks significant problems for Scotland's economy.

The independent Expert Advisory Group on Migration and Population<sup>17</sup> has estimated that changes to UK immigration rules could decrease EU migration to the UK, increase non-EU migration and overall lead to a net 30% to 50% reduction in net overseas migration into Scotland.<sup>18</sup>

The Expert Advisory Group also found that ending of free movement disproportionately affects rural areas and therefore there may be an even more significant effect on these communities, many of which are already most severely affected by depopulation.<sup>19</sup> This is now beginning to be seen in the data – with the effect of UK immigration policy being to concentrate migration even further into London.<sup>20</sup>

For the past two decades, migration has been the main driver – and for the past seven years the only driver – of population growth in Scotland. All of Scotland's future population growth is still projected to come from inward migration, both from other parts of the UK and from outside the UK, but at a lower level than before.<sup>21</sup> Immigration is therefore a central policy lever to address Scotland's demographic challenge. Control of migration policy would give Scotland the powers and range of policy options to address its demographic challenges and the distinct needs which these challenges create for our economy, public services and communities.

The Scottish Government has made repeated attempts to propose alternative approaches to migration policy for Scotland.<sup>22,23,24</sup> These attempts have acknowledged that there are different perspectives on migration in different parts of the UK and have suggested tailored approaches specific to Scotland, building on the previous success of the Fresh Talent initiative.<sup>25</sup> The government's detailed policy paper was dismissed by the Westminster government within hours of its publication.<sup>26</sup> This is despite the Westminster government's own Migration Advisory Committee (MAC) recommending the delivery of bespoke migration schemes which are tailored to localised communities and their needs.<sup>27</sup> Instead, the current Westminster government's immigration system ties many visas to a specific job with a specific employer, with extensive in-country compliance measures to ensure that this restrictive requirement is adhered to.<sup>28</sup>

Population decline in Scotland is being ignored and made worse by the Westminster government's migration policies. Scottish Ministers propose that independence would now be the only way to mitigate the risk of population decline – with control of our own policy on migration, resuming free movement as an EU member state and retaining free movement with Ireland and the UK through the Common Travel Area.

## Population Strategy

In March 2021, the Scottish Government published Scotland's first population strategy, 'A Scotland for the future: opportunities and challenges of Scotland's changing population'.<sup>29</sup> The strategy sets out the cross-cutting demographic challenges that Scotland faces at national and local level and sets out a new programme of work to address these challenges and harness new opportunities.

The strategy identifies 36 initial actions across four thematic building blocks:

- a family friendly nation – as Scotland's birth rate is falling (and is the lowest in the UK), we must ensure Scotland is the best place to raise a family
- a healthy living society – as Scotland's population ages, we must ensure that our people are healthy and active
- an attractive and welcoming country – with the end of free movement, Scotland needs to be able to attract people who can make a positive contribution to our economy, communities and public services
- a more balanced population – with rural communities, and some parts of the west, experiencing population decline, while many in the east experience increased population growth, we must ensure all our communities can flourish

The strategy is the beginning of a conversation. The Scottish Government is working collaboratively with partners to deliver the initial actions set out in the strategy and to continue to build evidence, engagement and energy to address this national challenge. But without control of migration policy such interventions, while important, will inevitably be constrained and less effective.

## Economic impact of migration

The Scottish Government believes inward migration has had a positive cultural impact on Scotland. Scotland's economy also benefits significantly from migration. People who have chosen to live and work in Scotland are helping to grow our economy, address skills shortages within key sectors and make an essential contribution to our population growth. Policy choices made by the Westminster government put this at risk.

Migrant workers can have a positive effect on the host country and can contribute to higher economic growth.<sup>30</sup> This growth can be achieved through incoming migrants providing a boost to the labour supply, thereby expanding the productive capacity of the economy. This can result in higher levels of economic activity and employment, making the whole economy more competitive. As well as adding to the supply side of the economy through expansion in the labour force, migrants also contribute to increased demand for labour through expansion of consumer demand for goods and services in the economy.

Migration is also associated with increased productivity and innovation. Various studies conducted on behalf of the Migration Advisory Committee find that a one percentage point increase in the migrant share of the workforce is associated with a productivity improvement of between 1.2% and 3% in the UK.<sup>31</sup> A summary of the available evidence by the Bank of England also suggests migration by EU workers boosts long-run GDP per capita, both through increasing diversity and complementing skills and a greater degree of patenting. The summary also found strong links between migration and increasing trade.<sup>32,33</sup>

Migrants can also make specific differences in key sectors through strengthening and supplementing local skills, as well as by taking up jobs in regional economies that are otherwise hard to fill. Some studies have found evidence that migrant and native workers specialise in different types of skills,<sup>34</sup> which could increase specialisation and productivity gains. Evidence shows that migrants are also more likely to establish new businesses, generating employment opportunities. Research from the Federation of Small Businesses found that one in ten SMEs in Scotland are immigrant led.<sup>35</sup> Migrants can also boost innovation, with recent research finding that migrants bring knowledge that reshapes patenting activity in the destination country. Countries are around 25% to 60% more likely to gain advantage in patenting technologies given a twofold increase in foreign inventors from nations who specialise in those same technologies.<sup>36</sup>

Furthermore, migrants contribute more to government revenue through taxes than they receive in public services.<sup>37</sup> Recent work by Oxford Economics for the MAC confirms this finding in a UK context. This study concluded that both EEA and non-EEA migrants are expected to make a significant positive net contribution to the UK public finances. The future net contribution of 2016 arrivals to the UK public finances is estimated at £26.9 billion, or about 1.3% of GDP.<sup>38</sup> The fiscal contribution of that cohort of migrants to the UK public finances was estimated to be approximately equivalent to the additional revenue from adding five pence to the rate of each UK income tax band in one year.

This work contributed to a major review by the MAC, which also found that overall there is little or no evidence that migration has a negative effect on wages, public service access or employment and training opportunities for the resident population.<sup>39</sup> There is some evidence of a negative impact on wages in the lowest-skilled and lowest-paid occupations, but this is marginal, and with powers over employment law we can seek to improve earnings for those on the lowest levels of pay. The focus on salary thresholds in the UK immigration system does not appear to have any substantial impact on relative wages.<sup>40</sup> Independence and control over migration policy would enable Scotland to shape the interaction between immigration policy and other additional new powers such as employment law, ensuring workers' rights are protected and preventing exploitation and abuse in line with our fair work principle.

In the long term, population decline combined with trends of ageing is likely to have far-reaching implications for Scotland – including impacts on Scotland's fiscal position and resultant public service planning and provision. In the near term, labour supply shortages are a significant constraint on economic recovery and growth. Both are made worse by UK Government policy priorities on immigration.

Previous Scottish Government modelling simulated three scenarios based on long-term increases in net overseas migration of 5%, 10% and 20% to provide an illustration of potential impact on GDP and revenues.<sup>41</sup> Previous modelling simulated scenarios based on a long-term annual increase in net overseas migration above the level assumed in the high migration variant of the ONS 2016 projections for Scotland and assumed no change in net migration from the rest of the UK. At the time, the high migration variant was closer to the actual data on net migration. The Office for Budget Responsibility also judged in its November 2016 forecast report that without the Brexit referendum it would be more appropriate to base forecasts on the high migration variant.<sup>42</sup>

Higher migration under these three scenarios results in a growing working age population, which leads to more economic activity and employment, leading to a long-term increase in real GDP equal to 0.4% (£0.5bn), 0.8% (£0.9bn) and 1.6% (£1.8bn). Moreover, the increase in economic activity has a positive impact on real government revenues which rise by 0.3% (£0.2bn), 0.7% (£0.3bn), and 1.4% (£0.6bn) respectively.

If control over migration policy could achieve higher levels of migration into Scotland, then our economic modelling suggests that a growing labour force would have a positive economic impact.



## Supporting key sectors

Some sectors in Scotland have relied on a higher proportion of non-UK workers within the workforce: before the pandemic, large portions of the workforces in Food and Drink (15%) and Tourism (16%) workforces were non-UK nationals.<sup>43</sup> Sectors such as Accommodation and Food Services, which are crucial to Scotland's tourism sector, were significantly impacted by the pandemic, and have experienced ongoing difficulties with recruitment and worker shortages.<sup>44</sup>

The ability to set immigration policy after independence would create the opportunity to pursue an open and flexible approach to migration across the system. It could be made responsive to the needs of all parts of the economy and all parts of Scotland and thereby support a range of sectors currently experiencing challenges.

The case studies in this section highlight sectors of central importance to the Scottish economy, often including employment in rural communities, which are currently experiencing labour shortages as a consequence of Brexit ending free movement from the EU and the Westminster government's immigration system not being designed to meet their needs.

### Case study 1 – Tourism and hospitality

Scotland's tourism and hospitality sector is an important part of the Scottish economy, and a key employer both in rural Scotland and our principal cities. The industry has also relied on the skills, talents and dynamism of international workers in recent years, particularly those from the EU. In 2020, non-UK nationals represented around 19% of the workforce in the accommodation and food services sector, which forms the substantial part of Scotland's tourism and hospitality industry. As part of this, EU nationals represented around 14.7% of the accommodation and food services workforce, compared with 6.4% of the workforce in the Scottish economy overall.<sup>45</sup> The sector's success is therefore strongly exposed to the challenges presented by Brexit and the Westminster government's approach to its aftermath.

The Accommodation & Food Sector, which comprises a substantial part of the tourism and hospitality sector, experienced significant challenges during the pandemic, and is still experiencing challenges with worker shortages and filling vacancies. The latest Business Insights and Conditions Survey indicated that 44.5% of Accommodation & Food Services businesses had experienced worker shortages, a higher portion than other sectors.<sup>46</sup> The sector has ongoing recruitment challenges: for example, 36.1% of Accommodation and Food Services businesses experienced difficulties recruiting employees in August 2023. Previous BICS data indicates that factors underpinning recruitment difficulties included 'low number of applications' and a 'lack of qualified applicants'. However, reduced numbers of EU applicants have also tended to be a key factor cited by Accommodation and Food Services businesses experiencing difficulties in filling vacancies, with higher shares of businesses citing this as a factor compared to businesses experiencing difficulties in the economy as a whole.<sup>47</sup>

Immigration policy has been highlighted as a key area of concern by bodies such as UK Hospitality<sup>48</sup> and the Scottish Tourism Alliance.<sup>49</sup> UK Hospitality has also highlighted that due to challenges with population growth, immigration is an important means of addressing the labour supply issues of Scotland's hospitality sector, particularly in rural areas.<sup>50</sup>

## Case study 2 – Agriculture

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 the Scottish Government's joint target to increase the sector's turnover by 25% to £20 billion by 2028 will not be reached if the sector cannot employ workers throughout the food chain.<sup>51</sup>

Seasonal migrant workers play a key role in the Scottish agricultural sector, in particular in the horticulture (fruit and vegetable production) and the potato sector. Recent research estimated that there were around 6,570 seasonal migrant workers in Scottish agriculture in 2021, including EU settled status workers.<sup>52</sup>

Employers in the UK have found it difficult to source domestic labour to take up seasonal employment on farms (Findlay et al. 2010). In 2020, despite the widely publicised Pick for Britain campaign, UK residents made up only 11% of the workforce (NFU 2020). Domestic recruitment in 2021 was at 5% for Scotland (NFUS 2021). Part of this is related to rules associated with unemployment support which makes it unattractive for locals to take up seasonal employment. Therefore, migrant workers are filling roles not taken up by the national workforce.<sup>53</sup>

Horticultural places on the Seasonal Worker Visa were capped at 45,000 for the whole of the UK for 2023 and 2024. There is potential for a further 10,000 additional visas for horticulture if demand is proven.<sup>54</sup> This arbitrary cap falls far short of the estimated 70,000 workers required by the sector according to the National Farmers Union.<sup>55</sup>

Employers of seasonal migrant workers reported serious negative consequences for their businesses should they not be able to access this type of labour. This included downscaling business, focussing on non-agricultural activities, switching to other agricultural activities (e.g. cereals or livestock) and ceasing current activity.<sup>56</sup>

In addition, there are increasing concerns about exploitation of migrant workers as highlighted in the results of a 2021 report by Focus on Labour Exploitation, which explored exploitation, trafficking and standards, highlighting the particular vulnerability of seasonal migrant workers to these issues.<sup>57</sup>

The Scottish Government is fully committed to tackling human trafficking and exploitation and developing Scotland as a world-leading Fair Work Nation. We want economic growth here to be inclusive. The Scottish Government has therefore funded the Worker Support Centre<sup>58</sup> to offer free, impartial and confidential support and information to seasonal migrant workers to help them understand their workplace rights and to feel safe and welcome in Scotland.

### **Case study 3 – Creative industries and events**

Scotland's creative industries sector, which encompasses the culture and arts sectors, contributed £4.4 billion GVA to the Scottish economy in 2021 and produced international exports worth £1.7 billion.<sup>59</sup> The people who make up this part of the economy are inherently internationally mobile as there are a limited number of individuals with highly specialised skills in the world. In 2021, the Scottish Arts, Culture and Creative sector employed an estimated 164,000 people including around 49,000 who were self-employed.<sup>60</sup> The workforce included around 9,000 non-UK nationals in 2019, standing for 7.3% of the total creative industries' workforce.<sup>61</sup> However, the culture and creative sectors are diverse, with some sub-sectors having higher proportions of non-UK employees. For example, in 2018 Scotland's National Performing Companies reported that around 18% of their total workforce were non-UK citizens – rising to 54% for Scottish Ballet.<sup>62</sup> This reflects the nature of the sector in relying on attracting talent from around the world.

With the policy levers that come with independence, Scotland could design an immigration system that serves the needs of all parts of the economy, including the culture, events and creative sectors. Policy could also develop to support creative and events professionals to work internationally and participate in cross-border cultural exchange. Challenges artists now face in touring in the EU after Brexit are a result of the Westminster government refusing to negotiate a mobility framework in the Trade and Cooperation Agreement.

Such an approach could support the sector to attract the skills that it needs from around the world, and help to foster cultural collaboration, learning and partnerships between creative professionals in Scotland and elsewhere in the world. This would help to make the sector more resilient, diverse and vibrant, with positive impacts for communities across Scotland, while helping to promote our culture, events and creative sectors internationally.

## **Sustaining our communities**

The contribution which migrants make to economic growth, innovation and research in Scotland is crucial. However, migrants should not be seen just as workers. Their contribution to the communities in which they live, and to wider Scottish society and culture is significant and must also be recognised.

Scotland greatly values the enormous contribution that is made to our country by people from all over the world. As set out in the earlier prospectus paper on Citizenship,<sup>63</sup> the people of Scotland shape Scottish society by actively participating in it – through deciding to live, to study, to work and to raise families here. This reflects the nature of the country Scotland wants to be – an open country, an inclusive community and a nation that values everyone who makes their home here.

Scotland also has a long history of welcoming refugees who have been forced to seek a place of safety. Over successive generations, refugee communities have contributed to our society, bringing skills and knowledge as well as their culture, heritage and resilience. For the last decade Scotland has set a clear framework for supporting refugees and people seeking asylum, from the day they arrive, through the partnership approach of the New Scots refugee integration strategy. Scotland will continue to work to support people in need of protection for as long as Scotland needs to be their home or as long as they choose it.

Within Scotland, many of our rural and island communities face specific challenges. Population growth is uneven across communities and many local authority areas, particularly those which include Scotland's islands, are expected to experience population decline over the next 25 years.<sup>64</sup> This pattern of distribution, and the depopulation trends in rural and island areas means that the value of migrants to these areas is more than the skills they bring to gaps in the labour market. Their presence in rural areas not only contributes to the demographic and economic sustainability of these regions, but also nurtures the culture of these communities, enabling them to thrive. In some rural areas, the presence of new families coming in is a crucial factor in maintaining key services, like schools.

The Scottish Government values the contribution of everyone who has chosen to make Scotland their home – people who have brought their families with them or who have chosen to start their families in Scotland; children who have never lived anywhere other than Scotland. These individuals are part of our communities.

# Safe, orderly and regular migration

The Scottish Government has a clear vision for migration policy: a coherent immigration system which is simple to understand and navigate and which works as a whole system focused on meeting Scotland's needs. That includes the needs of all who live here – permanently or temporarily, from birth or as migrants. This whole-system, needs-based, approach builds on detailed thinking about migration policy, the operation of free movement and a humane, collaborative approach to asylum and protection.

Our 2020 paper set out a vision for reform of the immigration system, with practical tailored policy proposals to provide solutions to address Scotland's specific needs.<sup>65</sup> That built on evidence and engagement following our 2018 discussion paper, which explored why migration is crucial to Scotland's future prosperity and how current Westminster government migration policy was not appropriate for Scotland.<sup>66</sup>

After the EU referendum, in which a majority in Scotland voted to remain, the Scottish Government repeatedly set out how free movement of people as part of the European single market benefits Scotland's demography, economy and society, most comprehensively in 'Scotland's Place in Europe: People, Jobs and Investment' in 2018.<sup>67</sup>

The New Scots refugee integration strategy sets out a vision for a welcoming Scotland where refugees and people seeking asylum can rebuild their lives from the day they arrive.<sup>68</sup> The strategy aims to support better access to essential services such as education, housing, health and employment. It recognises the skills, knowledge and resilience which refugees bring and aims to help people to settle, become part of the community, and pursue their ambitions. We will also learn from our recent experience of supporting people displaced by conflict in Ukraine. Scottish Ministers deplore the inhumane policy of deporting to Rwanda vulnerable people seeking asylum in the UK.<sup>69</sup> The right to claim asylum is guaranteed by international law.<sup>70</sup>

## Vision, values and principles

The Scottish Government's aim is to ensure population growth in Scotland supports our sustainable, vibrant, and resilient communities and drives improvements in inclusive growth. Our vision for migration policy is to attract people who can make a positive contribution to our economy, communities and public services and support people who need our help to make a new life in Scotland. This vision is underpinned by values of dignity, fairness and respect.<sup>71</sup>

Policy design should follow the seven principles outlined in previous Scottish Government papers on migration:<sup>72</sup>

- migration policy should address the needs of all of Scotland, including those areas most at risk of depopulation
- 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
- 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
- migration policy should support fair work, protecting workers' rights, pay and access to employment and preventing exploitation and abuse
- people who are entitled to live in Scotland – international migrants, UK citizens and others covered by the Common Travel Area – should be able to bring close family with them and migrants should have access to services and support to encourage integration into communities

- 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
- migration should be controlled to deter and prevent abuse, fraud and criminal activity, including terrorism, human trafficking and other serious offences

The New Scots Refugee Integration Strategy<sup>73</sup> set out five principles to support integration of refugees in communities in Scotland:

- integration from day one – the key principle of the New Scots strategy is that refugees and people seeking asylum should be supported to integrate into communities from day one of arrival, and not just once leave to remain has been granted
- a rights-based approach – empower people to know about their rights and understand how to exercise them
- refugee involvement – actively encourage refugees and people seeking asylum to be involved in helping to shape the strategy and its delivery through their lived experience
- inclusive communities – support refugees, people seeking asylum and our communities to be involved in building stronger, resilient communities, which enable everyone to be active citizens
- partnership and collaboration – work collaboratively across government, organisations and community groups all over Scotland involved in supporting refugees and people seeking asylum

Taken together, these principles, values and this vision describe how this Scottish Government would approach the design and delivery of policy across the whole of the borders, immigration and citizenship system in an independent Scotland. They are rooted in Scotland's National Performance Framework, touching on kindness, dignity and compassion, respect for the rule of law, and openness and transparency.<sup>74</sup>

## **From migration to settlement**

The Scottish Government's citizenship and migration policy priority is to encourage people to live and work permanently in Scotland, to maintain Scotland's vibrant society, helping to address demographic challenges, supporting communities up and down the country, and contributing to a fairer, greener economy and to our public services.

For many people, migration is a temporary arrangement before returning home or moving elsewhere for new opportunities. The Scottish Government would put in place an immigration system that meets that need, with specific, streamlined routes in cases such as short-term study, temporary and seasonal work, corporate transfers and secondments. A generous entry allowance of six months would be maintained under general visitor rules.

However, migration does not always have to be transient. We want to attract people who have the desire to make Scotland their home and encourage them to put down roots here through work, study, family and life in their community. All the long-term visa routes in the Scottish immigration system should therefore offer a pathway to settlement within five years. Medium-term routes, such as student visas, would not provide for settlement automatically but would allow for easy switching onto routes that do, such as an enhanced post-study work offer. Short term routes, like seasonal and temporary work visas, would not come with a pathway to settlement from the outset, but options for returning guest workers could be explored and consulted on so that individuals could eventually build a residence entitlement.



The pathways to citizenship that are not transitional after independence would be linked to residence in Scotland. A person would have to be settled in Scotland, for the purposes of Scottish immigration and nationality law, to become a Scottish citizen. This would encourage attachment and integration in communities and ensure that people who choose to become Scottish citizens and enjoy the advantages that offers are also people who are committed to contributing to social, cultural and economic life in Scotland.

## Race equality and equity for the Global South

This Scottish Government would pay particular attention in developing migration policy to ensure equity for the Global South, which broadly refers to the regions of Latin America and the Caribbean, Asia, Africa, and Oceania. Approaches to immigration in the Global North can often, through combinations of post-colonial legacies, unconscious and conscious bias, and systemic or institutional racism, lead to discriminatory outcomes for people from minority ethnic backgrounds. This is true in the UK and was highlighted acutely in the scandal of the treatment of people of the Windrush generation.

The Windrush scandal predominantly affected British citizens born in the UK, rather than migrants; and it is not the only example of discriminatory outcomes for minority ethnic people in the immigration and citizenship system. Windrush was, however, subject to an extensive review undertaken by Wendy Williams, which offers valuable insight into interactions between race and immigration policy.<sup>75</sup>

This government would seek to create systems that foster fairness and justice between the North and the South by addressing imbalances caused by historical inequalities and power dynamics. To ensure robust regulation of these systems this government would:

- ensure that Wendy Williams' recommendations for improvement are reflected in the immigration policy of an independent Scotland
- introduce a Migrants' Commissioner, to be responsible for speaking up for migrants and those affected by the system
- put in place empowered external scrutiny of migration policy, in an equivalent and enhanced role to that of the UK Independent Chief Inspector of Borders and Immigration

Policy coherence for sustainable development, ensuring that Scottish migration policy does not inadvertently harm partner countries in the Global South, would be key.<sup>76</sup> Scotland's migration policy should not undermine development objectives by reducing economic and state capacity – 'brain drain' – in partner countries as a consequence of facilitating emigration from marginal communities. For example, World Health Organization guidelines adopted by NHS Scotland limit recruitment of health and social care roles from particular countries,<sup>77</sup> unless agreements are in place to provide technical and financial assistance to these countries as they strengthen their health systems.

This appropriate protection for countries in the Global South would be balanced with an approach to migration policy that offers opportunities for people who want to make Scotland their home and confronts inherent or unconscious biases that act as discriminatory barriers. This government would work closely with migrant communities in Scotland as new migration routes were introduced and, in particular, follow a person-centred approach which is intended to allow for a broader range of characteristics to support an application to live and work in Scotland.

## Regional and global context

Scotland's policy on migration would interact at a regional level, both within the Common Travel Area and the EU, and at a global level.

The Scottish Government's proposals on citizenship set out how the rights of Scottish citizens in the Common Travel Area would continue after independence.<sup>78</sup> Being part of the Common Travel Area would see Scotland cooperate with the UK and Ireland on matters to do with migration and border control. Each country would be responsible for its own migration policy, designed to suit the needs of its own economy and communities. But future governments of Scotland would talk and collaborate on effective border security as equal partners with both the UK and Ireland to protect the Common Travel Area.

As an EU member state, although because of the Common Travel Area Scotland would not be part of the border control elements of the Schengen Agreement, we would collaborate on EU migration policy. This government would fully participate in EU refugee resettlement and relocation initiatives, taking our place in the EU's decision-making process, as a member in our own right, reflecting Scotland's values and goals.

Scotland is, and will continue to be, a good global citizen which respects its international commitments and welcomes people from all over the world. As an independent country, we would be active participants in global cooperation to respond to current and emerging issues in migration and displacement.

As an independent country, Scotland would be able to adopt a principled approach in these regional and global forums and join or lead coalitions of shared interests to support progressive development of regional and international cooperation on managing migration. As a newly independent state, Scotland would also be able to decide whether to carry forward any of the UK's declarations and reservations which qualify the extent to which the provisions of some treaties currently apply. The Scottish Government disagrees, for example, with the UK Government's decision to exempt migrant women from the protections afforded by the Istanbul Convention on preventing and combating violence against women and domestic violence.

Scotland would also be able to learn from international partners with experience of managing immigration to support communities and economic growth in all parts of their country. Canada, for example, has experienced some success in regional immigration programmes targeting inward migration and population growth to the benefit of rural provinces and territories.<sup>79</sup>

Independence would allow Scotland to comprehensively reject the enduring 'hostile environment' approach taken by the current Westminster government and to create a more humane and dignified asylum system. The Westminster government has undermined international norms, and has attracted significant criticism, following recent changes to immigration legislation and its management of the UK asylum system. Both the Scottish Parliament and the Welsh Senedd refused legislative consent for the Nationality and Borders Bill,<sup>80</sup> which was enacted by the Westminster government regardless.<sup>81</sup> The Scottish Parliament motion withholding consent noted its concern with "proposals in the Bill for differential treatment of refugees based on how they arrived rather than their protection needs, measures that criminalise vulnerable people seeking protection, 'push-back' provisions that will put lives at sea at risk and open the door for offshore asylum accommodation, and powers to revoke citizenship without notice."

The UN High Commissioner for Refugees, Filippo Grandi, responded to passage of the Nationality and Borders Bill with “regret that the British government’s proposals for a new approach to asylum that undermines established international refugee protection law and practices has been approved”.<sup>82</sup> He went on to say that “the UK’s intention to externalize its obligations to protect refugees and asylum seekers to other countries... run counter to the letter and spirit of the Refugee Convention, to which the UK is a party”.

The Scottish Government and Scottish Parliament also clearly stated their objections to the Illegal Migration Act, while it was progressed at pace by the Westminster government.<sup>83</sup> It has made significant and sweeping changes to UK immigration legislation, which have increased the complexity of asylum processes and targeted people seeking asylum rather than improving the asylum system.

# Free movement in the EU

On independence, Scotland would retain free movement within the Common Travel Area, reflecting our longstanding social, cultural, family and economic ties with other parts of the UK and Ireland. Free movement of people within Europe would resume when Scotland re-joined the EU, as a reciprocal right for Scottish citizens to live and work in the EU, and EEA citizens to live and work in Scotland. This government's proposals on citizenship set out how membership of the EU would restore EU citizenship to the people of Scotland.<sup>84</sup> Free movement of people in the EU is an expression of that shared citizenship. The Scottish Government would reaffirm and reinforce that Scotland remains an open, welcoming member of the family of Europe, and values the contribution EU citizens make to our society as it looks forward to rejoining the EU as an independent member state.

After the Brexit vote, EU citizens in Scotland felt safer and more welcome in Scotland than in England, in part because of the Scottish Government's direct messages of reassurance then and since.<sup>85</sup> Their presence in communities across the country has helped make Scotland the modern, dynamic European nation it is today. In the year ending June 2021, there were estimated to be 231,000 EU citizens living in Scotland.<sup>86</sup> Polish remains the top non-UK nationality found in Scotland.

Scotland values the contribution that EU citizens made to our economy, public services and communities, and the Scottish Government took action to provide them with additional support to enable them to stay in Scotland. This took the form of practical advice, delivered in partnership with Citizens Advice Scotland,<sup>87</sup> to help them navigate new immigration requirements after Brexit.<sup>88</sup> We look forward to the time when Scotland is an EU member state, and our fellow Europeans can again exercise their rights as EU citizens in Scotland, just as Scottish citizens would be able to do in Europe.

Rights under free movement have expanded over time, building on the initial concept of the free movement of workers to support the Single Market: it now incorporates the concept of EU citizenship, and includes rights to study, seek work, reside self-sufficiently, be accompanied by non-EU family members, and access certain benefits and public services. Rights have been further reinforced by judgments of the European Court of Justice, and consolidated in the 2004 Citizenship Directive, also commonly known as the Free Movement Directive.<sup>89</sup>

The Free Movement Directive provides that for stays of fewer than three months (90 days), the only requirement for citizens of a country inside the European Single Market to move and reside in other member states is that they possess a valid identity document or passport.

If EU and EEA citizens choose to exercise their right to freedom of movement for stays of more than three months, they must be:

- employed
- self-employed
- seeking work
- studying
- self-sufficient or
- a family member of a citizen exercising those rights

These requirements are to prevent placing an additional cost on the social protection systems of host nations. Generally, however, EU citizens have equal access to benefits and public services as nationals, although there are some restrictions. In the UK before Brexit, for example, jobseekers had limited access to Jobseeker's Allowance and could only claim after their three-month initial period of residence.<sup>90</sup> During those first three months, it was the responsibility of their home nation to provide jobseeker support.

The Free Movement Directive also provides that EU member states may refuse entry to, or in certain cases remove, EU citizens of other member states on grounds of public policy (such as criminality), public security or public health; or in the event of abuse of rights or fraud. Furthermore, member states can restrict the free movement of citizens of new EU member states, for a limited period after a new country joins the EU. The UK opted not to exercise these controls for the 2004 accession of eight new member states, mostly from central and eastern Europe.<sup>91</sup> It did exercise transitional controls for the subsequent accessions of Bulgaria and Romania in 2007,<sup>92</sup> whose nationals only gained full free movement rights within the UK from 2014, and again for Croatia on accession in 2013.<sup>93</sup> Most other member states applied transitional restrictions to these accessions.<sup>94</sup>

Free movement is a reciprocal right enjoyed by all EU citizens and EEA nationals. There are rules and controls built into the EU treaties which determine how an EU citizen is able to exercise their right to free movement. These same limitations and restrictions on the exercise of the right of free movement of people would apply equally to Scottish citizens seeking to live, work or study in other EU member states, as it would to the Europeans we would welcome to Scotland.

Scotland has benefitted greatly from the contribution of EU citizens. As we resume free movement of people as an integral part of EU law, we respect the need for measured and proportionate controls to safeguard against fraud, abuse, security threats and criminality and we support the proper enforcement of those rules. These controls already exist in the framework enabling free movement of people.

This government's proposals on citizenship also set out how we would continue to protect the rights of EU citizens in Scotland who have secured EU Settled Status under the Westminster government scheme after Brexit.<sup>95</sup>

# Helping Scotland prosper



On the first day of independence, free movement within Scotland would be retained for citizens of the UK, Ireland, the Channel Isles and the Isle of Man as part of the Common Travel Area. Free Movement for EU citizens would be re-introduced on Scotland rejoining the EU as a member state. Many other migrants in Scotland would arrive on a discretionary route which they have to apply for, and which would be designed for people who wish to live, work, study, visit or invest in Scotland or to join their family here. Any managed immigration system implemented by this government would be based on the values of dignity, fairness and respect at all stages of the migrant journey.

## **Policy priorities for independence**

A new ‘Live in Scotland’ visa would allow people to live and work in Scotland with their families without sponsorship by an employer. As part of a wider Scottish immigration system, this would be a person-centred route, giving credit for a broad range of characteristics that an individual can bring to Scotland, not just how much they earn.

The ‘Live in Scotland’ route would incorporate a place-based element designed to support migration to rural and island communities within Scotland. This would build on our experience developing pilot proposals for rural visas.<sup>96</sup>

In addition, an employer-led approach to migration through a ‘Sponsored Worker’ visa would remain an important element of our system, ensuring that businesses and public services have straightforward access to the essential talent they need.

This government would introduce a further new visa route – a ‘Scottish Connections’ visa. This would allow people with a genuine and lasting connection to Scotland to remain or return here, to live and work and offer a pathway to permanent settlement and Scottish citizenship.

At the point of independence, there would be many people living in Scotland on a UK visa, or who are settled in the UK but are not citizens. For a transitional period, this government would continue to recognise UK visas and settlement status as giving a right to live and work in Scotland. All those legally in Scotland at independence would be able to remain in Scotland under the terms of their existing visa or entry. We would work to transition UK settlement status to settlement in Scotland. When UK visas expire, holders would be expected to apply for a new visa or extension, or for settlement, under Scottish immigration rules. They would not need to get a Scottish visa straight away.

## **Scottish migration system**

This Scottish Government believes that immigration policy should be made according to the needs of Scotland’s economy, public services and communities, and should have dignity, fairness and respect at the heart of how it deals with people navigating the system.

Reducing the cost and complexity of the immigration system would be a key priority. Visa fees would be set at a level that ensures full cost recovery but does not seek to generate excessive revenue. The Westminster government sets fees for visas and other immigration services to generate revenue – the current performance target is to recover 149% of costs through charges.<sup>97</sup> The Scottish Government would develop a charging regime for visa services in an open and transparent way.

The Westminster government publishes quarterly data on fees and unit costs in the border, immigration and citizenship system. This illustrates the vast discrepancy between costs the Home Office incurs and the fees charged to applicants. For example, the primary fee payable by a migrant arriving on a skilled worker visa with the intention to remain long-term in the UK is £1,420. The data published in October 2023 estimate the unit cost, or the amount it costs the Home Office to deliver that service, to be just £129.<sup>98</sup> This could mean a saving of over £1,000 per applicant for a skilled worker visa.

In an independent Scotland, charges would be set at a reasonable level to recover costs and not price out individuals or families who want to come to Scotland to live and work simply because they cannot pay for it.

The Scottish Government would offer visas supporting population objectives and economic growth across five categories:

- live: long-term residence routes with no sponsorship
- work: work-based routes sponsored by an employer
- study: student routes sponsored by an educational establishment
- visit: short-term entry, including tourism, seasonal work and working holidays
- invest: routes targeted to support inward investment and job creation

These visa categories would form the core pillars of a managed, discretionary immigration system that would help Scotland's economy prosper and allow the best global talent to join businesses, public services and universities across Scotland.

## **‘Live in Scotland’ route**

The main ‘Live in Scotland’ route would be a new type of visa, allowing people to live and work in Scotland with their families without sponsorship by an employer, if they meet criteria set out in Scottish immigration rules.

As part of a wider Scottish immigration system, this Live in Scotland visa would be a person-centred route, giving credit for a broad range of characteristics that would include age, education, skills and work experience, earning potential and language ability – and could include the opportunity to be credited for Gaelic as well as English. It would look at what an individual can bring to Scotland, not just how much they earn. This would translate the proposal for a Scottish visa in the UK immigration system into a central component of the immigration system of an independent Scotland.

In collaboration with local and national delivery partners, communities and our Expert Advisory Group on Migration and Population, we would pilot place-based options within the Live in Scotland visa route to help ensure communities in rural and island locations in Scotland remain vibrant and flourishing. The Scottish Government is clear that Scotland needs a migration policy which works for all parts of Scotland, delivering on the ambition which Scottish Ministers set out in the Population Strategy.<sup>99</sup> As part of this, testing approaches to a place-based approach to immigration would enable new families to come to these communities, build their lives here and in turn support local employment and public services.

A new ‘Scottish Connections’ visa would also be introduced. This would allow people with a genuine and lasting connection to Scotland to remain or return here to live and work and offer a pathway to permanent settlement and Scottish citizenship. There are multiple connections that could qualify someone for this visa – the route would be open to anyone who meets at least one of these initial criteria:

- Scottish Graduate – a graduate of a Scottish university who studied in Scotland for their degree
- Scottish Ancestry – a child or grandchild of someone who is automatically a Scottish citizen or would have been eligible to acquire Scottish citizenship automatically had they been alive at the point of independence
- life in Scotland – previous lawful residence in Scotland of at least five years
- British Nationality – a British national who is not a British citizen

The visa would be available for five years, after which settlement would become available, leading to naturalisation as a Scottish citizen if the applicant chooses it. People who live overseas would be able to return to Scotland on this route, and we intend to reduce the associated application fee if the applicant is already lawfully resident in Scotland on another visa or permission, such as a Student Visa.

Therefore, international graduates of Scottish universities would be able to apply at low cost straight after their studies to stay in Scotland to live and work for a further five years, after which they would become eligible for settlement, potentially leading to naturalisation as a citizen. This would replace the two-year post-study work visa the Westminster government currently offers.

The Scottish Connections visa would also replace a number of other existing visa routes in the UK immigration system, including the Ancestry and British National (Overseas) visa routes. Anyone who was eligible for the equivalent UK visa routes to live in Scotland would be eligible for the Scottish Connections visa.

In particular, British nationals (overseas) and their eligible descendants would have at least the same ability to live and work in Scotland through this route as they do now under UK immigration rules. There would be no diminution of the rights of those British nationals and their eligible descendants to come to Scotland after independence.

British and Irish citizens would not need any permission to live and work in Scotland as part of the Common Travel Area – this would allow British nationals who are not British citizens to come to Scotland if they choose, as described in the Building a New Scotland paper on citizenship.<sup>100</sup>

## **Work in Scotland**

An employer-led approach to migration remains an important element of our proposed system, ensuring that businesses and public services would have straightforward access to the essential talent they need. Sponsorship and certification rules would be further simplified by removing unnecessary processes and compliance burdens to allow more employers to interact with the immigration systems. This would allow them to recruit internationally to quality jobs in Scotland that pay the Scottish Living Wage, supporting fair work.

The UK immigration system offers limited temporary work visas in a number of specific categories such as charity workers and religious ministers. These routes would be consolidated and simplified, while ensuring that all currently available categories of worker are able to access equivalent routes in the Scottish immigration system, including seasonal work schemes described later.

Current staff shortages across multiple sectors are largely the result of policy choices made by the Westminster government. The Scottish labour market after independence would differ from the current position, and conditions would change further when Scotland becomes an EU member state and free movement of people resumes. However, there may be a requirement for additional transitional temporary work visas during that period to support critical national infrastructure, including food production, and provision of essential public services such as social care.

## Study in Scotland

The Scottish Government wants more international students to be able to study in Scotland, contributing to our economy and our communities.

Scotland has three of the top 200 global universities in the Times Higher Education World University Rankings 2023 – the University of Edinburgh, the University of Glasgow and the University of St Andrews.<sup>101</sup>

International students, academics and research staff in our world-class universities make a vital contribution to Scotland's prosperity. There were a record 301,230 enrolments at Scottish Universities in 2021-22, with a record 183,025 Scottish students. The international student population in Scotland grew by 22% in the five years up to 2021-22 and now has over 82,000 non-UK students from around 170 countries enrolling at Scottish universities, with record numbers of non-EU international students (65,300).<sup>102</sup>

Independence offers Scotland a greater opportunity to attract and retain Scottish and international students after they graduate with the offer that Scotland is a compelling place to live and work, where they can readily apply the skills they have gained from their studies. For every 1,000 graduates in the Scottish labour market, the Scottish Government gains £22.4 million in additional income tax contributions.<sup>103</sup>

We need an immigration system that supports our higher education sector to deliver the best learning, the best research and the best experience for the most able students, anywhere in the world, who choose to study in Scotland. We would remove unnecessary 'hostile environment' measures imposed on the sector and trust our institutions to recruit on the basis of academic excellence.

The Fresh Talent post-study work visa which ran from 2004 to 2008 was the first time the UK immigration system was tailored to meet Scotland's needs.<sup>104</sup> It was subsequently mainstreamed across the whole of the UK, before being abolished by the coalition government in 2012. Encouraging international graduates of our institutions to live and work in Scotland long-term remains an essential element of our focus on population.

The new five-year 'Scottish Connections' visa (described above) would replace the two-year post-study work visa the Westminster government currently offers. Therefore, international graduates of Scottish universities could apply straight after their studies to stay in Scotland to live and work for a further five years. This would also mean graduates who live overseas can return to Scotland on this route.

Latest OECD data shows that Scotland has a higher share of the population aged 25 to 64 years that has at least tertiary education compared to any EU country included in the data.<sup>105</sup> Our approach to student and graduate immigration routes would strengthen our ability to attract and retain a highly skilled workforce that supports investment and innovation.

Many of our institutions lead the way in vital areas of research with truly global impacts, and Scotland continues to be seen as a desirable location to study and work for talented undergraduates and researchers. In 2021, Scotland ranked top among OECD countries for higher education R&D (HERD) spend as a proportion of GDP.<sup>106</sup> HERD spend as a percentage of GDP in Scotland was 0.98%, ahead of the OECD average of 0.42%.

Almost two in five academic staff at Scottish universities in 2021-22 were non-UK nationals, with almost 20% of all academic staff being EU citizens.<sup>107</sup> We recognise that academic staff (including researchers) are highly skilled and globally mobile. Scottish universities recruit staff from across the world, whilst many Scottish researchers work in institutions in other countries. This Scottish Government would develop an approach to immigration through schemes to live and work in Scotland that would help our institutions attract international talent, supporting their research goals and establishment and development of high growth potential companies.

## Visit Scotland

This government would maintain a six-month entry for visitors to Scotland.

At the point of independence, Scotland's rules on which nationalities can arrive in Scotland visa free and which require a visa in advance of travel would match those of the UK.<sup>108</sup> This government would engage bilaterally on reciprocal visa-free travel with international partners and would normally expect the same arrangements to hold for Scotland.

The Scottish Government would also engage with the UK and Ireland to formally cooperate on border control issues and seek to facilitate visitor movement within the Common Travel Area, as set out in the prospectus paper on citizenship.<sup>109</sup>

Inward youth mobility arrangements would also initially be maintained to provide continuity for young people travelling to Scotland.<sup>110</sup> There would be negotiations with partner countries to propose reciprocal youth mobility arrangements, including exploring dialogue with new partners. Ireland, for example, has a working holiday agreement with the USA.<sup>111</sup>

Routes would also be available to support seasonal employment. As well as seeking accession to the EU as a member state, at which point free movement of people would resume, the Scottish Government intends to maintain a seasonal work visa scheme.

In order to strengthen labour rights, workers entering under the scheme would not be tied to a single employer and recruitment would be opened to a wider range of seasonal industries, such as edible and ornamental horticulture, forestry, seafood processing and animal husbandry (including shearing). We also recently published independent research on options to establish protection mechanisms for workers on temporary migration programmes which draws on best practice from countries such as New Zealand and Canada. Industry and labour rights advocates would also be consulted about the design of the scheme and visa conditions, including length of entry and potential to facilitate returns and ability to progress towards permanent residence, which is a feature of seasonal work schemes in other countries.<sup>112</sup>

## Invest in Scotland

Scotland's approach to immigration would support businesses to attract and retain the international talent they need to innovate and grow. The range of visa routes to be offered in other categories would provide an extensive and accessible platform to support inward investment, business growth and job creation.

The Scottish Connection proposal would facilitate graduates of Scottish universities entering the labour market in Scotland, while the Sponsored Worker route would enable businesses to recruit directly from overseas quickly and effectively.

The Live in Scotland visa would offer a way for people with a high-potential innovative business idea to bring their skills and energy to Scotland without an existing employer sponsoring them.

The Scottish immigration system would facilitate intra-corporate transfers and secondments. This approach supports inward investment and trade in services. As discussed in the Scottish Government's response to a MAC call for evidence in this area,<sup>113</sup> there is an opportunity for Scotland to grow as a destination of choice for highly skilled staff in global multinationals. This would build on strong financial services and fintech centres in Edinburgh and Glasgow, as well as innovative manufacturing centres in sectors such as renewable energy and space technology.

Combined with our highly skilled resident workforce, the ability to recruit freely from the UK and Ireland, and free movement within the EU, the immigration options that we could design after independence would help enhance Scotland's position as a destination of choice for investment.

Focussing on a smaller number of broader routes would simplify the immigration landscape and allow flexible pathways for innovative entrepreneurs to come to Scotland. The Scottish Government would ensure that people able to access current UK schemes to start a business or support inward investment can do so in the Scottish immigration system.

Partnership work with business, civil society and our enterprise agencies would help ensure that the immigration system supports economic recovery and growth rather than being a barrier to it, while maintaining a managed, controlled approach which commands public confidence.

The Building a New Scotland Fund,<sup>114</sup> announced in the third paper of the BANS series focusing on the economy of an independent Scotland, would invest to meet the diverse economic, social and environmental needs of urban, rural and island areas. Significant investment in affordable housing, including in rural areas, is critical if we are to support all communities to thrive and to address Scotland's projected population decline as part of the UK.

Lessons would be learned from other countries who are also competing internationally to attract investment and talent, including good practice from the UK immigration system such as the promising Scale-Up Visa announced in August 2022.<sup>115</sup> Scotland could consider the case for specific visa routes with features that are successful elsewhere. However, lessons could also be learned from the Westminster government's experience that eventually led it to close an earlier investment visa route due to long-standing concerns about abuse and fraud,<sup>116</sup> as wealthy individuals were essentially able to buy their way into the UK with little oversight.

# Family migration



Family visas are cross-cutting in support of economic schemes and would help Scotland's communities prosper by encouraging families to put down roots and settle in Scotland. Humanitarian pathways, described in the next chapter, would also support family reunification.

The Population Strategy sets out, within the thematic element focused on Scotland being 'family friendly', that in order to support our increasingly ageing population, we need to increase the number of younger people living in Scotland. Addressing our falling birth rate, by creating conditions which enable people to have the size of families which they wish to have, is one route to achieve this. An effective family migration policy which helps to meet the needs of Scotland's communities is another.

The Scottish Government commissioned the Expert Advisory Group on Migration and Population to consider family migration as an important element of the immigration system supporting the Scottish Government's goal of encouraging people to settle permanently in Scotland. They report that most migrants in Scotland (60%) live in families.<sup>117</sup> This is higher than the proportion for the Scottish-born population and reflects the younger age structure of migrants. A high proportion of migrants are educated to degree level and migrant households (particularly those with two or more members born abroad) are more likely to have more than one member with a degree – suggesting a greater proportion of highly qualified couples.

The Expert Advisory Group report on family migration<sup>118</sup> made ten recommendations across the wider policy landscape, including on employment support, public services, employment and housing. The report made two recommendations specific to the immigration system, which this government would seek to implement in an independent Scotland.

First, the minimum income requirement for family migration would be removed. Applicants currently need to earn £18,600 to sponsor a partner and earn an additional £3,800 for a first child and £2,400 for each subsequent child.<sup>119</sup> The Westminster government introduced this requirement in 2012 as part of its 'hostile environment' approach, which effectively prices some families out of being able to move to Scotland based on their income. In 2022, 25.3% of Scottish employees earned less than £18,600 and 42.0% earned less than £24,800.<sup>120</sup> In other words, around a quarter of Scottish employees would be unable to meet the income requirement to sponsor a partner or spouse, and around two fifths would not be able to meet the income requirement for a family of four, sponsoring a partner or spouse and two children.

Second, the fees and the administrative burden of moving from a family visa to become settled in Scotland would be reduced. As with almost all aspects of the immigration system, the fees charged by the Westminster government are far more than the cost of delivery.<sup>121</sup> A new Scottish system could ensure that services are charged at a level to recover the cost of processing applications, rather than generating excess revenue.

Family migration visas would be available to close family of:

- Scottish, Irish and British citizens
- EU citizens with settled status prior to Scotland rejoining the EU
- people of any nationality who are settled in Scotland
- anyone with a visa that permits family migration (most visas of 12 months duration or more)

For example, this could be a person who is:

- the partner of someone with the right to reside in Scotland
- the dependent child (under 18 years of age) of someone with the right to reside in Scotland
- the parent of a dependent child with the right to reside in Scotland
- in some circumstances, a dependent adult relative (parent or child) of someone with the right to reside in Scotland

Additionally, we would permit adult children under 21 years of age who reside with the family group to enter and remain in Scotland on a child visa. Children would be able to transfer on to another visa, if eligible, to remain in Scotland to work or study as they grow older and leave the family unit.

We would also enable migrants who have joined their British or settled partners in Scotland to obtain settlement and naturalise after a three-year residence period as was the case under UK legislation prior to the 2012 implementation of the then Home Secretary Theresa May's hostile environment immigration policies.

Humanitarian routes, described in the next chapter, would also offer family reunification on a similar basis.

When Scotland is an EU member state, free movement rules would provide for family migration of citizens exercising treaty rights. We would put in place a parallel process for EU citizens to register family members in line with EU law.

# Asylum and protection

Scotland already plays its part in supporting refugees and people seeking asylum as part of the UK and would continue to do so as an independent country. In recent years, Scotland has welcomed people fleeing conflict and war around the world, including from Syria, Afghanistan and Ukraine. Continuing global instability and its impacts on people demonstrate the need for international cooperation and domestic flexibility on the issues of migration and humanitarian protection.

An independent Scotland would meet its international obligations under the 1951 Refugee Convention<sup>122</sup> and play a responsible role on the world stage, working collaboratively with other countries to offer a place of safety to people fleeing war and persecution. This includes providing sanctuary to refugees who face persecution because of their identity: as a woman, as part of the LGBTI community or because of their ethnicity. For refugees, leaving home is not a choice but a necessity.

An independent Scotland would demonstrate its respect for international law, human rights and social justice in offering protection with humane, fair and compassionate refugee and asylum policies. These would reflect our commitment to the 1951 Refugee Convention as a good global citizen in an unstable world.

## Welcoming New Scots

Scotland has a long history of welcoming refugees and people seeking asylum, from all over the world. People should be supported and integrated into communities from day one of arrival and not just when leave to remain has been granted. Integration is a long-term, multi-directional process, which enables people to be included in society and contribute to their communities. It is important that people are made to feel welcome in our country and supported to rebuild their lives.

The New Scots Refugee Integration Strategy 2018-22 set out a vision for a welcoming Scotland where refugees and people seeking asylum can rebuild their lives from the day they arrive.<sup>123</sup> The strategy aims to support access to essential services, such as education, housing, health and employment. It recognises that refugees bring with them skills, experience and knowledge that benefit Scotland and aims to help people to settle, become part of the community, and pursue their ambitions.

An independent Scotland would continue to build on the platform and partnerships established by the New Scots strategy, using its new constitutional powers to put in place systems that enable the integration of all people seeking asylum and refugees from day one, to the benefit of individuals, communities and the country.

An independent Scotland would have the opportunity to streamline support for refugees and people seeking asylum. Rather than operating multiple programmes with different rights and entitlements as the Westminster government does, support in Scotland would be delivered on an equal basis as far as possible. This would make our systems fairer and more straightforward for those who have to use them, as well as providing better value for money by not having to run parallel support systems.

## The asylum process

People seeking asylum have often fled their homes suddenly, due to war or persecution, leaving everything behind. They may arrive in the country in which they claim asylum by chance, with little forethought or preparation. In order to secure the right to stay, they must apply to the host government for refugee status and may be provided with accommodation and financial support while they await a decision on their application.

The Westminster government instigated its policy of asylum dispersal over twenty years ago, under which it moved people seeking asylum to be accommodated in different areas of the UK. Through dispersal, Scotland has provided a warm welcome and a new home for people seeking asylum over that time. That in turn has meant expertise has been built up in local government, the third sector and community-based organisations, particularly in Glasgow, but now also more widely across Scotland, supporting people to settle and begin to rebuild their lives.

Asylum is a separate matter from discretionary immigration, with the focus being on a person's need for humanitarian protection, rather than a choice to travel to another country. An independent Scotland would have the opportunity to create a new model of asylum services, separate from immigration services. This government would propose that a Scottish Asylum and Refugee Resettlement Agency should oversee the processing of asylum applications, as well as delivery of refugee resettlement.

The asylum process in an independent Scotland would be underpinned by an emphasis on, fair, socially responsible and thorough decision-making, with clear adherence to human rights, equality principles and the rule of law. This government is clear that all asylum processing would take place in Scotland, with no offshoring to other countries. The process would link with local government, the wider public sector and third sector partners to deliver on accommodation and integration support, including mental health and emotional support, in line with the key principle of the New Scots refugee integration strategy that integration begins from day one of arrival.

The new agency would handle asylum applications throughout the decision-making process from the initial submission to the final decision on whether refugee status should be granted to an individual. The new process would be designed and managed to ensure that people are not left in limbo for extended periods, while giving them sufficient time to present their case for asylum.

This government intends that people seeking asylum would be housed in the community as the best means of supporting their long-term integration. Scottish Ministers believe that the approach to delivering accommodation through private sector contracts has not worked, and that it should be delivered through partnership working led by the public sector. People seeking asylum would be able to access public assistance, allowing them to receive mainstream social security benefits, rather than using a parallel financial support system. They would also have the right to work to support their wellbeing and integration and reduce the risk of poverty. Access to employability support would be made available, including through improved systems for recognising skills and qualifications, enabling people to fulfil their potential, benefiting both them and their communities.

Once people are granted refugee status, the transition process should be as straightforward as possible, using the principles of the New Scots refugee integration strategy. As people would already have access to social security benefits, they would not face the risk of destitution that is a feature of the Westminster government's asylum support system when financial support ends. Delivery of accommodation by the public sector would also provide opportunities for a more effective and efficient transition to long-term housing.

This government proposes that people granted refugee status would be granted the status of settlement in Scotland – what the Westminster government calls ‘indefinite leave to remain’.<sup>124</sup> This would ensure equal treatment of people across different routes of arrival. It would support longer-term integration and reduce the need to go through additional administrative processes to stay in Scotland on a permanent basis. It would also put people on a pathway to naturalisation as a citizen if they choose it.

Inevitably, some people would be refused asylum, because they are not in need of protection as set out in the UN Refugee Convention. In such cases, arrangements would be put in place to deal with people with dignity, fairness and respect. People would be supported to consider their options, ensuring that they do not face destitution or homelessness because their application has not been successful.

Supporting people from day one of arrival would encourage them to plan ahead for the outcome of their asylum application, so that they are in a better place to make decisions when the time comes. Applications would be dealt with promptly and compassionately so that people have early clarity about their future and so they could be helped to plan for their next steps. Voluntary return to the country of origin would be supported wherever that is possible, but there may be a need in some cases for mandatory removal. Where that is necessary, it would be implemented sensitively and humanely.

This government does not believe that people should be detained just because their asylum application has been unsuccessful. Detention by default, along with the practice of dawn raids, would not form part of the current Scottish Government’s approach to asylum. Where detention is necessary, it would be informed by risk assessment and be for a limited period prior to removal.

The asylum system would be overseen by the courts, with an appeals process and essential safeguards to protect the human rights of people seeking asylum. The new powers Scotland would gain at independence around equality, including race equality, would be important in supporting Scotland’s ambition to be a progressive, welcoming and inclusive state.

## **Refugee resettlement programmes**

Scotland has played a significant role in the UK’s refugee resettlement and relocation programmes, particularly those relating to Syria and Afghanistan. An independent Scotland would continue to support refugee resettlement. The Scottish Asylum and Refugee Resettlement Agency would work through the UN High Commissioner for Refugees to identify those refugees with the most pressing needs and no durable solution in their current location to come to Scotland. The Scottish refugee resettlement programme would be global and flexible to enable a quick response to emerging crises and to avoid the need for separate programmes for each crisis situation.

People arriving in Scotland under the refugee resettlement programme would be granted refugee status and indefinite leave to remain on arrival. This would enable them to get on with their lives, without the need to go through unnecessary and complex administrative processes later on. This Scottish Government would work with local authorities, public services, the third sector and communities to welcome them and support their long-term integration, in line with the New Scots refugee integration strategy.

The challenges presented by displacement and migration mean it is vital that countries work together to support people who have had to flee their home country. As a member of the European Union, Scotland would fully participate in EU refugee resettlement and relocation initiatives, taking our place in the EU’s decision-making process, as a member in our own right, reflecting Scotland’s values and goals.

## Complementary safe and legal routes

Independence would provide an opportunity to take innovative and imaginative approaches to assisting displaced people using the migration system. To supplement Scotland's refugee resettlement programme, flexibility in the Scottish migration system would provide opportunities for refugees and displaced people to come to Scotland under new safe and legal routes.

The use of complementary pathways for admission is an essential component of the international community's response to global displacement and could allow refugees and displaced people to resettle based on their skills, experience and aspirations rather than solely on their vulnerabilities.

Incorporating these complementary pathways into a Scottish migration system would increase the availability of safe and legal routes for people in need of protection. Although such routes would be part of a discretionary immigration system rather than asylum or refugee resettlement programmes, people taking up a complementary route would be afforded additional support in recognition of trauma they have suffered.

## Climate migration

Climate-induced migration provides a case study of a situation where a complementary, managed migration pathway could be appropriate and beneficial.

The climate crisis is the defining challenge of our time. Despite overwhelmingly being caused by current and historical actions of countries in the Global North, including Scotland, its impacts will be felt most acutely by some of the most vulnerable populations in the Global South. A changing climate will increase the stress on the environmental, economic and social systems of these communities and could increasingly lead to climate-induced migration as people are forced to leave homes that can no longer sustain them. The World Bank has estimated that climate change could compel 216 million people around the world to move within their countries by 2050.<sup>125</sup> This is one way in which the climate crisis becomes a humanitarian crisis.

The Scottish Government is clear that humanitarian crises require humanitarian responses. Although there is no provision under the 1951 UN Convention for a person to be recognised as a refugee due to climate change, the UN High Commission on Refugees acknowledges that people may be forcibly displaced due to climate pressures<sup>126</sup> and that the effects of climate change overlay and risk compounding the effects of armed conflict, violence and persecution. The Global Compact on Refugees, adopted by the UN General Assembly in December 2018, observes that "climate, environmental degradation and disasters increasingly interact with the drivers of refugee movements."<sup>127</sup>

Experience from New Zealand in seeking to recognise South Pacific Islanders as 'climate refugees' demonstrates that, first and foremost, people impacted by climate change want action and support to protect their homes. They want global commitments to reduce greenhouse gas emissions and limit warming to no more than 1.5 degrees and concrete measures to enable them to adapt to the impacts of warming already locked in.<sup>128,129</sup>

The New Zealand example suggests a managed humanitarian pathway – a complementary safe, legal route – could be more appropriate for circumstances of climate-induced displacement than a refugee status. Scotland could engage with partner countries and communities at risk of displacement from climate change to consider whether a humanitarian visa system could play a part in our wider approach to climate justice.

The Scottish Government has made stretching commitments and substantive progress on reducing emissions and led the global debate on loss and damage at COP26 in Glasgow.<sup>130</sup> How we would build on this platform and take it further as an independent country will be set out in a future Building a New Scotland publication on Scotland's transition to net zero.



# People and systems

This chapter sets out the current Scottish Government's proposals for how the policy, law and delivery elements of the border, immigration and citizenship system would operate.

Although Citizenship has been addressed in a separate paper in the Building a New Scotland series,<sup>131</sup> there are important links with migration and the structures and systems required to operate both would have dependencies and interactions.

## Legislation

This Scottish Government would seek to streamline and simplify immigration law for an independent Scotland.

The legislative framework underpinning UK immigration law is complex. The principal statute is the Immigration Act 1971, which permits the Home Secretary to set the Immigration Rules.<sup>132</sup> Immigration law reform would be a priority for a newly independent Scottish Parliament, but it would not be straightforward: the UK Immigration Rules run to over 1,100 pages,<sup>133</sup> and a review by the Law Commission to provide recommendations for simplification took over two years.<sup>134</sup>

At the point of independence and in the short term, this Scottish Government would implement changes to the immigration system through the existing statutory framework Scotland would inherit. Much of the 'hostile environment' could be rolled back administratively or through alterations to the Immigration Rules, although some measures may require primary legislation to completely undo.

Immigration and nationality law is complex and there is significant scope for simplification. New nationality provisions would be put in place from day one of independence through the interim constitution. The Law Commission simplification work could help make the law underpinning immigration control more comprehensible and enable the Scottish Government's priorities to be delivered immediately after independence through the existing legal framework.

## Public bodies

This government would propose to establish three core, new institutions to manage the operational platform for the border, immigration and citizenship system of an independent Scotland.

The Scottish Immigration and Border Agency (SIMBA) would combine end-to-end casework for discretionary migration routes, as well as overall responsibility for border security. This would include visa processing, border control at ports of entry, in-country enforcement and removals and decision-making on settlement for people on visa routes.

The Scottish Asylum and Refugee Resettlement Agency (SARRA) would be an independent agency separate from discretionary migration decision-makers and would receive and process applications for asylum and work with local partners on refugee resettlement programmes and integration.

The Scottish Passport and Citizenship Services Office (SPCSO), also discussed in the Building a New Scotland paper on Scottish citizenship,<sup>135</sup> would issue passports to Scottish citizens; it would also receive and determine applications to naturalise or register as a Scottish citizen. How SPCSO interacts with National Records of Scotland would be explored, as the latter is responsible for existing civil registration functions in Scotland such as recording births, deaths, marriages and civil partnerships, and how it might work with local registrars across Scotland to discharge its functions.

The way a borders, immigration and citizenship system is delivered would grow from the vision, values and principles for immigration policy set out in this prospectus, and focus on dignity, fairness, and respect at every stage of the migrant journey.

## **Advice, scrutiny and legal system**

In addition, this government would look to replace UK advice, scrutiny and legal system bodies with Scotland-focused equivalents.

The Migration Advisory Committee is a non-statutory body that provides independent expert advice on migration to the Home Secretary,<sup>136</sup> supported by a secretariat function within the Home Office. The Scottish Government established an Expert Advisory Group on Migration and Population in 2018.<sup>137</sup> This is an ad-hoc advisory panel, but members are appointed and remunerated in line with Scottish public sector pay policy. Following independence, this government would seek to move the Expert Advisory Group onto a formal footing. It would continue to exist in shadow form to advise Ministers in developing policy ahead of independence day. Importantly, the multidisciplinary nature of the group would be retained.

The Independent Chief Inspector of Borders and Immigration provides impartial external scrutiny of the UK immigration system.<sup>138</sup> The role is currently under-resourced and overly circumscribed: the findings of the Independent Chief Inspector are often not taken forward by the Westminster government, with publication of reports delayed or withheld by the Home Office.<sup>139</sup> This Scottish Government would establish a new external immigration inspector function for Scotland and propose that the inspector should report their findings independently rather than through Ministers.

The Independent Monitoring Authority was established as part of the UK Withdrawal Agreement on leaving the EU to safeguard the rights of EU citizens in the UK.<sup>140</sup> This Scottish Government would establish a body to fulfil this role in Scotland in the period between Scotland becoming independent and rejoining the EU – when the rights of those citizens would be guaranteed by EU law once again. Drawing on Wendy Williams' review of the Windrush scandal,<sup>141</sup> the scope of this new body would be expanded to that of a Migrants' Commissioner, tasked with safeguarding the rights of all migrants in Scotland.

The provision of immigration advice to individuals is regulated in the UK by the Office of the Immigration Services Commissioner (OISC).<sup>142</sup> It is not proposed to replicate the OISC after a successful independence vote. Instead, this government would consult on how and where its functions can be most effectively discharged to ensure immigration advice provided in Scotland is accurate and reliable. Options may include the Migrants Commissioner undertaking an equivalent role.

Responsibility for the immigration and asylum tribunals, which currently rests with HM Courts & Tribunals Service,<sup>143</sup> would become a matter for the Scottish Courts & Tribunals Service on independence. Simplifying the immigration system, and empowering and training caseworkers to make better decisions, could reduce the administrative burden on tribunals and courts and lead to better outcomes for migrants. Prior to the pandemic, in 2017-18, three-quarters of all judicial reviews initiated at the Court of Session were related to immigration decisions. The number of judicial reviews disposed of by the Court of Session that year had more than doubled since 2008-09.<sup>144</sup>

## Enforcement, detention and removal

In line with the principle that migration should be controlled to deter and prevent abuse, fraud and criminal activity, including terrorism, human trafficking and other serious offences, an independent Scotland would require an effective, proportionate and humane approach to enforcement, including detention and removal.

Detention should be used sparingly and only when it is justifiable. It is a longstanding position of the Scottish Government that the immigration removal centre at Dungavel is not fit for purpose and should be closed, and the policy of long-term or indefinite immigration detention should end.<sup>145</sup>

An important opportunity through independence would be to implement effective alternatives to detention and removal that provide a better balance between the rights of individuals and the duty to protect the public. This could also have an incidental positive financial consequence due to the high cost of the current system. This government would want to review how decisions to remove or detain people can be made more humane. This could involve an enhanced role for independent and impartial scrutiny, with appropriate structures that can deliver better and fairer decision-making at every stage.

We know that many people of all backgrounds in our communities have concerns about immigration enforcement activity directed by the Westminster government. We would work to build both understanding about how to approach immigration enforcement and trust in the decision-making system and the public servants carrying out the action. This should help reassure communities that any enforcement that could occur was necessary and proportionate and had public safety as its primary aim. Dignity, fairness and respect would be at the heart of Scotland's approach to enforcement, as it would be to every other part of the immigration system.

# Conclusions

Migration is an issue of central importance to Scotland's future prosperity, the wellbeing of our communities and the sustainability of our public services.

Independence offers the opportunity to ensure that migration policy for Scotland is set according to Scotland's needs, as a critical component of our response to the demographic challenge we face.

With independence, citizens of the UK, Ireland, the Channel Isles and the Isle of Man would continue to be able to live and work freely in Scotland through the Common Travel Area. As we rejoin the EU, we would again welcome fellow EU citizens through free movement – just as Scottish citizens would again be EU citizens, and able to enjoy free movement in Europe.

An independent Scotland would be able to put in place a managed immigration system for people from other countries, with routes designed according to the needs of our economy and public services, and which welcomes people who want to live, work, study, visit or invest in Scotland – allowing them to make the best use of their talents in their new home.

An independent Scotland would also be able to establish a humane approach to supporting refugees and people fleeing conflict and persecution, who deserve our compassion and aid, and be aware of the need for equity for the Global South in our approach to migration. We would be able to do all of this with values of dignity, fairness and respect at the heart of all aspects of immigration policy.

That is the approach to migration Scotland needs, and that is the opportunity independence would give us.

**Scottish Government**  
**November 2023**

# Acronyms and definitions

<b>COP</b>	Conference of the Parties Annual conference of the parties to the United Nations Framework Convention on Climate Change. also, COP26, the 26th conference held in Glasgow in November 2021.
<b>COVID</b>	Coronavirus disease also, COVID-19, the current pandemic disease first identified in 2019.
<b>EEA</b>	European Economic Area An agreement to extend the European Union’s single market to Norway, Iceland and Liechtenstein.
<b>EU</b>	European Union
<b>GDP</b>	Gross Domestic Product
<b>GVA</b>	Gross Value Added
<b>HERD</b>	Higher education research and development
<b>MAC</b>	Migration Advisory Committee An independent non-department public body under the Home Office, providing advice to UK ministers on immigration policy.
<b>NHS</b>	National Health Service
<b>NRS</b>	National Records of Scotland
<b>OECD</b>	Organisation for Economic Co-operation and Development An intergovernmental organisation with a trade and economic focus, formed of mostly high-income countries.
<b>OISC</b>	Office of the Immigration Services Commissioner
<b>ONS</b>	Office for National Statistics
<b>PNP</b>	Provincial Nominee Programme (Canada)
<b>SARRA</b>	Scottish Asylum and Refugee Resettlement Agency Proposed public body to manage asylum application processing, refugee resettlement and integration after independence.
<b>SAWS</b>	Seasonal Agricultural Workers Scheme
<b>SIMBA</b>	Scottish Immigration and Border Agency Proposed public body to manage visa applications, border control and immigration enforcement after independence.



<b>SPCSO</b>	Scottish Passport and Citizenship Services Office Proposed public body to manage passport and citizenship registration and naturalisation applications after independence.
<b>SSRM</b>	State-Specific Regional Migration programme (Australia)
<b>UK</b>	United Kingdom
<b>UKVI</b>	UK Visas and Immigration Part of the Home Office, responsible for receiving and assessing visa, settlement and citizenship applications.
<b>UN</b>	United Nations
<b>USA</b>	United States of America

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Any enquiries regarding this publication should be sent to us at  
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