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Public Bill Committee

IMMIGRATION AND SOCIAL SECURITY CO-ORDINATION (EU WITHDRAWAL) BILL

Sixth Sitting

Tuesday 26 February 2019

(Afternoon)

CONTENTS

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Saturday 2 March 2019

The Committee consisted of the following Members:

Chairs: Sir David Amess, †Graham Stringer

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Blomfield, Paul *(Sheffield Central)* (Lab)
† Brereton, Jack *(Stoke-on-Trent South)* (Con)
† Caulfield, Maria *(Lewes)* (Con)
† Crouch, Tracey *(Chatham and Aylesford)* (Con)
† Dakin, Nic *(Scunthorpe)* (Lab)
† Davies, Glyn *(Montgomeryshire)* (Con)
† Duguid, David *(Banff and Buchan)* (Con)
† Green, Kate *(Stretford and Urmston)* (Lab)
† Khan, Afzal *(Manchester, Gorton)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† McDonald, Stuart C. *(Cumbernauld, Kilsyth and Kirkintilloch East)* (SNP)
† McGovern, Alison *(Wirral South)* (Lab)
† Maynard, Paul *(Lord Commissioner of Her Majesty's Treasury)*
† Newlands, Gavin *(Paisley and Renfrewshire North)* (SNP)
† Nokes, Caroline *(Minister for Immigration)*
† Sharma, Alok *(Minister for Employment)*
† Smith, Eleanor *(Wolverhampton South West)* (Lab)
† Thomas-Symonds, Nick *(Torfaen)* (Lab)

Joanna Dodd, Michael Everett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 26 February 2019

(Afternoon)

[Graham Stringer *in the Chair*]

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

2 pm

The Chair: Before I call Kate Green to resume her speech, I should say that it is hot in here, so if hon. Members wish to take their jackets off, they have the Chair's permission to do so.

Clause 4

Consequential etc provision

Amendment moved (this day): 8, in clause 4, page 3, line 10, at end insert—

"(5A) Regulations under subsection (1) must provide that EEA nationals who are employed as personal assistants using funding from a personal budget are exempt from any minimum salary threshold that is set for work visa applications.

(5B) In this section, personal budget has the meaning set out in section 26 of the Care Act 2014."—*(Kate Green.)*

Kate Green (Stretford and Urmston) (Lab): The personal assistants employed by disabled people help with tasks such as travel, writing and communications, in addition to providing personal care. They come with a variety of skills, which are very much dependent on the unique needs of the disabled person. They are a growing workforce within the wider social care workforce, particularly as more disabled people live independently and are in need of personalised support to enable them to learn, work and live their own lives.

Personal assistants are partially or wholly funded by the state, either from personal social care budgets or from personal health budgets. Direct payments—personal social care budgets—were first introduced for adults in 1997 by the Community Care (Direct Payments) Act 1996, and for older people in 2000. The Care Act 2014 made it mandatory for local authorities to provide direct payments to individuals who needed and were eligible to receive them.

In 2015, the Department of Health defined a direct payment as follows:

"A payment of money from the local authority to either the person needing care and support, or to someone else acting on their behalf, to pay for the cost of arranging all or part of their own support. This ensures the adult can take full control over their own care."

That gives considerable discretion to the person in receipt of the budget as to how they deploy it, but many people use it, in whole or in part, to employ a personal assistant to enable them to live an independent life.

After a fairly slow start, the number of people receiving direct payments increased rapidly, from 65,000 in 2008 to 235,000 in 2014. Many of those adults chose directly to employ their own staff rather than use traditional adult social care services. Skills for Care estimates that, by 2016, around 70,000 of the 235,000 adults and older people receiving a direct payment employed their own staff directly, creating around 145,000 personal assistant jobs between them. Until that point, however, relatively little was known about the make-up of that part of the adult social care sector workforce.

Skills for Care has conducted new research into this subject, and we now know that there are approximately 200,000 personal assistants working in the UK. That figure is based on information from the national minimum dataset collected by Skills for Care and on the number of people in England using personal health budgets to employ personal assistants. We also know that, in 2018, 8% of the total social care workforce were non-UK nationals. The exact figures for personal assistants are not known, but it is fair to assume that a similar percentage applies.

Nick Thomas-Symonds (Torfaen) (Lab): I commend my hon. Friend on the speech she is making. Does she agree that, although the issue of personal assistants is important, there is the wider issue of the impact on the care sector as a whole of a minimum threshold of £30,000 per annum?

Kate Green: Indeed I do. Research by Global Future, for example, points starkly to the gap in the social care workforce today, the growth of that gap as a consequence of demographic change, and the potential implications of the proposals in the Government's White Paper. I will say a little more about that in a moment, and colleagues may wish to expand on it, too.

In respect of personal assistants, if we assume that the percentage of that workforce mirrors that of the social care workforce as a whole, we could assume that perhaps 7,000 to 10,000 are non-UK nationals, including European economic area nationals. That covers only personal assistants employed to provide social care; I have no information on the breakdown by nationality of personal assistants employed by holders of personal health budgets. However, there are a total of 42,000 personal assistants employed by holders of personal health budgets, which might suggest, if the proportion of non-UK nationals is similar to that in social care, a further 3,000 to 4,000 people.

My amendment seeks to address the concern about the ongoing ability of disabled people to recruit this important workforce after Brexit if the proposals in the Minister's White Paper, particularly those relating to the salary threshold, came into effect. Wherever personal assistants are employed, they are a vital resource for disabled people, whose lives would be very difficult without them—especially, for example, those who live in isolated rural communities where it is difficult to get end-to-end social care.

Many—perhaps the vast majority or even all—of these personal assistants earn way less than £30,000 per year. Typically, many will earn only half that. As I have said, and as my hon. Friend the Member for Torfaen pointed out, the sector as a whole already faces severe pressure. Skills for Care says there are approximately 110,000 unfilled vacancies in the sector at any one time. Global Future's research points to growing pressures as a result of a changing demographic, which, combined with the provisions of the European Union (Withdrawal) Act 2018, this Bill and the proposals in the White Paper, could lead to a shortfall in the workforce of perhaps

400,000 by 2026, including a shortfall in the number of personal assistants. At the present rate of recruitment it would take us 20 years to make up that gap.

This workforce was considered in detail by the Migration Advisory Committee in the report it published last year. While acknowledging the shortfall, the MAC suggested that it could be made up in a number of different ways were access not available to EEA nationals to fill vacancies in the labour force—for example, by persuading former care workers to come back into the sector or by improving retention rates.

However, MAC also says that if the fundamental problem of recruitment and retention in the sector relates to pay and conditions, the only way we can use alternatives to recruiting non-UK nationals—indeed, even if we are recruiting EEA nationals—lies in improving pay and conditions across the sector, which will require substantial funding from the Government. In any event, it would take an heroic effort by the Government and the sector to fill that workforce gap without access to EEA nationals, not least as this demographic time bomb is ticking right here, right now.

For disabled people who employ personal assistants, this could be disastrous. They need committed, skilled carers. They need continuity of care; they cannot afford to have people coming in and out of the workforce. They need certainty and reliability. Therefore, there are real concerns that, if a skills threshold were imposed or, most importantly for this amendment, if a salary threshold of £30,000 applied, they might be forced to look to fill vacancies using people on short-term work visas who would not have the skills or be able to provide the continuity of care.

Governments of all colours have long supported the concept of personal budgets as a facilitative means to support independent living for disabled people. It would be a crying shame if the ambitions that the Government set out in their White Paper and the provisions of this Bill worked against that aim. I hope the Minister will, in the course of our debate, be able to offer some words of reassurance to personal assistants and, most importantly, to the disabled people who employ them.

Tracey Crouch (Chatham and Aylesford) (Con): It is no longer a surprise that I rise in sympathetic support of the amendment tabled by the hon. Member for Stretford and Urmston. I am the independent chair of Medway Council's physical disability partnership board, and with that role come connections to Kent's physical disability forum. I have campaigned for a long time on some of the issues people with physical disabilities face and on how, through better partnership working, they can have a really productive relationship with the local authorities that serve them.

One issue that has come up in meetings over the last 12 months is shortages within the personal assistant workforce post Brexit. Many people are incredibly anxious about whether they will be able to recruit the team they need to support them in their lives. I have not seen anxiety like this on any other issue. It is not necessarily about the Bill specifically but about the impact of Brexit on this recruitment crisis.

As the hon. Lady stressed, many people simply cannot work, or indeed live anything that resembles a normal life, without their personal assistants. With his permission, I want to reference a concern of a member of that forum called Clive. Clive works full time as a senior campaigner for Citizens Advice and runs the Thanet citizens advice bureau extremely ably. He said at a recent meeting that, four years ago, before Brexit, he advertised for a new personal assistant and received 110 applications, three quarters of which were from EU nationals. Immediately after Brexit, he put out an advert, and instead of 110 applications, he received four, none of which was from an EU national. After placing his latest advert, he received only one applicant, who happened to be an EU national. He is absolutely reliant on good personal care, and he fears there will be an accidental consequence as a result of the Bill's minimum threshold on this part of the workforce.

Many people like Clive face issues such as those the hon. Lady set out, and I hope the Minister listened to what I thought was her reasonable and sensible speech. This issue is unique, in many respects, among the wider issues around the EEA national workforce, and I hope she will speak to her colleagues in the Department for Work and Pensions who have responsibility for those with disabilities and those in social care who are responsible for personal healthcare budgets. Hopefully, at some point, she will come back with the reassurances that are sought by people such as Clive, who is my constituent and a member of that forum, and by others across the country on the future employment of personal assistants.

The Minister for Immigration (Caroline Nokes): I am grateful to the hon. Member for Stretford and Urmston for providing the Committee with the opportunity to discuss the amendment, which concerns personal care assistants and exemptions from the £30,000 salary threshold for the future skilled worker route.

First, I assure the Committee that the Government wholeheartedly recognise the tremendous contribution made to the UK by those working in social care and in our wider health and care sector. We remain committed to ensuring that the future immigration system caters to all sectors, including our important NHS and social care sectors, and that it benefits the UK's economy and our prosperity.

The hon. Lady made some important points, which were echoed by my hon. Friend the Member for Chatham and Aylesford, who made some interesting comments, drawing on her experience of chairing the forum in Kent and, in particular, on Clive's comments. The hon. Member for Stretford and Urmston talked about the increase in disabled people and the elderly living independently, and they are able to do so because of personal care assistants. The hon. Member for Wirral South also commented on changing demographics. We are all very conscious of that and absolutely rejoice in and welcome the ability of both the elderly population and the disabled to live much more independently, but I am absolutely alive to the reality that that is brought about in part by personal budgets and the ability to independently employ a personal care assistant in the way that has been outlined.

2.15 pm

As Members will know, in December the Government set out our proposals for a future UK skills-based immigration system, which will apply to both EEA and non-EEA nationals alike, and which will prioritise skills over nationality. Under those proposals, we intend to provide for a new skilled worker route, which will be

open to medium-skilled occupations—that is at A-level and above—and which will not operate an annual cap or require a resident labour market test for those roles. Collectively, the proposals will ensure that employers seeking to fill vacancies in the UK can do so more quickly and with less bureaucracy.

As the hon. Member for Stretford and Urmston outlined, and as the Committee will be aware, the independent Migration Advisory Committee, in its report on EEA migration in the UK, published in September last year, recommended that if, in the skilled route, the permitted skills level is expanded to include intermediate skills, the current minimum salary threshold of £30,000 should be maintained to maximise economic contribution. The MAC noted that 40% of existing jobs in the intermediate skills level meet the current salary thresholds, and £30,000 is the level of household income at which an average family of EEA migrants starts making a positive contribution to public finances.

The Government have noted the MAC's recommendations and reasoning for recommending the minimum threshold. However, we also recognise that businesses and organisations have concerns about the impact of the threshold on certain occupations and on their ability to attract and access skilled international workers in the future system. That is why, since the White Paper was published, we have been engaging organisations on the proposals in the White Paper as part of a 12-month process, including on the salary threshold, and we will listen to their views before making final decisions as to where any salary threshold should be set. The White Paper is but the start of a national conversation.

In some circumstances, there should be some flexibility to allow migration at lower salary levels. That is already the case in the existing system. New entrants to the labour market, as well as those in certain occupations that are deemed to be in national shortage, are required to earn less than would normally be the case. We have commissioned the Migration Advisory Committee to undertake a full review of the shortage occupation list, and it is due to report this spring. The MAC has been clear that it has taken evidence across all skill levels, and if the MAC recommends that certain occupations should be added to the list, we will consider whether there is a case for a lower salary threshold for those occupations, providing they meet the other requirements for the new skilled worker route.

As the MAC set out in its final EEA report, it believes that wages are a critical factor in the recruitment and retention of local workers and that low pay is often the root cause of shortages, not migration. It cites social care in that context. In particular, it says:

> "Social care is a sector that struggles to recruit and retain workers which is a cause for concern as demand is rising inexorably. Its basic underlying problem is…poor terms and conditions paid to workers in this sector, in turn caused by the difficulty in finding a sustainable funding model."

Paul Blomfield (Sheffield Central) (Lab): The Minister is right to cite the evidence from the MAC. Indeed, Alan Manning in his verbal evidence to the Committee, made the point that, in low-wage sectors, employers needed to step up to the mark. Clearly, the major employer behind social care is the Government. Are the Government willing to step up to the mark to provide the funding necessary?

Caroline Nokes: I am unsurprised that the hon. Gentleman has chosen to put that on the record. It is fair to say that there is an enormous amount of work going on in the Department of Health and Social Care. I am very fortunate that the Minister for Care, my hon. Friend the Member for Gosport (Caroline Dinenage), has been engaging with me repeatedly on this issue. She is a doughty champion for ensuring that we get the right policies in place. I have no doubt that during the next 12 months she will be continuing to press me on the point that both our Departments—and as my hon. Friend the Member for Chatham and Aylesford mentioned, the Department for Work and Pensions—need to make sure that we have a joined-up approach on this matter.

I know, and the Government know, that we need to redouble our efforts to promote jobs and careers in social care to the domestic workforce. That is why the Secretary of State for Health and Social Care has made improving the working lives of the millions of people who work in social care one of his top priorities and why, on 12 February, he launched a national recruitment campaign for social care. The campaign aims to raise awareness of the variety of rewarding job opportunities in social care, improve people's perceptions of working in the sector and increase consideration and applications from individuals with the right values who are looking for a new challenge.

The Government are committed to ensuring that all sectors are catered for in a future system, so that the UK remains competitive and an attractive place to work for skilled individuals. However, it is important that we consider carefully the impact on the economy, including the impact of any exemption from the eventual minimum salary threshold, and ensure that we strike the right balance in the system. It must protect migrant workers and prevent undercutting of the resident workforce; we must not support employment practices that drive down wages in an occupation or sector, perpetuating low pay.

In full recognition that employers will need time to adjust to the future system, the White Paper also proposes a transitional measure: a time-limited route for temporary short-term workers, which will be open to all skill levels and, initially, to low-risk countries, and will be reviewed by 2025. We expect individuals, including personal care assistants who fall below the requirements of the skilled worker route, to be able to take advantage of the benefits that the route offers.

Kate Green: I am sure that the Minister will acknowledge that the instabilities inherent in the short-term worker visa scheme make it unsuitable for the very personal and intense personal care that is provided by PAs. Indeed, as the Select Committee on Home Affairs heard in evidence from the MAC last year, it is a different kind of job from coming over for a year to work in a bar or a shop and do a bit of travelling, as young people continue to want to do.

Caroline Nokes: The hon. Lady makes an important point that we have heard in our sectoral engagement on the proposed temporary workers route, and that I expect to hear reinforced over the coming months. She is right to point out that we want people engaged in such employment to have stability, so that they can build relationships with the people they care for, but we should also reflect that the sector already has instability

and problems with retention. It is important that we work hand in hand with the Department of Health and Social Care to address those issues, as well as looking at routes to enable continuity.

Maria Caulfield (Lewes) (Con): Care agencies in my constituency that take on personal assistants and have a high turnover of staff have highlighted how long Disclosure and Barring Service checks take—another issue that adds to recruitment problems in the care sector.

Caroline Nokes: My hon. Friend makes an important point about DBS checks. I welcome her contribution: she has a lot of experience in the health and care sector, and she knows that one of the big challenges is instability and high turnover. Together, we have to find ways to address that, which will be partly within and partly outside the immigration system.

Leaving the EU means ending free movement, with full control of our borders, and introducing a new immigration system that works in the interests of the UK, while being fair to working people here by bringing immigration down to sustainable levels and ensuring that we train people up here at home. As I have indicated, the Government intend to provide for a single future immigration system based on skills rather than on where an individual comes from. We want to ensure that there are only limited exceptions to that principle.

There is no doubt that the EEA nationals who are already working as personal care assistants make an invaluable contribution to the lives of many vulnerable adults in the UK with care needs. We have already been clear that we want the 167,000 EU nationals who currently work in the health and social care sector—including those who work as personal assistants, and other EEA nationals who are already here—to stay in the UK after we leave the EU. We have demonstrated that aim with the launch of the settlement scheme.

I hope that the hon. Member for Stretford and Urmston agrees that it is right that the Government continue to listen to businesses and organisations across all sectors of the UK economy over the next 12 months, and that it is too early to provide for exemptions to a salary threshold that is yet to be determined. I therefore invite her to withdraw her amendment.

Kate Green: I thank the Minister for her response. I especially thank the hon. Member for Chatham and Aylesford for sharing Clive's experiences, because it is always important to bring a human dimension to our debates.

I know that the Minister is carefully considering the impact of a salary threshold on certain sectors; we would argue that the health and social care sector needs particular special care. I am encouraged by what she says about the MAC review of the shortage occupation list, and I note what she says about the skills level at which workers might be able to come into the UK to work. Of course, the skills that personal assistants and care workers need are not purely academic: they need to have equivalent-level vocational skills, and I am sure that the Minister will want to acknowledge that in the way that the skills threshold is designed. I also say to the Minister that the £30,000 figure that the MAC has used to assess the point at which an average family is making a contribution to the public finances is a little unfair to personal assistants and care workers. Arguably, those people are not just making a financial contribution to the public purse, but are significantly contributing to our overall quality of life, to our public services, and to a sector on which all of us will rely at some point in our lives. I hope that will be considered in the way in which the threshold is applied.

Finally, we would very much like to see the Government's Green Paper as an underwriting of the good intent that the Minister has spoken of in relation to her colleagues in the Department of Health and Social Care. I know that the Government are giving careful attention to this particular important sector and, in those circumstances and with the leave of the Committee, I will withdraw my amendment. However, I hope that the Minister and her colleagues will take the opportunity to engage directly with disabled people and the personal assistants who provide them with care in the course of the consultation on the White Paper.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Kate Green: I beg to move amendment 19, in clause 4, page 3, line 10, at end insert—

"(5A) Regulations under subsection (1) must provide that EEA nationals, and adult dependants of EEA nationals, who are applying for asylum in the United Kingdom, may apply to the Secretary of State for permission to take up employment if a decision at first instance has not been taken on the applicant's asylum application within six months of the date on which it was recorded."

The Chair: With this it will be convenient to discuss new clause 23—*Agreement with the EU on unaccompanied children*—

A Minister of the Crown must commit to negotiate, on behalf of the United Kingdom, an agreement with the European Union under which an unaccompanied child who has made an application for international protection to a member State may come to the United Kingdom to join a relative, in accordance with section 17 of the European Union (Withdrawal) Act 2018, such that the agreement becomes law in the UK before the end of any transition period agreed as part of a withdrawal agreement or within 3 months in the event of the UK leaving the EU without a deal.

This new clause would mean that unaccompanied children can continue to be reunited with family members in the UK following the UK's withdrawal from the EU, as currently provided for as part of the Dublin III Regulation.

Kate Green: If peace and cross-party good will broke out in relation to my last amendment, I hope that we may find similar cross-party enthusiasm for this one. I know that many colleagues around the House have paid careful attention to campaigns for legal asylum seekers to have the right to work in certain circumstances. This amendment would offer the right to work to EEA nationals who may become asylum seekers in future if a decision on their case has not been taken after a period of six months.

People seeking asylum in the UK are effectively prohibited from working, which means that they are forced on to asylum support at the meagre level of £5.39 a day while they wait for a decision on their asylum claim. Current immigration rules dictate that those people can apply for permission to work only if they have been waiting for a decision for over 12 months, and only for jobs that are on the shortage occupation list, which we were discussing a few moments ago. Those constraints could apply to EEA nationals seeking asylum in this country post Brexit, and we have to

[Kate Green]

assume that in at least a small number of cases, such individuals will be looking for refuge here in the years to come.

The White Paper published on 20 December has already recognised the importance of work when it comes to the physical and mental wellbeing, the sense of building a wider contribution to society, and the community integration of people in the asylum system. It states that

"the Government has committed to listening carefully to the complex arguments around permitting asylum seekers to work."

I know that both the Minister and the Home Secretary have been actively engaging with me and with other colleagues around the House, and I place on record my thanks for their interest in and engagement with this subject. It is much appreciated.

As I have said, the amendment calls for asylum seekers who are EEA nationals and their adult dependants to have a right to work, unconstrained by the shortage occupation list, after six months of having lodged an asylum claim or made a further submission in relation to their case. Of course, I would like the right to work to extend to all asylum seekers, not just those who are EEA nationals. There is a measure of support for that proposal around the House, and I hope that in due course—if not under the scope of this Bill—we will have the opportunity to debate it further in this Parliament. It would represent a return to UK policy as it existed under previous Governments, both Labour and Conservative.

Up until July 2002, people seeking asylum could seek permission to work if they had been waiting for an initial decision on their claim for six months or more. That rule was withdrawn in July 2002 on the basis—which, with the benefit of hindsight, was perhaps rather optimistic—that faster asylum decision making was going to make that provision irrelevant. However, the Government's most recent immigration statistics show that 49% of all people waiting for a decision on their initial claim have been waiting for more than six months, and I think that if we started to see numbers increase from the EEA in future years, we could only expect that waiting time to become worse.

2.30 pm

In February 2005, a new immigration rule was introduced to comply with the 2003 European directive on reception conditions for asylum seekers, which the Government had opted into. That rule allowed people seeking asylum to apply for permission to work in the UK if they had been waiting for more than 12 months for an initial decision on their claim. In July 2010, the right to work after 12 months was extended to those who had made further submissions on their claim, but at the same time the right to work was restricted to jobs on the shortage occupation list.

This Bill is an opportunity to make a modest reform to the rules, and there is very good reason to do so. My amendment would increase the chances of smooth economic and social integration by allowing refugees to improve their English, to acquire new skills and to make new friends and social contacts in the wider community. Crucially, it would enable refugees to be self-sufficient. A study from Germany found that the longer the employment ban, the worse the subsequent employment trajectories of refugees. Enabling people to work provides a route out of poverty. As I have said, asylum support is a meagre £5.39 a day to meet all essential living costs, including food, clothing, toiletries, transport and, often, the cost of the asylum application. Forcing people to live in poverty for months or even years at a time while they seek safety from persecution is inhumane and has a detrimental impact on their physical and mental health. By contrast, enabling people to work provides them with the human dignity of providing for themselves and their families if they are able to do so.

The current system wastes talents. The vast majority of people seeking asylum in this country are very anxious to work and many of them are very highly qualified and skilled. I think we can expect that that would certainly be a pattern among EEA nationals, too. Of course, if we could incentivise and enable EEA national asylum seekers to work, that would reduce the cost to the public purse and provide an economic boost to the country. It would mean that, rather than having the current cost of National Asylum Support Service support and accommodation, which is a £5,563 debit to the public purse, we could have tax and national insurance contributions from asylum seekers in employment going into the public purse; and even at national minimum wage levels, if they were working full time, that would be a contribution of £1,400 a year.

I can say, including from experience in my own constituency, that enabling asylum seekers to work after a period of six months would command popular public support. A recent study by British Future found that 71% of the public support the right to work after six months, and that majority exists among not only people who voted in 2016 to leave the EU but those who voted to remain. It would bring the UK's policy in line with policy in all comparable countries. The restrictive approach that the UK takes to the right to work makes us an outlier. For example, in the USA, Spain and the Netherlands, asylum seekers can work after six months. In Germany and Switzerland, it is after three months, while Canada allows work from day one. Those countries all place greater emphasis on helping people to support themselves.

I know that the Minister will have concerns about my amendment. The Government say that they want their new system to operate as a level playing field for EEA and non-EEA nationals. Had it been possible to bring within the scope of the amendment non-EEA as well as EEA national asylum seekers and to invite the Committee to support their having a right to work, I can assure you, Mr Stringer, that I would have done so. I hope that the Minister might be able to welcome this proposal as an early first step.

There have been concerns about a perceived pull factor. The idea is that a less restrictive system would attract people who might not otherwise have chosen to come to the UK to claim asylum. There is absolutely no evidence, however, that such a pull factor exists. A recent study of 29 different academic papers has found no correlation between countries that offer asylum seekers a more generous right to work and countries in which people choose to seek protection. Nor is it likely that people would make false claims in order to have a right to work, because that would simply draw attention to their presence in the country. A six-month waiting period would provide a strong safeguard against that. I also think we can assume that, certainly as regards EEA nationals—who come under the scope of this

amendment—the impact on the UK workforce would be minimal. I very much doubt that these are substantial numbers in the context of the current UK labour force of 32.4 million people.

As I have said, both the Minister and the Home Secretary have expressed interest in looking at the current rules in relation to the existing policy. I very much welcome that open-minded approach to an issue in which the House has taken a considerable interest. Just last week, my hon. Friend the Member for Hornsey and Wood Green (Catherine West), who is a co-signatory to the amendment, promoted a ten-minute rule Bill that would extend further the right of asylum seekers to work. It has considerable cross-party support.

I hope that the Minister will take this opportunity to set out the Government's thinking, and say whether, as a first step, she would be prepared to consider the impact of a relaxation of the policy in relation to EEA nationals. I look forward to hearing her response.

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): I rise to speak to new clause 23, which essentially seeks to prod the Government to provide reassurance that they will do what they have promised to do, and we urge them to do so as quickly as possible.

The Government have made a very important promise. Under section 17 of the EU withdrawal Act, the Government agreed to seek an agreement with the EU to ensure that unaccompanied asylum-seeking children in an EU state can continue to be reunited with family members in the UK after Brexit. That was very welcome.

Of course, all of that is currently done through the EU's so-called Dublin III regulations, which, though not perfect, have been vital in ensuring that children are not left unaccompanied and in danger of exploitation and trafficking. We must ensure that that route is not closed off; but, if it is, the danger is that more children will be forced into the hands of traffickers and smugglers, in order to reach family here in the UK. I do not think that anyone on this Committee would want that to happen.

New clause 23 seeks to put a timeframe on that promise. If there is a Brexit deal, we ask the Government to include and bring into force that agreement before the transition ends. If there is no deal, the new clause seeks to ensure that the arrangement comes into force within three months of withdrawal. Essentially, therefore, this is the opportunity for the Minister to let us know what is happening to implement Parliament's express will in section 17 of the withdrawal Act.

Equally, this is also the chance for the Government to consider going further than their original commitment. For example, why not also seek to implement the other Dublin provisions, so that it is not just unaccompanied children who can be reunited with family here but other asylum seekers, too, where appropriate?

As I have said, Dublin III is not perfect. It relies on other EU countries to process asylum claims and then request a transfer, which—as we have often seen—can be a ludicrously slow process. Would it not be better simply to use immigration rules to allow asylum seekers to be reunited here, thereby potentially bypassing that first administrative step?

Finally on new clause 23, of course the Dublin rules on family reunion only apply in a European context. Why not apply them more broadly so that unaccompanied asylum-seeking children and other asylum seekers can be reunited with family here in the UK without having to make dangerous journeys to Europe? We will revisit some of these issues when we debate a later amendment, but for now a progress report from the Minister would be very much appreciated.

I lend my full support to the hon. Member for Stretford and Urmston Green for everything she said about amendment 19 and the right of asylum seekers to work. That policy has had the Scottish National party's full support for many years, and to my mind it is an absolute no-brainer. As she said, first of all it is good for asylum seekers themselves. Anyone who spends 12 months out of work will find themselves in a drastic situation, and that is just as true, possibly more so, for asylum seekers, whose skills are lost and run down, which can have a negative impact on self-esteem and mental health. Frankly, as the hon. Lady said, the situation is putting people in poverty, given the unacceptably low levels of asylum support that they are left to subsist on.

The right to work is also good for employers, particularly because at a time when the Government are very happy to tell us that unemployment is at very low levels, access to workers will always be welcome. Of course, asylum seekers have a range of skills. A scheme in Glasgow is successfully integrating refugee doctors into the workforce, but why do we have to wait for them to be recognised as refugees? If they have the skills to work in the NHS, why not allow that to happen when they are still asylum seekers?

The right to work is good for communities; it is pivotal for integration and for tackling poverty. Some locations to which asylum seekers are dispersed are not the wealthiest in the country—the Minister and I have debated that a lot recently. Often, in fact, they are among the poorest, so putting in place a new population who do not have the right to work does not help. It would be good for communities if people were earning an income that they could spend in the community.

As the hon. Member for Stretford and Urmston pointed out, the right to work is good for the public purse. Put simply, there would be savings on asylum support, and tax revenue would be gained from the income tax and the increased spending of asylum seekers. Various estimates put the Government's savings at tens of millions of pounds.

From time to time, the Government have expressed concerns about the pull factor, but if that were a significant issue no asylum seekers would come to the United Kingdom at all, because, as the hon. Lady pointed out, we are the outliers. By implementing a right to work, we will not be very different from neighbouring countries. I have already mentioned Canada, which is not a neighbouring country, but which pretty much allows the right to work from day one.

The proposed measure is popular with the public. I welcome the fact that the Government have said that they are willing to consider the arguments, but it is time to get a move on. The right to work is long overdue and the time for procrastination has come to an end.

Afzal Khan (Manchester, Gorton) (Lab): I thank my hon. Friend the Member for Stretford and Urmston and the hon. Member for Cumbernauld, Kilsyth and

[Afzal Khan]

Kirkintilloch East for tabling the amendment and new clause, both of which we support. The immigration White Paper has almost nothing to say about asylum or refugee issues, even though there are so many problems.

Amendment 19 deals with the right to work. The right to work would allow asylum seekers the dignity of work, as has been said, and would enable them to earn enough money to support themselves and their families. It would also encourage integration and prevent people from having to rely, for no good reason, on the meagre state subsidy of £5.39 a day. If the Home Office cannot resolve cases in the six-month target time, it is right that asylum seekers be given the right to work.

The waste of talent has already been touched on. I came across an asylum seeker in my constituency who was a Syrian consultant but who has not been allowed to work, even though, with 100,000 job vacancies in the NHS, we really need that skill. Research has shown that not being able to work for a long period doubles the risk of asylum seekers experiencing major mental health problems.

We continue to support the right of unaccompanied children to be reunited with family members in the UK after our withdrawal from the EU. An SNP private Member's Bill is trying to achieve the same outcome and it is right that we support both the amendment and the new clause.

Caroline Nokes: I welcome the opportunity to speak to amendment 19 and new clause 23. I thank the hon. Member for Hornsey and Wood Green (Catherine West), who tabled the amendment, and the hon. Member for Stretford and Urmston, who moved it. I welcome their ongoing contribution to the debate about the right of asylum seekers to work.

The amendment would require provision to be made under clause 4 to enable asylum seekers who are EEA nationals, and their adult dependants, to apply to the Home Office for the right to take up employment if a decision on their asylum claim has not been made within six months of the date on which it was recorded.

As hon. Members may know, the European economic area is not the same as the European Union. It is slightly wider and includes Liechtenstein, Norway and Iceland, which are not members of the EU. That distinction is very important. Under our current immigration rules, asylum claims from EU nationals are treated as inadmissible—in other words, they will not be substantively considered unless there are very exceptional circumstances. Claims from EEA nationals whose home countries are not part of the EU are not inadmissible.

2.45 pm

Our rules on the inadmissibility of asylum claims from EU nationals derive from the Spanish protocol, and allow EU member states to treat an asylum claim by a citizen of another EU country as automatically inadmissible unless exceptional circumstances apply. Claims from EEA nationals whose home countries are not part of the EU are considered by the UK, but on the basis that they are likely to be clearly unfounded. All EEA nationals, including those whose home countries are not in the EU, are from safe countries and are highly unlikely to suffer a well-founded fear of persecution or serious harm there.

For those reasons, and as we do not foresee a change in those circumstances when we leave the EU, we intend to continue our policy on inadmissibility of asylum claims from EU nationals. Amendment 19—if it implies that asylum claims from EEA nationals would be well founded—would put us in direct opposition to our current and proposed approach to such claims. It would also put us out of step with the asylum standards of the European Union. Even if there were exceptional circumstances, in which we substantively considered an asylum claim from an EEA national and took more than six months to determine it, treating asylum seekers from the EEA differently from those from the rest of the world on the grounds of their nationality is not only illogical but discriminatory.

From my discussions with hon. Members, I know that they are concerned more generally about the scope of our policy on asylum seekers' right to work. I understand their concerns and would like to take this opportunity to set out the Government's position. As the hon. Member for Stretford and Urmston outlined, our policy currently allows asylum seekers to work in the UK only if their claim has been outstanding for at least 12 months through no fault of their own. Those permitted to work are restricted to jobs on the shortage occupation list, which is published by the Home Office and, as I indicated in response to the previous amendment, is currently under review by the Migration Advisory Committee. This policy is designed to protect the resident labour market by prioritising access to employment for British citizens and people who are lawfully resident here, including those granted refugees status, who are given full access to the labour market.

It is important to distinguish between asylum seekers who need protection and those who seek to come here to work. Our wider policy could be fundamentally undermined if individuals bypass the rules on who can work in the UK by making an unfounded asylum claim. Currently, about 50% of asylum seekers are ultimately found not to be in need of international protection.

Stuart C. McDonald: One of our problems is that many asylum claims take longer than six months to assess. The Minister just cited unfounded claims as a problem. Surely there must be a process by which we can establish whether a claim is completely unfounded in a much shorter timeframe than six months.

Caroline Nokes: The hon. Gentleman's intervention was not entirely unexpected. He knows that we are committed to ensuring that asylum claims are considered without unnecessary delay, so that people who need protection can be granted it as soon as possible in order for them to integrate and rebuild their lives.

Until recently, our aim was to decide 98% of straightforward asylum claims within six months from the date of the claim. However, many asylum claims are not straightforward, which means that it has not always been possible to make an initial decision within six months. Many of these cases had a barrier that needed to be overcome in order to make the asylum decision, and many of those barriers were outside the Home Office's control.

I am sure that the hon. Gentleman was in the Chamber yesterday when I said that I regard the situation as not good enough. I know that we have to do more in this area, and one of our key priorities is to speed up the

process. I would still like to make several comments about the rights of asylum seekers to work; if the Committee will indulge me, I will expand a little on some of my thoughts in a moment.

I am conscious that we cannot simply dismiss the risk that removing restrictions on work might increase the number of unfounded claims, which would reduce our capacity to take decisions and support genuine refugees. However, we recognise the importance of getting both the policy and the process right, which is why the Home Secretary has already committed to a review of the policy on asylum seekers' right to work. Officials are already undertaking that review, looking at available evidence and anticipating the economic impact that such changes might bring about.

Hon. Members are right to point out that this matter has been raised frequently in both the Chamber and Westminster Hall. I remember that in October many hon. Members here today contributed to a debate led by my right hon. Friend the Member for Meriden (Dame Caroline Spelman). I later responded before the Select Committee on Home Affairs to a question from my hon. Friend the Member for Christchurch (Sir Christopher Chope), when he spoke of a report he had contributed to several years ago on the rights of asylum seekers to work.

The issue was raised extensively on Second Reading and yesterday it cropped up again in Home Office oral questions. I had forgotten, until the hon. Member for Stretford and Urmston mentioned it, that I sat on the Bench last week for the First Reading of the Asylum Seekers (Permission to Work) (No. 2) Bill, the ten-minute rule Bill promoted by the hon. Member for Hornsey and Wood Green, who spoke passionately about this issue and made a number of the points that we have heard again today.

Over the course of the past 12 months I have made a significant effort to engage on the issue, not only with non-governmental organisations and charities involved in the sector, but with hon. Members in this place. I appreciate the thought and time that have gone into those conversations, not least with the hon. Member for Stretford and Urmston and her good friend and colleague, the hon. Member for Bristol West (Thangam Debbonaire), who made a fleeting visit to the Committee this morning. I think she was a little optimistic if she thought we would get to this amendment before lunch. She has always made a powerful case on this subject.

As Immigration Minister, I am conscious that one should not conflate asylum seekers with refugees. I fear that in my next comments I am about to do just that, for which I apologise. I have spent a great deal of time on visits over the course of the past year, and I will give some edited highlights. One of my first ministerial visits was to Bradford, where I met members of World Jewish Relief Aid who were working closely with resettled refugees who had come here as part of the vulnerable persons resettlement scheme. That is where the conflation is coming in. They were making efforts to enable those with refugee status to improve their English and CVs and work through the process of moving into employment. It was a humbling experience and fascinating to have the opportunity to talk to the refugees about the importance to them of work. Hon. Members will have heard me say previously—

The Chair: Order. I have given the Minister a great deal of latitude. The amendment is about EEA nationals and the new clause is about unaccompanied children. Would the Minister come back to the amendment and the new clause?

Caroline Nokes: I absolutely will, Mr Stringer. I wanted to make the point, as the hon. Member for Stretford and Urmston said herself, that employment is an important route to integration. She made the point about the ability to work of EEA nationals who had claimed asylum. It holds true that the right and ability to work is an important step in enabling people to integrate into communities. It is good, not just for their financial wellbeing, but for their mental and physical wellbeing, and we know that the outcomes for their children will be better. I hope that was in order.

I recently attended a conference held by the Refugee Employment Network where those points were made to me repeatedly about the importance of ensuring that refugees are enabled to move into the workplace and the benefits that that brings.

I want to talk briefly about the difference between refugees and asylum seekers and the outcomes of moving into employment. I repeat the challenging figure, almost ad nauseam, that only 2% of refugees who have come through the vulnerable persons resettlement scheme move into employment. We know that the outcomes for those who have come here as spontaneous arrivals who have claimed asylum—

The Chair: Order. Can the Minister refer her comments to EEA nationals or unaccompanied children, which is what is before us, please?

Caroline Nokes: We might expect that EEA nationals, who came here and claimed asylum in the unlikely circumstances that we would deem a claim to be admissible, might move into employment at a rate of about 25%. I am conscious that these figures are very low and there are areas where we could do better. Either the hon. Member for Stretford and Urmston or the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East made the point that the longer somebody is out of work, if they are an EEA national who is claiming asylum, the harder it is for them to move into work.

I hope that those comments, whether in order or not, have reassured hon. Members that we are taking the matter really seriously. It is an important issue but amendment 19 does not address the wider issue, being limited to only EEA nationals and their family members. Given my comments that it is incredibly restrictive and possibly discriminatory, I invite the hon. Member for Stretford and Urmston to withdraw the amendment and look to our review on the existing policy.

I now turn to new clause 23. I thank the hon. Members for Cumbernauld, Kilsyth and Kirkintilloch East and for Paisley and Renfrewshire North and welcome their ongoing contributions to this debate. The new clause aims to ensure that the UK must reach and legislate for an agreement with the EU in accordance with section 17 of the European Union (Withdrawal) Act 2018 within an implementation period or within three months of the UK leaving the EU without a deal. Section 17 commits the UK to seek to negotiate an agreement with the EU whereby unaccompanied asylum-seeking children can be reunited with close family members and vice versa, where it is in the child's best interests.

[Caroline Nokes]

I hope that the Committee will agree that there should not be a deadline in domestic legislation for reaching an agreement with the EU. The UK cannot compel the EU to negotiate on this issue and, more importantly, we cannot compel the EU to do so for a specific timeframe. I understand the intention behind the new clause proposed by the hon. Members and reassure them of the provisions that will be in place for unaccompanied asylum-seeking children seeking to join family members in the UK when the UK withdraws from the EU.

In addition to the commitments under section 17 of the withdrawal Act, the UK will continue to operate under the Dublin III regulation in any agreed implementation period. In the event of the UK withdrawing from the EU without a deal, the Home Office will continue to consider inward Dublin transfer requests relating to family reunification that are made before 29 March 2019. That would also apply to any take charge requests accepted before 29 March this year. Furthermore, EU exit does not change the Government's commitment to relocating 480 unaccompanied children to the UK under section 67 of the Immigration Act 2016, commonly known as the Dubs amendment. I therefore invite the hon. Members for Cumbernauld, Kilsyth and Kirkintilloch East and for Paisley and Renfrewshire North to withdraw the amendment.

Kate Green: I am grateful to the Minister for her comprehensive response. We are aware of the review that the Government are undertaking and very much appreciate that that is taking place and appreciate the opportunities that we have been offered to participate in it. In the light of her engagement with the subject and the comments that she has made about the potentially discriminatory nature of amendment 19, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdraw.

Stuart C. McDonald *rose—*

The Chair: We will come to new clause 23 later in the agenda.

Afzal Khan: I beg to move amendment 20, in clause 4, page 3, line 10, at end insert—

"(5A) Any regulations made under subsection (1) which introduce a work visa scheme for EEA nationals must be developed in consultation with trade union representatives.

(5B) The Secretary of State must publish an impact assessment on workers' rights for any regulations made under subsection (1) which introduce a work visa scheme for EEA nationals."

The Chair: With this it will be convenient to consider the following:

New clause 20—*Seasonal agricultural work visas scheme for EEA and Swiss Nationals—*

(1) The Secretary of State must introduce a sector-specific work visa to enable farmers to employ EEA and Swiss nationals to come and work in the United Kingdom for limited time periods.

(2) Any EEA and Swiss national is eligible to apply for a visa issued under this section if—

(a) they have secured a job offer in the United Kingdom; and

(b) they possess a certificate of sponsorship from a UK employer with a valid sponsorship licence.

(3) A work visa granted under this section remains valid for—

(a) the duration of time that the person it is granted to is employed in the United Kingdom; and

(b) for a period not exceeding six months continuous employment.

(4) No minimum income requirement shall be required for a visa issued under this section.

(5) The Secretary of State may by regulations made by statutory instrument make such further provision as the Secretary of State considers appropriate to establish a farming sector-specific work visa under this section.

(6) Any statutory instrument issued under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House.

New clause 21—*Work visas for EEA and Swiss Nationals—*

(1) The Secretary of State must introduce a general work visa to enable EEA and Swiss nationals to come and work in the United Kingdom.

(2) Any EEA and Swiss national is eligible to apply for a visa issued under this section if—

(a) they have secured a job offer in the United Kingdom; and

(b) they possess a certificate of sponsorship from a UK employer with a valid sponsorship licence.

(3) A work visa granted under this section remains valid for—

(a) the duration of time that the person it is granted to is employed in the United Kingdom; and

(b) for a period not exceeding 12 months continuous employment.

(4) No minimum income requirement shall be required for a visa issued under this section.

(5) The immediate family members of a person granted a general work visa under this section are entitled to reside in the United Kingdom for the duration of the validity of the work visa.

(6) In this section "immediate family member" means an EEA or Swiss citizen's spouse or civil partner, or a person related to them (or their spouse or civil partner) as their—

(a) child or grandchild under 21 years old, or dependent child or grandchild of any age; or

(b) dependent parent or grandparent.

(7) The Secretary of State may by regulations made by statutory instrument make such further provision as the Secretary of State considers appropriate to establish a general work visa under this section.

(8) Any statutory instrument issued under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House.

Afzal Khan: The Government's White Paper outlines the intention to introduce a new 12-month general work visa, which it says will be necessary to make up the shortfall in workers created by the ending of freedom of movement. The Government claim that it will be a skill-based system, even though they have repeatedly identified an income limit of £30,000, as we have heard many times today, which is above the annual wage for full-time workers. Our concern is that that will limit the ability of employers in both the public and private sectors to recruit to fill labour and skill shortages. It will also create a new category of low-skilled migrants and temporary workers whose rights will prove extremely difficult to uphold in practice. As a result, it is likely to have a detrimental effect on the ability to uphold the rights of all workers who occupy the lower-paid jobs affected.

3 pm

We heard oral evidence from Rosa Crawford, the TUC representative, that the Bill

"will not only make life harder for EU citizens and workers in this country, but have the effect of making conditions worse for all workers."—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 12 February 2019; c. 38, Q109.]

She went on to say that for any temporary visa migration system, the limited visa brings the inherent risk that workers will face further exploitation because their condition of employment is limited to their legal status in a country. An important change that would mean that all workers were less at risk of exploitation would be to ensure that workers, regardless of immigration status, could enforce their employment rights in line with international labour organisations' documentation. It is essential, therefore, that new visa regimes are developed in consultation with trade union representatives, to avoid the weakening of the rights of all workers, not just migrants.

The other point that I wish to raise relates to the seasonal agricultural workers scheme. The Government have been forced to reintroduce a pilot scheme for 2,500 workers from outside the EU. Although billed as such, Ministers claim that it will alleviate the labour shortage created by the abolition of the seasonal agricultural workers scheme in 2013. In its previous form, the scheme recruited 22,000 workers. The current pilot is tiny in relation to the number of workers needed. As we have seen, the National Farmers Union was "outraged" by the scrapping of the SAWS and called the current pilot inadequate.

Stuart C. McDonald: I wanted to speak briefly to these amendments. First, I note how unusual and exciting it is to be debating substantive provisions of immigration law. One of the key points that I make throughout this process is that this is a rare occurrence. We get to what would usually be shoved into immigration rules or a statement of changes; it is then passed through Parliament, and the Bill becomes law without anyone realising that it is happening—never mind having a chance to debate it. Perhaps we could even suggest amendments to the shadow Minister to improve his draft new clauses. I welcome what he has done in proposing substantive immigration policy in a way that allows MPs to come and have a say. Our take on what he has said about the SAWS and the evidence we heard from National Farmers Union Scotland was that the pilot scheme was not enough. We welcomed the pilot, but 2,500 places are not enough. I think that the number that was mentioned that would be sufficient was 10,000. That is against the background that National Farmers Union Scotland was also absolutely and clearly in favour of retaining the free movement of people.

David Duguid (Banff and Buchan) (Con): Coming from a constituency that is agricultural as well as fishing, I recognise a lot of the concerns that have been raised by National Farmers Union Scotland. Does the hon. Member agree that Andrew McCornick, the president of NFU Scotland, also stated, not in evidence to this Committee but in previous evidence, that he would like the immigration system to open up to employees from outside the EEA as well?

Stuart C. McDonald: I am happy to acknowledge that evidence. The two things are not inconsistent: to attain free movement of people we have got to have a seasonal agricultural workers scheme to allow access to labour from outside the EU as well. Even with free movement of people, there is still a huge recruitment problem. There are crops and fruit going unpicked.

As we have seen, countries from which farmers were able to recruit previously, such as Poland, have caught up. In fact, they have job offers from other parts of the EU. Subsequently, farmers were recruiting more from Romania, but again, the economy and wages there have caught up slightly and there are also alternative employment options elsewhere. So there is already a recruitment crisis, even though we have had free movement of labour. There must be a two-pronged approach here: retain free moment and at the same time have a proper seasonal agricultural workers scheme to allow farmers and others to recruit from outside the EU as well. The SAWS pilot is welcome but it is not enough: we need the free movement of people as well.

In other evidence, NFU Scotland stated that the proposals for a no-deal scenario were not remotely sufficient for its purposes. There is the strange three months, then a three-year visa, if you are successful. NFU Scotland thought that that would put employers at a competitive disadvantage. They would only be able to say to folk, "We are trying to recruit. You can come for three months and possibly you will be able to stay on beyond that". They need people to have that guarantee up front. Some—but not enough—will be able to do that through the pilot.

On the two new clauses, there are things I would have done slightly differently, but that is what is good about having this debate. A lot of farmers will say that the six-month SAWS time limit in new clause 20 is not sufficient. With new clause 21, I hugely welcome the proposal for family to be allowed to accompany the workers here. That is not envisaged in the Government's proposal for a one-year visa; also the Government have the "12 months on, 12 months off" idea, which a lot of employers understandably find absolutely ludicrous.

Our concern with new clause 21 is, again, the 12-month time limit; I also want further information about what the sponsorship licence looks like. One of the huge problems, particularly for small and medium-sized enterprises, is around the requirements to be a licensed sponsor. Many have found that to be hugely problematic and costly, and to involve red tape. I like the principle behind the ideas. I would have some difficulty in voting for them because I do not quite agree with everything that is in them, but I welcome the fact that we are having that debate.

I agree with the proposal in amendment 20. As I have said during the course of our debates, sometimes the criticisms made of free movement of people and, generally, of migration for work, and some of the problems flagged up in relation to that are not problems with migration itself, but problems with labour market enforcement, labour standards and the enforcement of existing laws. It is pivotal that we marry up what we are doing in the immigration system with what we are doing in terms of labour market enforcement. One silver lining from the Immigration Act 2016 was the introduction of the Director of Labour Market Enforcement. There is a question whether his remit is wide enough and whether the resources are there to do the job properly, but I fully welcome amendment 20 and the intention of making sure that we do a much better job of that.

Caroline Nokes: I thank the hon. Member for Manchester, Gorton for giving us the opportunity to consider two important issues: the protection of migrant workers and the opportunities that are open to them. Amendment 20 concerns the protection of workers' rights. I appreciate the sentiment behind the amendment, and I do not believe there is any real difference between the hon. Gentleman and me on this issue. It is of the highest importance that everyone working in our economy is safe, and is treated fairly and with respect. I am proud of the Government's track record in this area, with the landmark Modern Slavery Act 2015 and the further powers we have given to the Gangmasters and Labour Abuse Authority. We will not be complacent on the matter.

Let me be very clear that migrant workers in the UK are entitled to all the protections of UK law while they are here, whether that is the minimum wage, health and safety legislation, working conditions, maternity and paternity arrangements, the right to join a trade union, the right to strike, statutory rights to holiday pay and sick pay or any of the other myriad protections in UK law for workers. Those protections apply to those who are in the UK on work visas every bit as much as they do to the resident workforce. That is true of migrant workers who are here under the current immigration system and those who may come in future under the new one.

In the future system, those who come under the skilled worker route will be taking up professional occupations and will be sponsored by their employer, so the Home Office will have a relationship with their employer. The Home Office may well visit and inspect the employer, and the Government will take very seriously any suggestion that the worker is not benefiting from every employment right to which they are entitled. Migrant workers who come to the UK under the temporary worker route may be doing jobs that are more vulnerable to exploitation. That is why a feature of that route is that migrant workers are not tied to one employer and may move around the labour market if they are unhappy, for whatever reason, in their employment. The hon. Gentleman will remember that the temporary worker route will be open to nationals from countries that pose a low immigration risk. We do not expect that route to be used by those who may, unfortunately, be economically desperate enough to make themselves vulnerable to exploitation.

As we have heard, there is one sector in which we will operate a special scheme under which workers will, to some extent, be tied to a particular type of work, and that is the agricultural sector. The independent Migration Advisory Committee recognised the sector's unique reliance on short-term migrant labour, and the Government have accepted that argument. We are currently catering for that through a seasonal worker pilot, which comes into operation shortly. I will say a bit more about that when I address new clause 20, but let me deal first with the protection issues.

The potential for exploitation of the pilot was the recent subject of a thoughtful and considered debate in Westminster Hall, secured by the hon. Member for Nottingham North (Alex Norris). In that debate, the Minister for Policing and the Fire Service, my right hon. Friend the Member for Ruislip, Northwood and Pinner (Mr Hurd)—he responded to the debate because I was in this Committee taking evidence—set out the careful work that had gone into the design of the pilot scheme, and the ongoing liaison with the Gangmasters and Labour Abuse Authority to ensure that migrant workers are protected. I suspect members of this Committee were present in this Committee rather than in that debate, and I urge them to review the principles of the pilot and the protections that will be applied, as set out by my ministerial colleague.

On the requirement in amendment 20 to consult trade unions, I appreciate that trade unions have a unique perspective on work-related immigration, and they will understandably want to protect the rights of their existing members in the domestic workforce. As part of our ongoing engagement following the publication of the immigration White Paper, we are consulting some trade unions about the proposed future system. However, I do not see how the amendment could practically be made to work. As I have explained, we do not propose to introduce sectoral working visas other than in agriculture, and MAC specifically advised against doing so. Our proposed work routes—the skilled worker route and the temporary worker route—are, in combination, open to the full range of occupations and professions. That means that the Government would be committed to consulting hundreds of trade unions and representative bodies every time a change was required to the immigration rules, and that would be unworkable.

The second half of amendment 20 would require the Secretary of State to publish an impact assessment on workers' rights for any future work-related immigration arrangements, and I do not believe that that is necessary. As I have said, migrant workers who come to the UK will be subject to the full protections that already exist for every worker—regardless of their nationality—who is employed by a UK employer. Since the statutory workplace employment rights and protections will be the same for domestic and migrant workers, it is unlikely that an impact assessment would be necessary or add to the understanding of the future immigration system.

I turn to new clause 20. Although I appreciate what the hon. Member for Manchester, Gorton seeks to achieve, I believe that, once again, he and the Government are in the same place and the new clause is not necessary. The Government fully understand the importance of our food and farming industry, and the sector's significant reliance on seasonal labour. We appreciate that farming is a long-term endeavour and that the sector places great emphasis on certainty when it comes to workforce planning. That is particularly the case as we look to the design of our future immigration system. As I set out earlier, the temporary worker route will be open to nationals from countries that pose a low immigration risk. That route will support seasonal employment of all kinds across all sectors, including our farmers and growers. The route will offer considerably more generous terms than the proposals in the new clause; that includes not tying migrants to a specific employer.

We intend to go further, however. As the Committee will be aware, the Migration Advisory Committee identified agriculture as a special case, and as the only sector that is deserving of special treatment. The Government have accepted that advice.

Stuart C. McDonald: The Minister has made the point a couple of times that the Government will not expect people to be tied to a particular employer. I welcome that, because tying people to employers gives

rise to the risk of exploitation. However, other problems have arisen because of very short visas. If, for example, domestic workers get about halfway through their visa and have only four, five or six months left, there is no chance that anyone else will take them on because they are so close to the end of their visa. Is that not something we need to learn from? Should we not, generally speaking, look to have visas with a term longer than just one year?

Caroline Nokes: The hon. Gentleman will be aware that the temporary work visas are a transitional measure, but we will be looking carefully at that and listening to the advice that we have received in the evidence sessions for this Committee and more widely. As the Immigration Minister, I am conscious that people from a huge range of sectors are beating a path to my door to outline the particular circumstances of their industries, and I fully expect that to continue over the next 12 months. I do not expect people to beat a path to my door, however, so we are going out and engaging actively with different sectors. We are holding roundtables in every part of the country, and across every part of industry, so that we have a top-range understanding of the challenges.

David Duguid: I welcome the Minister's commitment to engaging around the UK on future immigration policy, particularly during the Easter period, when she will be in my constituency. Does she agree that new clauses 20 and 21 are limited in that they apply only to EEA and Swiss personnel, and that future Government policy would be to introduce a level playing field for anybody, from anywhere, assuming that they have the skills we require?

3.15 pm

Caroline Nokes: My hon. Friend is right to point out that the new clauses relate only to the EEA. Our future immigration system, which will undoubtedly be the subject of much debate, will have to provide the level playing field of which he speaks.

As I have set out, the Government have announced the two-year seasonal workers pilot, which allows non-EU migrants to work on UK farms for six months, specifically in the edible horticultural sector. The pilot will test the effectiveness of our immigration system in helping to alleviate seasonal labour shortages during peak production periods, while maintaining robust immigration controls, safeguarding migrant workers and ensuring that the impact on local communities and public services is minimal. There will be a thorough review before any decisions are taken about long-term arrangements. Piloting and evaluating is the right way to proceed, rather than taking a final decision now.

I advise the Committee that new clause 21, although well intentioned, is not necessary. When we debated amendment 20, I set out some details of the future immigration system, but let me remind the Committee what we will be providing. First, there will be a route for skilled workers, which will be available to nationals of all countries and will require workers to be sponsored by an employer to do a specific job. As now, however, there will be the facility to change jobs and move from one licensed sponsor to another.

In line with the recommendations of the independent Migration Advisory Committee, we are expanding that route to encompass medium-skilled as well as high-skilled workers. We are also abolishing the cap and the resident labour market test for high-skilled workers. Those who come to the UK through the skilled workers route will need to meet an income requirement, and I make no apology for that. That is a continuation of the provision in the current points-based system which, I remind the Committee, was introduced by the last Labour Government.

MAC's report, which was published in September, said:

"We believe that these salary thresholds are likely to ensure that these migrants raise the level of productivity in the UK, make a clear positive contribution to the public finances and contribute to rising wages."

I am sure that every member of the Committee shares those objectives. We have set out that we intend to spend the next year engaging with businesses, employers and other stakeholders before determining the level at which salary thresholds should be set.

Let me turn to more temporary and potentially less skilled migration, with which new clause 21 is particularly concerned. The immigration White Paper sets out that as a transitional measure we intend to introduce a temporary work visa, which will allow nationals of low-risk countries to come to the UK for up to a year to work in any job, at any skill level.

Unlike in the new clause proposed by the hon. Member for Manchester, Gorton, there will be no requirement to have a prior job offer or to be sponsored by a particular employer, and that is an important safeguard against exploitation. The temporary work route that I have described gives the hon. Gentleman much of what he is looking for with the new clause: a route for low-risk nationals to come to the UK for up to 12 months to work at any skill level and—crucially, given the problems that this might entail—without the need to be tied to a particular employer.

I apologise for having spoken at some length, but these are important issues worthy of serious consideration. I hope that I have reassured hon. Members that the protection of migrant workers is at the forefront of the Government's thinking.

Afzal Khan: Does the Minister accept that during the evidence sessions, speaker after speaker who touched on the less skilled route and the 12-month visa said that they were not helpful? One person actually said that a 12-month scheme had been trialled but abandoned. What is the difference?

Caroline Nokes: We did hear evidence in which people expressed concerns about the temporary routes, but we also heard from the agricultural sector, which was keen that there should be some. I vividly remember some evidence that indicated that temporary routes would inevitably—that was the word used—lead to exploitation. In the rebuttal from the National Farmers Union, however, we were given much evidence about workers on temporary contracts who returned year after year. That suggests that short-term routes would not inevitably lead to exploitation.

That remains something for us to consider carefully by listening to the evidence and the discussions that we have in the next 12 months, so that we understand the sectors—particularly the agricultural sector—that are engaging with us. I highlight again the fact that we are in the final stages of establishing the relevant pilot scheme.

Stuart C. McDonald: Two other points that relate to the one-year visa proposed in the White Paper are: not allowing family to join the worker in the United Kingdom;

[Stuart C. McDonald]

and not allowing any recourse to public funds, including, for example, tax credits. Surely that is unfair? In fact, why would anyone want to come if those were the conditions for incoming people?

Caroline Nokes: As I have said, this is a transitional route that we will review carefully, but there are very good reasons why we do not propose that dependants should be able to come for such a short period. Of course, "no recourse to public funds" is about encouraging people who come here for work to not be reliant on the benefits system, which they will not have paid into for any significant period. We will have an immigration route for high-skilled and medium-skilled workers of all nationalities, and we will have a transitional route for workers at all skill levels. I hope that the hon. Member for Manchester, Gorton feels able to withdraw the amendment.

Afzal Khan: I thank the Minister for the explanation that she has given, but I wish to press amendment 20 to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 10.

Division No. 5]

AYES

Blomfield, Paul	McDonald, Stuart C.
Dakin, Nic	McGovern, Alison
Green, Kate	Newlands, Gavin
Khan, Afzal	Smith, Eleanor

NOES

Badenoch, Mrs Kemi	Duguid, David
Brereton, Jack	Maclean, Rachel
Caulfield, Maria	Maynard, Paul
Crouch, Tracey	Nokes, rh Caroline
Davies, Glyn	Sharma, Alok

Question accordingly negatived.

Nic Dakin (Scunthorpe) (Lab): I beg to move amendment 22, in clause 4, page 3, line 10, at end insert—

"(5A) Regulations under subsection (1) must not be made until the Secretary of State has undertaken and published an impact assessment of the effect of the regulations on the United Kingdom's health, social care and medical research sectors.

(5B) An impact assessment under subsection (5A) above must include, but is not limited to, an assessment of the regulations impact on—

(a) the health and social care workforce;

(b) the cancer workforce; and

(c) the medical research workforce.

(5C) An impact assessment under subsection 1 must be laid before both Houses of Parliament."

It is a pleasure to serve under your chairmanship, Mr Stringer. As chair of the all-party parliamentary group on cancer, it is also a pleasure to take this opportunity to raise these issues by moving amendment 22. The measure has wide-ranging support from the cancer sector, with no fewer than 18 cancer charities urging support for it, namely Macmillan Cancer Support, Cancer Research UK, Bloodwise, Bowel Cancer UK, the Brain Tumour Charity, Brain Tumour Research, Breast Cancer Care, Breast Cancer Now, the cancer counselling group, CHAPS, CLIC Sargent, Ovarian Cancer Action, Pancreatic Cancer UK, Prostate Cancer UK, Sarcoma UK, Tackle Prostate Cancer, the Teenage Cancer Trust and Tenovus Cancer Care.

We all agree that ending freedom of movement is one of the most significant changes to immigration policy in decades. It is therefore imperative that people know what the impact of that change will be on the health and social care workforce; indeed, we touched on some of those issues in an earlier debate. Making sure that the Government are taking steps to understand fully the impact of ending freedom of movement on the health and social care workforce is important to the organisations I listed, and to the people whom they exist to support. As the Minister has said, this is something that is in the Government's mind, but these proposals make it more important that things are carried through to a conclusion.

The purpose of the amendment is to require the Government to make arrangements to conduct an impact assessment in both Houses on the implications of ending freedom of movement for the health, social care, cancer and medical research workforces, prior to the change coming into effect. The amendment is focused on the principle of ensuring that any change of such scale and importance is not undertaken without the Government demonstrating that they have prepared properly. As the Minister is well aware, getting the preparation right is key for the future health and social care system.

Historically, the NHS workforce has relied on the support of professionals from across the world coming to the UK. In recent decades, that has included a supply of EU nationals. Nearly 10% of doctors, 8% of social care staff and 6% of nurses working in the UK are from the EEA. The Government have acknowledged that there are already pressures facing the health and social care workforce. Scotland, England, Wales and Northern Ireland are all experiencing high vacancy rates. Given the worrying trends that we have seen since June 2016, we must ask whether leaving the EU will create further pressures.

Maria Caulfield: The hon. Gentleman is making a very important point. I have worked in lung cancer research. Although researchers from the EU make up 10% of the workforce, a significant problem is trying to get researchers, PhD students and scientists from around the world. The current immigration system is not working for cancer research, and reforming the whole system would greatly benefit research across the board.

Nic Dakin: That really underlines the importance of having a proper impact assessment so that we can minimise the risks and maximise the opportunities, to ensure that this crucial workforce can continue to deliver to the people it serves.

There has been a 90% fall in the number of European nurses coming to the UK over the past year. In addition, 14% of European doctors in Scotland and 19% in England are already in the process of leaving. The Government need to consider whether ending freedom

of movement will exacerbate the issue or, as the hon. Member for Lewes said, provide opportunities that reduce the problem, which is what an impact assessment would do.

Paul Blomfield: Opening up opportunities from around the world is clearly an issue that we will return to, but is it not unwise to close down a particular sector of recruitment while the Government have no such proposals on the table?

Nic Dakin: My hon. Friend makes a salient point. As we go through the Bill in Committee, there seems to be a recurring theme of the danger of gaps. One of the issues is that if we have gaps, there is a danger that people fall through them. In this particular area, the people who might fall through them are those in need of specialist healthcare, support and treatment. None of us would want that to happen, which is why planning and preparedness are so important. Such a significant change further underlines the necessity of planning and preparedness.

Across the wider workforce, primary and acute medical and social care shortages are already impacting on people's access to cancer care in hospitals and communities. We know that demand is growing at the same time. Macmillan Cancer Support has said that cancer is a key proxy through which to understand the importance of supporting the health and social care workforces. Improvements in diagnosis and treatment mean that more people than ever are surviving or living longer with cancer, which is a very good thing. Across the UK there are now 2.5 million people living with cancer, and the figure is expected to rise to 4 million by 2030.

To support the growing number of people living with and beyond cancer, there must be an immigration system in place to underpin and support a workforce that is capable of delivering this, alongside an appropriate skills and development system. The immigration system must also complement the very welcome long-term ambitions of this Government, and the Scottish and Welsh Governments, to improve cancer care across the United Kingdom. The plans set out in the immigration White Paper do not include a detailed analysis of the impact of ending freedom of movement on the cancer workforce or those working within the wider health and social care sector. Plans to use salaries as a barometer by which to identify skilled workers are concerning given the large number of professionals who would not meet the threshold that may be established at £30,000. I recognise that the Minister has consistently said that the threshold is being consulted on and is under review, which is a welcome message for her to continue to repeat. I hope that that message is properly delivered on as we move forward.

3.30 pm

Although the majority of specialist cancer nurses would be treated as skilled workers, there is a question mark over how the social care sector will be able to recruit from the EU once freedom of movement ends. That point very much echoes what my hon. Friend the Member for Stretford and Urmston said earlier.

There are also outstanding questions about how the UK will be able to recruit both clinical and infrastructure support staff, where EU nationals make up around 4% of the workforce. A recent Global Future report highlighted that the White Paper projects that fewer than 20,000 EU immigrants in total will arrive in the UK each year between 2021 and 2025, with fewer than 6,000 who will be expected to work in all parts of the public sector combined. The report concludes that the projected numbers are not compatible with ongoing rates of the 5,000 per year needed to work in the NHS alone. Ending freedom of movement can help create an opportunity to upskill and recruit from the domestic labour market, but cuts to training budgets for cancer professionals may threaten the recruitment of students and professionals into cancer care, which leads me to ask whether the Government have the right policies in place to sufficiently tap into the domestic labour market.

I do not intend to press the amendment to a vote. It is an opportunity to raise the issues. I hope that the Minister will hear the very loud concerns of these very significant organisations and take the opportunity of holding a roundtable meeting or something similar, to ensure that their concerns are properly engaged with as part of the process of trying to ensure proper preparation for the impact on this very important sector, in terms of not just the workforce and these organisations, but the people who rely on the very best care.

Stuart C. McDonald: I had intended to add my name to the amendment, along with that of my hon. Friend the Member for Paisley and Renfrewshire North. We fully support it. Our view is that ending free movement while keeping the immigration system for non-EEA nationals broadly the same poses a huge challenge and, indeed, a danger to this particular sector. We very much support the amendment, which comes from 16 leading organisations.

Caroline Nokes: I am grateful to the hon. Member for Scunthorpe for providing the Committee with the opportunity to discuss the amendment, and for his really important work as chair of the all-party parliamentary group on cancer.

The amendment gives us the opportunity to consider the impact that ending free movement through the Bill might have on the health and social care and medical research sectors. I appreciate that there are those on the Committee who do not believe that we should end free movement. I have to remind them that the people of the United Kingdom voted in a referendum, in which there was no doubt that immigration was a key consideration for some members of the electorate. Parliament has to respect that democratic mandate.

Paul Blomfield: I accept the Minister's point about the concerns around immigration, but does she accept that the Government have had complete control of our borders in relation to non-EU migration for the last eight years and in each one of those years, non-EU net migration has been higher than EU net migration?

Caroline Nokes: I thank the hon. Gentleman for his comment. I am sure, like me, he welcomes the fact that some of the most recent immigration statistics show more people coming to the UK with a confirmed job to go to, rather than simply looking for work. That is an important trend. I am sure he would also acknowledge that, as the Secretary of State for Exiting the European Union pointed out—he was a Minister in the Department of Health and Social Care when he did so—there are more EU citizens working in the NHS today than there were at the time of the 2016 referendum. I would not

[Caroline Nokes]

want anyone to misunderstand me and think I was being remotely complacent, because I really am not, but I must emphasise again the Government's recognition and appreciation of the great contribution made to the UK by EU nationals working in health, social care and our important medical research sector. I think it was on the day we published the White Paper that I went to the Crick Institute in London and spoke to some of the research teams there. They were not simply from the EU or the EEA, but were global research teams. That point was made to me by Cancer Research UK, which I visited at the tail end of last year. We will continue to engage with the sector.

The hon. Member for Scunthorpe made an important point about roundtable events and talking to all sectors, and I am absolutely determined to do that in the area of medical research. I assure him that I have a busy programme over the next six months.

Maria Caulfield: One example is those coming to this country to do medical research, particularly cancer research. If they are doing that for their PhD, it can take a number of years, and the current visa period is just not long enough. They go to other English-speaking countries and do their research there. We are missing out on some valuable expertise.

Caroline Nokes: My hon. Friend is right to point out that we do not want to miss out on expertise. We want to continue to attract the very brightest and the best to the UK, to work not only in medical research, but across the economy and all sectors of academia. We heard evidence from Universities UK, which often comes to talk to me about the importance of being able to attract not only researchers from the EEA, but students and academic staff. As I am sometimes inclined to point out, they cannot open their doors if they do not have people available to clean the lavatories. I am conscious that there is a wide breadth of individuals, skills and talents that we will need to continue to attract to the UK post Brexit.

We are in absolutely no doubt about the continuing need in the UK for those working to tackle terrible diseases, such as cancer. We want the existing EU workforce to stay, and we want to continue to attract other international workers in the field. We recognise that the research, as the hon. Member for Scunthorpe pointed out, goes way beyond fiscal benefit. It is about the contribution to the health of the UK population and to the world, because research in this country does not stop at our own shores.

Even under the existing immigration system, special provisions apply for those coming to work in the UK as doctors, nurses and researchers, including in important scientific and medical fields. The provisions include, but are not limited to, being outside the scope of the annual cap that applies to the main skilled work route under tier 2 and not being subject to the resident labour market test. There is also provision for special salary exemptions from the minimum £30,000 threshold for experienced workers. I assure the Committee that the Government take seriously the impact on the UK economy of the proposals we have set out in the immigration White Paper. Together, the proposals are and will be designed to benefit the UK and ensure that we continue to be a competitive place, including for medical research and innovation.

As the hon. Gentleman will be aware, the Bill is designed to provide for the arrangements by which free movement will end for EEA nationals, delivering the commitment that the Government made. It is not designed to set out precisely how the future immigration system will apply, and the power in clause 4 is to make consequential changes as a result of the end of free movement. It is not the place where we will set out the details of the future system.

As stated in the impact assessment published alongside the Bill, the details of the future immigration arrangements that apply to EEA nationals and their family members from 2021 will be set out in immigration rules. It is not yet possible to set out the quantitative and wider benefits of that future system, but the White Paper proposals published in December were supported by a full and detailed economic appraisal, which was published in an analytical note in annex B of the White Paper.

As the Committee will know, the Government intend that the proposal in the White Paper will provide the basis for a national conversation with a wide spectrum of business organisations and sectors. As I have said several times today, over the next 12 months we will listen carefully to various sectors and their concerns before taking final decisions. As the hon. Member for Scunthorpe will appreciate, it is right that the Government assess the full costs and benefits of ending free movement once the future policies have been finalised.

I therefore suggest that the regulations, which are primarily intended to cover the transition from free movement to the future system, are not the right place to set out a detailed impact assessment of the end of free movement on individual sectors. I can reassure the Committee that it is our intention that the immigration rules for the future system will be accompanied by relevant impact assessments, once the arrangements have been finalised.

Accordingly, I believe that the amendment is not appropriate at this time, because it is attached to the wrong provision, but I accept and welcome the spirit of what the hon. Member for Scunthorpe seeks to achieve. I assure him that appropriate impact assessments will be provided.

Paul Blomfield: The Minister is making an important point about future arrangements. Part of the problem is that we are moving towards a blindfold departure. The Minister talks about future rules. Will she give a guarantee that there will be an immigration Bill that will set out the framework for those future rules, so that we can have a full and proper debate in the House?

Caroline Nokes: The hon. Gentleman will be conscious that our immigration rules since the 1971 Act have been largely set out in the rules, as opposed to primary legislation. This is a framework Bill to end free movement. As I have put on record in a statutory instrument Committee, I fully expect there to be a subsequent immigration Bill. There are many aspects of future policy that are perhaps not yet in this Bill.

Afzal Khan: Does the Minister not agree that there are very dangerous implications for patients and their medicine from where we are? We have heard the figures:

there are 2.5 million people currently living with cancer; one in three of us will experience that and the number is increasing. When we look at the figures for the number of people from the EU, it is not simply about looking ahead at what we may do; people are being affected today. We need to be careful and move quickly.

Caroline Nokes: The hon. Gentleman will be aware that the future system is intended to be introduced from 2021 and of my commitment to achieving a deal with the EU that is supported by Parliament, so that we can have transitional arrangements, which are crucial. However, now is not the appropriate time to publish impact assessments, which will come forward at the relevant time. I therefore invite the hon. Member for Scunthorpe to withdraw the amendment.

Nic Dakin: I will withdraw the amendment but I would like to thank my hon. Friends for their support and for the helpful comments from the Government Benches, including the Minister's recognition that this issue needs to be grappled with. I welcome her commitment, in the course of her roundtable meetings, to meet these groups so that the issues can be properly explored with the cancer community.

I also welcome her comments in the exchange with my hon. Friend the Member for Sheffield Central that she is confident that at an appropriate time an immigration Bill will come forward to deal with these issues more comprehensively. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Kate Green: I beg to move amendment 27, in clause 4, page 3, line 10, at end insert—

'(5A) Any regulations issued under subsection (1) which enable children of EEA or Swiss nationals to be removed from the United Kingdom must include—

(a) a requirement to obtain an individual Best Interests Assessment before a decision is made to remove the child; and

(b) a requirement to obtain a Best Interest Assessment in relation to any child whose human rights may be breached by a decision to remove.

(5B) The assessment under subsection (5A) must cover, but is not limited to—

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his or her age and understanding);

(b) the child's physical, emotional and educational needs;

(c) the likely effects, including psychological effects, on the child of the removal;

(d) the child's age, sex, background and any characteristics of the child the assessor considers relevant;

(e) any harm which the child is at risk of suffering if the removal takes place;

(f) how capable the parent facing removal with the child, and any other person in relation to whom the assessor considers the question to be relevant, is of meeting his or her needs;

(g) the citizenship rights of the child including whether they may be stateless and have rights to British citizenship.

(5C) The assessment must be carried out by a suitably qualified and independent professional.

(5D) Psychological or psychiatric assessments must be obtained in appropriate cases.

(5E) The results of the assessment must be recorded in a written plan for the child."

This amendment would ensure that before a decision is taken to remove an EEA or Swiss national child from the UK a comprehensive best interest assessment is obtained.

The Chair: With this it will be convenient to discuss the following:

Amendment 25, in clause 4, page 3, line 31, at end insert—

'(11) When exercising functions under Clause 4 relating to children and families the Secretary of State must—

(a) have due regard to the requirements of—

(i) Part I of the United Nations Convention on the Rights of the Child, and

(ii) the Optional Protocols of the UNCRC to which the UK is a signatory state.

(b) undertake and publish a Child Rights Impact Assessment."

This amendment would place a duty on the Secretary of State to have due regard to the UNCRC when making statutory instruments using the Henry VIII powers in Clause 4. It will also require them to undertake and publish a CRIA for each change to or introduction of statutory instruments or regulations under Clause 4.

Amendment 24, in clause 7, page 5, line 33, leave out subsection (6) and insert—

'(6) This Act may not come into force until a Minister of the Crown has undertaken and published a Child Rights Impact Assessment of the Bill.

(6A) Section 6 and this section come into force on the day a Minister of the Crown publishes the Child Rights Impact Assessment under subsection (6)."

Kate Green: The amendment is in my name along with those of the hon. Member for East Worthing and Shoreham (Tim Loughton) and my right hon. and learned Friend the Member for Camberwell and Peckham (Ms Harman). I am very pleased to have that cross-party support. I also place on record my thanks to the Refugee and Migrant Children's Consortium, and in particular the Children's Society, which has helped me considerably, not just with preparing the amendments we are discussing this afternoon but in pursuing my interest in the impact of Brexit on children, going back to our debates on article 50 more than two years ago. It was good to have the Children's Society give oral evidence to us last week; I am sure that other Members will agree that that was helpful.

Amendment 27 would require the Government to undertake a best interests assessment before an EEA child could be removed from the United Kingdom. There are around 2 million EU national children and parents with dependent children living in the UK who will need to change their immigration status through the European settled status scheme or secure citizenship rights following Brexit. We know from history and examples around the world—we heard about them in oral evidence two weeks ago—that large-scale projects intended to change the immigrant status of significant cohorts or populations are riddled with challenges, from poor design to low take-up. If just a small proportion of the hundreds of thousands of European children already in the UK do not settle their status through the settlement scheme or secure citizenship, the number of undocumented children in the UK could rise substantially. Despite the Government's commitment to a simple EU

[Kate Green]

settlement scheme, a significant number of children currently living in the UK may find themselves subject to immigration control if they fail to secure their status and become undocumented.

Stuart C. McDonald: Does the hon. Lady agree that this is not just a matter of whether the settled status scheme itself is simple, but a question of how simple UK immigration and nationality laws are? Many children and those looking after them would find it impossible to understand whether, for example, the person is British or has other rights to be in the country and whether they need to apply under the settled status scheme at all.

3.45 pm

Kate Green: The hon. Gentleman makes an important point, which is linked to the need for top quality advice for families deciding what status they and their children should seek in the future. We know that children may have a claim to British citizenship, which would give them higher status than the settled status that may be available to their parents. Their parents and carers will need advice about the best form of status that those children should seek in future. That will be difficult in a complex system, as the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East rightly says, if they do not have access to good quality advice and information.

We know that, as a result of the failure to secure status, children become undocumented and could, potentially, face removal from this country—the country they have grown up in. That is a real risk in the current immigration system if no further safeguards are put in place or, for that matter, if we do not secure assurances, which I hope the Minister can give the Committee this afternoon.

Amendment 27 would introduce a critical safeguard to ensure that any child's best interests are proactively and robustly assessed prior to taking the decision to remove a child from the UK or before a child's rights are breached by a removal decision, for example, where they may become indefinitely separated from a parent or carer. The amendment makes it clear that a holistic assessment of their best interests must be undertaken, including, but not limited to, taking account of the views, wishes and feelings of the child; their educational and emotional needs; the risk of harm to the child if removed; and the citizenship rights of the child, including whether the child is a British national and if so, how they would be able to thrive outside of their country of origin if they were removed. Assessing a child's interests in those ways is not new or novel. We are not talking about sweeping reform with this amendment, but about introducing a basic safeguard into a complex adversarial system where it is not uncommon for life-changing mistakes to be made.

The UK Government are bound by international, European and domestic law to take the best interests of the child into consideration when making any decisions in all matters that affect children. Indeed, the UN convention on the rights of the child states that the best interests of the child need to be a primary consideration in all acts concerning them. Section 55 of the Borders, Citizenship and Immigration Act 2009 encapsulates the best interest principle in UK domestic law and must be followed by Home Office decision makers when exercising their immigration, asylum and nationality decisions. What is more, section 55 of the 2009 Act places a duty on the Home Secretary to make arrangements to ensure that immigration functions are discharged having regard to the need to safeguard and promote the welfare of children. There is a clear, mandatory duty to safeguard and promote the wellbeing of children on the UK statute book.

Case law demonstrates clearly that what is best for the child must be a primary consideration. The Government's first step must be to determine what is in the child's best interests and whether it is outweighed by any countervailing considerations.

The Minister may say that there is no need for amendment 27 because the section 55 duty already exists, that the Home Office takes its welfare considerations very seriously and that each child's case is considered individually. However, we know from civil society and children's organisations and from research that there is currently no best interests determination process in place in Home Office decision making. Specifically, I am aware of no formal process by which children's best interests are examined, assessed, weighed and recorded when removal decisions are made. Instead, decisions about children's best interests are considered through an immigration prism.

The Committee on the Rights of the Child expressed regret that the rights of the child to their best interests, taken as a primary consideration, is still not reflected in all legislative and policy matters. Furthermore, in 2017 the Coram Children's Legal Centre reviewed a sample of Home Office decisions in family migration cases, and found that in 40% of cases it did not engage with the child's best interests at all, and in a further 20% it devoted just a couple of sentences to child's best interests. We cannot be satisfied with that neglect of our obligations to children's welfare. Those findings are further supported by research from the Law Centres Network, which reviewed 26 refusal decisions in asylum cases involving unaccompanied children, and found that only 14 explicitly referred to the section 55 guidance, usually by way of a generic paragraph. That is a staggering institutional omission by the Home Office, and a failure to meet its statutory obligations to the rights of children adequately.

In addition, court judgments continue to highlight cases in which children's welfare is not properly considered before they are forcibly removed from this country or separated from parents indefinitely. One such example is RA and BF *v.* Secretary of State for the Home Department in 2015, when the court ordered the Home Secretary to bring back a UK-born child and his mother, who had been removed to Nigeria, because the Secretary of State had failed to have regard to RA's best interests as a primary consideration. The Secretary of State had not taken into account the implications of the mother's mental health, the risk that it would degenerate in the Nigerian context, and the effect that that would have on the child, who had been in a foster placement previously due to his mother's poor health. Without an existing systematic approach to fully considering and recording children's best interests, further clarity is needed from the Minister on how she will ensure that the best interests of every child will be fully considered in the future, so

that the Home Office can be held accountable when a decision is taken to remove an EEA national child from the UK.

The introduction of a fully comprehensive system of best interests assessments for all children, including the children of EU nationals, is essential to ensure that immigration decisions—particularly where children and their close family members or people on whom they are dependent are at risk of detention or removal from the UK—are always expressly and fully considered and recorded. I know that colleagues from across the House are keen to explore how an amendment of this sort could be given effect. If the amendment does not pass in Committee, I suspect we will seek further assurances on Report, as it would add an important and safeguard to our immigration system in so far as it relates to all children. I strongly encourage the Minister to consider what more the Home Office can do to promote the best interests of children within our adversarial immigration system.

I therefore ask the Minister: what process is in place to ensure that the Home Office carries out best interests assessments in full when making immigration and asylum decisions? How many children have been separated from their parents by a forced removal within the past two years? How many children have been forcibly removed from the UK with their parents in the past two years? How many of those children were British citizens? We have later amendments relating to Zambrano carers, but will the Minister say whether Zambrano parents will be granted EU settled status? Will the Home Office commit to establishing a comprehensive best interests assessment process to be used when making decisions about EU and EEA nationals, with recorded justifications for each decision, especially in cases of detention or removal?

I would also like to speak to amendments 24 and 25, which are in my name and that of the hon. Member for East Worthing and Shoreham. Amendment 24 would require the Minister to undertake a children's rights impact assessment of the Bill before commencement. Amendment 25 requires the Minister to have due regard to the United Nations convention on the rights of the child when making powers under clause 24.

Roughly 1.2 million EU parents and 900,000 EU children currently live in the UK. The proposed changes to the immigration system in the Bill and in the Government's White Paper, and in its statement of intent, equate to a significant change in the rights status of those families. On Universal Children's Day, just four months ago, probably as this Bill was being drafted by our officials, the children's Minister called on all Departments to give consideration to the UN convention on the rights of the child when making policy and legislation.

In collaboration with the children's rights sector, I am pleased that a children's rights impact assessment template has been developed by the Department for Education. That hard work underpins the amendments that I am proposing this afternoon. However, to my surprise, as it stands, no children's rights impact assessment has been undertaken by the Home Office on the provisions of the White Paper or this Bill, nor is there any requirement for one to be undertaken for powers that are now being afforded to Ministers by clause 4.

Amendment 25 would require the Minister to have due regard to the United Nations convention on the rights of the child when making powers under clause 4. Members and colleagues in the House of Lords will be incredibly concerned by the wide-ranging powers afforded to Ministers in the Bill. Given the insufficiencies of children's rights provision in the UK, a commitment from the Minister today to have due regard to the UN convention when making provisions under clause 4 would go some way towards reassuring me and colleagues.

The Government must appreciate that it is nearly impossible for a change to the UK's immigration system on the scale that we now envisage not to have a profound impact on children and young people. This Immigration Bill alone removes certain protections afforded to EU children under treaty law and free movement and it is simply insufficient to believe that the default of domestic law and the existence of the UN convention will protect all children from having their rights impacted.

For example, EU national children in local authority care and children who are victims of trafficking may struggle to achieve settled status successfully, as I think has been demonstrated already in the beta testing pilot. That would have a massive impact on the human rights of many vulnerable children and young people in the UK, who could find themselves undocumented and facing all the penalties and exclusions that come with that. Any changes to an EU national parent or carer's status or impact on their rights will have a further impact on their child. Any impact on parents' or carers' right to work, claim benefits or continue residing in the UK would have a serious impact on the wellbeing and most likely the rights of that child, as defined in the UN convention.

It is absolutely necessary that the Government stick to their own commitment and follow the advice of the children's Minister by carrying out a comprehensive children's rights impact assessment of the Bill and commit to holding children's rights in due regard when introducing new policy and legislation changes to immigration, as we move to the post-EU immigration system.

Amendment 24 would require a children's rights impact assessment of the Bill to be undertaken before the Act comes into effect. A child rights impact assessment is a child-focused human rights impact assessment to understand the impact of policies, legislation and administrative decisions on the rights of the child, looking at both direct and indirect impacts to ensure that the child's wellbeing is safeguarded. Yet between 2010 and 2017, only five Bills were considered for their impact on children's rights, and so far no assessments have been made for any of the proposed changes to the UK immigration system. The Government assert that children and young people will be protected by domestic law and our commitment to the UNCRC.

There is no such thing as a child-neutral policy. Whether intended or not, every policy impacts on the lives of young people. The Government's claims that the rights of children are already protected by domestic law and international convention are simply not translating into practice. Evidence for that is the lack of comprehensive best interests determinations completed by the Home Office.

4 pm

Has the Minister or any of her officials undertaken any civil service training or other training on child rights and child rights impact assessments? Has the Home Office performed a child rights impact assessment?

If not, will it perform such an assessment, and when does it intend to do so? Is the Minister aware that the children's Minister has called on all Departments to undertake a child rights impact assessment when developing new policy and legislation? Does she agree with him on the importance of such assessments, and will she tell us what the Home Office is doing to deliver on that commitment?

Caroline Nokes: I commend the hon. Member for Stretford and Urmston, my hon. Friend the Member for East Worthing and Shoreham and the right hon. and learned Member for Camberwell and Peckham for their well-known commitment to children's welfare, which is reflected in the proposed amendments. I apologise for this somewhat cheeky aside, but my hon. Friend the Member for East Worthing and Shoreham, who is not on the Committee, is looking down at us from the Annunciator. I am sure he would want to feel part of this process: he is a former children's Minister who always took his role very seriously indeed. It is a commitment that I share, and which is already required of the Home Office.

The hon. Member for Stretford and Urmston has certainly given considerable thought to this whole area. Unfortunately for me, she predicted some of my comments. I want to explain how the Government seek to carry out their functions in a way that takes account of the need to safeguard and promote the welfare of children in the UK, as required by section 55 of the Borders, Citizenship and Immigration Act 2009. This requirement applies to all children—not simply to those who are the children of EEA or Swiss nationals—and is therefore much more comprehensive and appropriate than the proposed amendments.

Amendment 27 addresses the situation of children of EEA or Swiss nationals. Hon. Members will be aware that the UK takes very seriously its responsibilities to safeguard the welfare of all children in the country. Significant safeguards are already in place for children who might be required to leave the UK as a result of immigration legislation. That relates mainly to children who are required to leave because their parents are required to leave. It is unclear whether the amendment deals only with children in that situation or whether it seeks to encompass unaccompanied children of EEA and Swiss nationals. If it is the latter, I remind hon. Members that the Home Office's published guidance prevents the removal of an unaccompanied child unless there are safe and adequate reception arrangements available to them in the country of destination.

Hon. Members will be aware that the unaccompanied children with whom we have the most frequent dealings are unaccompanied asylum-seeking children. Other unaccompanied migrant children, who are the minority, will fall within the safeguarding measures of the relevant local authority, which has a duty to ensure that children are placed, preferably, with family or in situations where their needs can be properly met. A child can be removed from the UK only if safe and adequate arrangements are in place. I cannot cover the full range of circumstances that might be involved, but essentially that means the care of a parent or a family member or the statutory services for children in that country.

The most frequent instances involving the return of children under immigration legislation is when a parent is no longer entitled to remain in the UK. The safeguards that are built in require consideration of whether it is reasonable for the child to leave the UK, starting with the child's individual right to family life and then their right to a private life. Consideration is then given to any exceptional circumstances that are specific to the child, and which might make it unreasonable for them to be required to leave the UK. These safeguards for children are provided by a combination of primary legislation and guidance. The need to ensure that children's best interests are considered is set out in primary legislation, and the detail of how this should be done is set out in guidance that is relevant to particular case types. It is done in that way so as not to impose—as the amendment would—a level of detail for each and every case that might not be relevant in every situation.

Kate Green: I am concerned that without more detailed prescription, reasonableness is not necessarily the same as best interests. I invite the Minister to offer all the reassurance she can that the best interests of children will be paramount in the process.

Caroline Nokes: I thank the hon. Lady for that intervention. I was about to move on to the consideration of best interests in primary legislation. I hope it will be self-explanatory.

The placing in primary legislation of detailed requirements about how to consider the best interests of children may not serve the interests of all children. For some, being reunited with family overseas as quickly as possible is an important outcome. In other cases, these requirements will replicate work already being done by a local authority through its children's services. There is, therefore, a risk that some individual children's needs will not be well served by including well-intentioned provisions in primary legislation and making them mandatory in every case.

The Home Office's published guidance on cases involving children required to leave the UK with their parents requires consideration of the following: is it reasonable to expect the child to live in another country? What is the level of the child's integration with the UK? How long has the child been away from the parents' country? Where and with whom will the child live if compelled to live overseas? What will the arrangements be for the child in that other country? What is the strength of the child's relationship with the parent or other family members, which would be severed if the child moved away or stayed in the UK?

The assessment of a child's best interests in such cases requires consideration of all relevant factors, including whether the child's parent or parents are expected to leave the UK, whether the child is expected to leave with them or remain without them, and the impact that would have on the child.

Factors to be considered include—but are not limited to—the child's health, how long they have been in education and what stage they have reached, as well as issues relating to their parents. I therefore consider the current arrangements to provide a more robust safeguard than the assessments proposed by the amendment, which will in any case only apply to children of EEA or Swiss parents.

The proposed amendment would also require the Home Office to develop a care and reintegration plan for any child of an EEA or Swiss national before we could remove the child. However, it is the responsibility

of the authorities and the state to which the child is being removed to implement such plans. We would not have the power to enforce them. The amendment would effectively create a new set of statutory duties for the immigration authorities that would be demanding on their time without leading to any clearly identifiable result or benefit for a child.

Other specific safeguards for children whose parents face removal from the UK already exist in immigration legislation. The Government introduced the family returns process to support the removal of families with minor dependent children. That process includes a comprehensive and ongoing written welfare assessment in all cases. Discussion with social services takes place to identify particular concerns and risks, and medical information is sought with the agreement of the individuals. A plan for an ensured return of the family must demonstrate how we have met our duty under section 55 of the Borders, Citizenship and Immigration Act. The proposed amendment is therefore not necessary.

Amendment 25 would require the Secretary of State to have regard to the United Nations convention on the rights of the child when exercising the power in clause 4 in relation to children and families. It would also require the Government to publish a child rights impact assessment when clause 4 is used in relation to children and families. The Government take children's welfare extremely seriously. As hon. Members will be aware, the UK is a signatory to the United Nations convention on the rights of the child, and we take those obligations seriously.

Section 55 of the Borders, Citizenship and Immigration Act requires the Home Office to carry out its functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. We also have a proud history of providing protection to those in need, including some of the most vulnerable children. For example, we are providing grant funding of up to £9 million for voluntary and community organisations across the UK to support EU nationals who might need additional help when applying for immigration status through the EU settlement scheme. Last week I met a group of organisations working with and representing vulnerable individuals. I was forced to send a note asking whether the Children's Society had attended the event; it was in fact Children England, although it echoed the comments made by the Children's Society in evidence to this Committee two weeks ago.

The grant funding we are providing to organisations to inform vulnerable individuals, as well as children and families, about the need to apply for status, and to support them to complete their applications under the scheme, is an important part of the Home Office's support. As Committee members heard during the oral evidence sessions, voluntary and community organisations have been well engaged in the development of the settlement scheme and their engagement is ongoing.

In exercising all delegated powers, the Government must and do comply with their international legal obligations, including the UN convention on the rights of the child. We do not think it is necessary to reiterate the commitments in individual cases across the statute book, particularly in the light of section 55 of the Borders, Citizenship and Immigration Act. Similarly, the Government's view is that it would be disproportionate to require the publication of a separate child impact assessment. Age is one of the protected characteristics under the Equality Act 2010 and as such the Secretary of State is already required to, and does, consider the impacts that regulations would have on children by virtue of the public sector equality duty.

Amendment 24, which seeks to amend the Bill's commencement provisions in clause 7, would make commencement dependent on the Government publishing a child rights impact assessment. As I have outlined, the duty set out in section 55 of the Borders, Citizenship and Immigration Act applies to all functions of the Home Office in the area of immigration, asylum and nationality. Furthermore, clause 3 states that the Bill will be added to the statutory definition of the term, "the Immigration Acts". To clarify, everything done by and under those Acts must meet that obligation.

Furthermore, we are working to ensure that local authorities have all the support they need to ensure that looked-after children in their care will be able to receive leave to remain under the EU settlement scheme. The Bill's core focus is to end free movement. The design of the future borders and immigration system will be developed consistently with our international domestic obligations to safeguard and promote the welfare of children. For that reason, as set out in our published policy equality statement on the Bill's immigration measures, we have committed to carefully considering all equalities issues, including the impact on children, as the policies are developed.

The hon. Member for Stretford and Urmston asked a number of questions about the processes that the Home Office follows to ensure it considers the best interests of the child. As I have outlined, the Home Office has extensive guidance for caseworkers and officials explaining the requirements of section 55 of the 2009 Act, which must always be followed to ensure compliance with the duty. Thus the Home Office always considers the best interests of the child as the primary, but not necessarily the sole, consideration in immigration, asylum and nationality cases.

The hon. Lady asked what would happen to the children of EU resident citizens who do not register themselves for the EU settlement scheme. We have been clear that if a child has not applied before the deadline because their parent has not done so, that would clearly constitute a reasonable ground for missing the deadline and we would work closely with the children and their parent to make an application as soon as possible. She also asked a specific question about numbers. Unfortunately, I do not have the statistics with me but I am happy to write to her and all members of the Committee to provide that information.

The Bill's social security co-ordination clause is an enabling power, allowing changes to be made to the retained social security co-ordination regime via secondary legislation. A policy equality statement on the co-ordination, which was published alongside the Bill, gave a commitment that equality considerations, including the public sector equality duty, are being considered more widely throughout the policy development and that any policy changes that may be considered under secondary legislation will result in an updated equalities analysis. We will certainly consider the impact of any future changes to the retained co-ordination regime, in line with the public sector equality duty. I therefore urge the hon. Lady to withdraw the amendment.

Kate Green: I am grateful to the Minister for her full response. I will reflect on what she has said, particularly in the light of her offer to provide further information to the Committee, which I hope we can have before our proceedings are concluded, so that we can consider them before moving on to the next stage of the Bill's passage. I was a little concerned to learn from her that children's welfare is not necessarily the sole consideration in an immigration decision. It should be the primary and overarching consideration—it is important that we put that on record. I would like to take time to consider the Minister's response, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

4.15 pm

Stuart C. McDonald: I beg to move amendment 33, in clause 4, page 3, line 10, at end insert—

"(5A) Regulations under subsection (1) must provide for admission of EU nationals as spouses, partners and children of UK citizens and settled persons.

(5B) Regulations under subsection (1) may require that the EU nationals entering as spouses, partners and children of UK citizens and settled persons can be maintained and accommodated without recourse to public funds, but in deciding whether that test is met, account must be taken of the prospective earnings of the EU nationals seeking entry, as well as any third party support that may be available.

(5C) Regulations under subsection (1) must not include any test of financial circumstances beyond that set out in subsection (5B)."

This amendment would ensure that UK nationals and settled persons can be joined in future by EU spouses and partners and children without application of the financial thresholds and criteria that apply to non-EEA spouses, partners and children.

As hon. Members will have gathered, I disagree with immigration law and rules in this country, but one area of those rules about which I feel particularly strongly is what I regard as the egregious and outrageous rules on family. The problem with the Bill and the White Paper is that, although thousands of families have already been split apart because of the nature of current immigration rules, in future, many more families will face that awful situation. I could pick away at and criticise different aspects of the family immigration rules, but the amendment focuses on spouses, partners and children.

My message to the members of the Committee is that this could be us. If we lost our seats or were lucky enough to be able to retire, we could find ourselves on incomes that did not allow us to sponsor spouses or children to join us from overseas. It could affect our kids or our nephews and nieces. It certainly affects lots of our constituents. I have raised the matter a number of times in debates in Westminster Hall, in the main Chamber, and at Question Time, and I am then inundated with emails from families up and down the country, who are really suffering because we have some of the most draconian immigration rules for families in the world.

I will start with two case studies to highlight the issue, although I could easily provide hundreds. Kiran works six days a week for the NHS, booking people into appointments with their GPs. Sunday should be her only day off, but she instead gets up at the crack of dawn to clean a 21-acre car showroom. Her work is exhausting; there is no respite because the next day, the weekly routine starts again, and she goes back to her nine-to-six job working for the NHS. She has been doing that for a year, all so that she can push her income above the £18,600 threshold and be with her husband in the country that she grew up in. She says:

"I can't even describe to you how it feels. Why do we have to struggle so much to have our loved ones here? It doesn't feel very British to make people suffer like this. I used to be proud to be born and bred here, but all this has changed that. The system splits people apart and makes them feel like they're worthless."

The second case study is that of Juli and Tony. Juli met her husband, Tony, while studying for her master's degree in Northumbria. He is a self-employed plasterer from Edinburgh and she is an artist and media management expert from the US. They met at a party, fell in love and got married after a whirlwind romance. Tony earns more than £18,600 from the business that he runs, but a technicality means that not all of his income is counted. As a result, this loving couple have not been allowed to start building their life together in the UK.

Juli has instead been sent back to the US, where she has slept on a sofa and lived out of a suitcase for months while she fights to come back to her husband. Tony cares for his mother, who suffers from severe mental health problems, and struggles with depression himself, especially without his wife by his side. Juli says:

"I hope this is the year my husband and I finally get to be together again, and I hope it's sooner rather than later. My husband is suffering, and I'm very worried about him. I would like nothing more than to be able to use my degree to work, contribute to the Scottish economy and finally be able to build a life with my husband and start a family."

As I said, I could give a million more examples, but every single one of them is about real lives turned upside down by unnecessarily restrictive immigration rules. The Bill and the White Paper would extend those rules to more families. We should do the opposite and try to repeal the worst of those provisions, which came into force in 2012. Since 2012, the minimum income rule has meant that thousands of British citizens, people with indefinite leave to remain and refugees are not allowed to live with their partners, but are forced to leave the country and live thousands of miles away from extended family and support networks. That is all because they do not meet the financial threshold.

As we know, the base threshold is currently set at £18,600, so a British citizen or a settled person must have an income far higher than the minimum wage in order to sponsor the visa of a non-EEA partner. The threshold is higher still if someone wishes to sponsor a child as well as a partner. If someone is sponsoring a partner and one non-British child, the threshold is £22,400 a year, plus a further £2,400 for any additional child. Usually, only the sponsor's UK income counts towards meeting the threshold, which to me undermines some of the reasons offered by the Government in defence of the rules. If it was seriously only about whether a couple could support themselves without recourse to public funds, why is there this rule that prohibits any account being taken of the potential earnings of the spouse applying to come in from outside the EEA?

Proving the income is also complex, and can be extremely stressful. There are seven separate categories of ways in which sponsors can show that they earn above the required amount. In most cases, only income from UK employment can be counted, while income from overseas employment, the non-British partner's

potential earnings, job offers and support from third parties are excluded from consideration. None of that can be used to demonstrate a couple's self-sufficiency.

To give an idea of the scale for the people affected, the UK's income requirement is the highest in the world relative to average earnings. It is equal to more than 121% of the national living wage for those aged 25 and over, 129% for 21 to 24-year-olds and 161% for those aged between 18 and 20. That covers people who are employed on the basis of a full-time salary, but for the ever-growing number of self-employed the system is even more difficult to navigate. If the British partner is self-employed, couples will often end up spending at least 12 months apart, because the sponsor must be able to prove that they met the minimum income requirement over the course of the last full financial year, which is April to April, and applications for an initial spouse visa can usually only be made overseas.

Various groups are disproportionately affected, including women. In many parts of the country, well over half of full-time employed women would be affected. In some regions, more than 60% of the population would not be able to sponsor a spouse from outside the EEA. In many of the constituencies of MPs in this Committee, that will be the percentage of constituents who could not have a spouse join them in this country.

The rules have had a severe detrimental impact on the thousands of families who are unable to meet the requirements. Due to the minimum income rules, British citizens and settled UK residents have been separated from partners, parents and grandparents, often indefinitely. The Children's Commissioner for England, together with academics from Middlesex University and researchers from the Joint Council for the Welfare of Immigrants, have documented the short and long-term negative effects of those rules on children whose parents are unable to satisfy the requirements.

Parents reported a range of behavioural and psychological problems in their children, including separation anxiety, anger, aggression, depression and guilt, disrupted sleep, bed wetting, social problems with peers and changes to eating patterns. Such effects stem from the enforced separation of children from a parent and/or other family members as a result of the Government's immigration policy, as well as the transfer of parental stress and anxiety on to children.

NHS England alone employs more than 225,000 British citizens at salaries below the minimum income requirement. How can MPs tell them that they are not allowed to be joined here by their overseas spouse, or that they have to leave their job in the NHS to go and join their spouse overseas?

Average annual pay for teaching assistants, who make up 25% of the UK teaching workforce, is estimated to be between £13,600 and £15,900. The minimum income requirement means that those workers, too, are unable to establish a stable family life in the UK, and many take the difficult decision to move to their partner's country of origin, or to a third country.

We have also heard about careworkers, more than 70% of whom would not be able to establish a family life in this country with a non-EEA partner under existing immigration rules. There are currently more than 100,000 empty jobs in the adult social care sector. With a fifth of all workers in the sector aged 55 or over, that number will skyrocket over the coming years. If the minimum income rules are extended to cover the spouses and partners of EU nationals, as set out in the White Paper, the care sector will be one of many to be heavily impacted.

Across all sectors, the minimum income requirement is forcing workers with children out of salaried employment. Parents unable to sponsor their partner to come to the UK to live with the family are often forced to choose between paying for prohibitively expensive childcare to enable them to continue working and to reach the threshold, or giving up work altogether in order to act as the family's sole caregiver. That effect was not properly anticipated in the Government's initial assessment of the economic impact of the rule changes.

As well as having a negative impact on the workforce, the policy risks harming children, since children of single parents who work part-time are at greater risk of falling into poverty. Some would-be sponsors with children will never be able to reach the minimum income requirement due to their childcare obligations. Single-parent households have a median annual income of about £17,800, compared to about £23,700 for two-parent households. All the stats under the sun cannot properly reflect the human cost and human tragedy at the heart of all this.

I finish with another quote, from a mother with a two-year-old son:

"I am a single mother who has to look after my son as well as provide for my family. I did not want or choose to be in this position but I am being forced to"

by the Government's immigration rules. I am shocked. It is way after time that we rolled back these provisions. There is no way that we should extend them to many thousands more families who will face these heartbreaking situations. The amendment will prevent that from happening. It is only a first step, because it will stop the extension of the rules, whereas what we actually want is for the rules to be rolled back. Will the Minister comment on that?

Will the Minister also address the evidence we heard about Surinder Singh cases, in which British citizens want to return with non-EEA national spouses, having exercised their right to free movement elsewhere. Some of them may well end up in the difficult position of having to meet thresholds that they are unlikely to be able to meet. I feel very strongly about this rule, and I ask hon. Members to give serious thought as to whether they can countenance splitting families apart in this way.

Afzal Khan: We support the amendment. We feel that income thresholds discriminate against working-class people on lower incomes. Around 40% to 50% of UK residents earn less than £18,600. Due to Brexit, the Government plan to extend this threshold requirement to EU citizens. In the Labour party's 2017 manifesto, we said that we would replace income thresholds with a prohibition on recourse to public funds, which we feel is a more appropriate way forward.

The Government argue that the financial requirement supports integration and prevents a burden from being placed on the taxpayer. It is right that there are controls on who is able to sponsor a partner to come to the UK. The immigration rules already state that anybody who wants to move to the UK to be with their partner or spouse must prove that they are in a genuine, loving relationship and must pass an English test, and they will

[Afzal Khan]

not have access to benefits when they arrive. However, demanding that the British partner proves that they earn a specific amount on top of the existing rules means that families are being forced apart purely on the basis of income.

An estimated 15,000 children are growing up in Skype families, where the only contact they have with one of their parents is through Skype, because the British parent does not earn enough for the family to live together. Another group affected is the 80% of women in part-time work who do not meet the threshold. Young mothers are particularly badly affected, often being pushed out of the labour force because they have to handle childcare responsibilities alone due to these rules. I believe that these rules have a negative impact on families, on social cohesion and on the economy. They must be changed, so I am happy to support the amendment.

Caroline Nokes: I appreciate the positive intent behind the amendment, which seeks to create a means whereby, in the future, EU nationals will be able to join a spouse, partner or parent in the UK who is either a British citizen or is settled here, but without being subject to the current and established financial requirements for family migration. No doubt the intention is to be helpful to that group of people and their family members in the UK.

However, the practical effect would not be to maintain the status quo for EU citizens but to create a separate and preferential family migration system for EU family members when compared with the situation of British or settled people's family members who are not EU nationals. This would clearly lead to a perception that non-EU families are discriminated against for no reason other than their nationality, and may well be regarded as unlawful for that very reason.

The possibly unwitting introduction of direct discrimination is the Government's main reason for objecting to the amendment, but I also draw attention to the terms of the amendment itself. It would replace the minimum income requirement for British citizens and settled persons sponsoring EU family members with a test that has three separate components: being able to maintain and accommodate the family without recourse to public funds; taking account of the prospective earnings of the EU national seeking entry; and taking into account any third-party support available. I will address each in turn.

4.30 pm

The first component takes us back to the days before the minimum income requirement was introduced. It was partly because the test for whether a family can maintain and accommodate itself without recourse to public funds was difficult to apply in a consistent way that the minimum income requirement was introduced. Quite simply, it means different things to different people. Neither applicants nor case workers were clear about what income a family would need.

The purpose of the minimum income requirement is to provide certainty by ensuring that family migrants are supported at a reasonable and consistent level so that they do not become a burden on the taxpayer and can participate sufficiently in everyday life, to facilitate their integration into British society. I remind hon. Members that the minimum income requirement has been raised on the basis of in-depth analysis and advice from the independent Migration Advisory Committee.

The second and third components introduced by this amendment, that we take into account the prospective earnings of the incoming EU national family members and any third party support available, are already present in the consideration of the minimum income requirement. Where the minimum income requirement is not met, the immigration rules ensure that we take into account prospective earnings of the partner and third-party support that is available. That happens as part of necessary consideration of whether, despite not meeting the minimum income requirement, there are exceptional circumstances that would make refusal of the application a breach of the right to respect for family life under the European convention on human rights. That consideration takes place in all cases.

British citizens and settled persons who want to be joined by family members who are EU citizens will benefit from these considerations without the need for this amendment. I want to emphasise that the proposed amendment would effectively undermine the sound basis on which family migration to this country has been placed in recent years. In particular, it would circumvent the need for family migration to be on a basis whereby families are self-supporting and able to contribute to the UK. It was for this reason that the minimum income requirement was set out in the immigration rules. The Supreme Court has upheld this requirement as lawful and there is no justifiable reason to avoid this requirement in the future by giving preferential treatment to family members based solely on their nationality. It is also unlikely to be lawful to do so.

The immigration rules on family migration, which this amendment will effectively undermine, are designed to prevent burdens on the taxpayer, promote integration and tackle abuse—and thereby ensure that family migration to the UK is on a properly sustainable basis that is fair to migrants and the wider community. These rules are helping to restore public confidence in the immigration system. The amendment proposed by hon. Members, well intended as it may be, has the potential to reverse that.

I would like to pick up the particular point about Surinder Singh cases and to confirm that in a deal scenario, non-EU citizen family members of British citizens who are lawfully resident in the UK by 31 December 2020, by virtue of regulation 9 of the EEA regulations—the Surinder Singh route—will be eligible to apply for status under the EU settlement scheme when it is rolled out fully on 30 March.

The introduction of a dual family migration system, as required by this amendment, would not be seen in a uniformly positive way by British citizens and persons settled here. It would lead to an undesirable two-tier system of family migration, in which family members who are EU nationals are given preferential treatment over non-EU family members. For those reasons, I request that hon. Members withdraw the amendment.

Stuart C. McDonald: I thank the Minister for her response. I am frustrated, though. I do not think she appreciates the level of anger there is about this and how many constituents are affected. We are talking about tens of thousands already; about families split

apart. She will be imposing that on many thousands of families. She suggested that the old test of a family maintaining itself without recourse to public funds was in some way difficult. That is not my recollection of how it operated in practice. However, I will reconsider whether there is an even more straightforward test that could apply, to refer to certainty. You can have certainty at all sorts of different levels of income, though: it does not have to be at £18,700. As for resting on the MAC's assessment, if we give it a certain remit to provide certain answers and it gives us the most generous of those, we cannot say, "Well, the MAC says this", because it did not have the option to give any alternative answers.

The rules regarding prospective earnings and third-party support are still far too restrictive. I will go back and look again at what the Minister said, but the experience of people who are writing to me is that, generally speaking, they are struggling as individuals to meet the threshold. Proper account has not been taken of the earning potential of people who are applying to come into this country.

The arguments about the burden on the taxpayer make no sense. The spouse is not allowed to claim public funds, but apart from anything else, as a taxpayer I am perfectly happy to provide top-up tax credits or whatever else is needed if that allows a British citizen to live with their husband or wife in this country. For the party of the family to say what it is saying is extraordinary.

Kate Green: I appreciate the points that the hon. Gentleman makes. Does he agree that there might be a saving for the British taxpayer if, for example, a family member or spouse can come in to care for a British national who might otherwise be dependent on national health service and local authority social care services?

Stuart C. McDonald: The hon. Lady makes a very valid point. I would be interested to see whether the Government will have the courage of their convictions and reassess the impact on the Treasury of the changes. Researchers from Middlesex University found pretty much the opposite of what the Government suggested would happen. That is because of situations like the one that the hon. Lady describes. Another example is that of parents who have had to give up work because they do not have a spouse here to support them and share childcare responsibilities. It is far from clear cut that there has been a burden on the taxpayer, and it is not a reasonable argument anyway—I would not split families apart merely to save the taxpayer a small sum of money.

I do not understand the argument about integration—how does being separated from a spouse possibly help anyone to integrate? We are saying to these individuals, "You're not entitled to have your husband or wife or child join you here; we expect you to head off to another country and integrate there." It is a very strange argument, which I do not follow. I do not think there is a public confidence argument either. The more the public hear about these rules, the more they are outraged, so I reject that argument.

I will think again about precisely how the amendment is worded, but on this occasion the Minister gravely underestimates how far wrong the immigration rules have strayed. I ask her to look again at how they operate and stop families having to suffer in this way. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned.—(*Paul Maynard.*)

4.37 pm

Adjourned till Thursday 28 February at half-past Eleven o'clock.