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Public Bill Committee

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

Sixth Sitting

Tuesday 16 June 2020

(Afternoon)

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Saturday 20 June 2020

The Committee consisted of the following Members:

Chairs: Sir Edward Leigh, †Graham Stringer

† Davison, Dehenna *(Bishop Auckland)* (Con)
† Elmore, Chris *(Ogmore)* (Lab)
† Foster, Kevin *(Parliamentary Under-Secretary of State for the Home Department)*
† Goodwill, Mr Robert *(Scarborough and Whitby)* (Con)
† Green, Kate *(Stretford and Urmston)* (Lab)
† Holden, Mr Richard *(North West Durham)* (Con)
† Johnson, Dame Diana *(Kingston upon Hull North)* (Lab)
† Lewer, Andrew *(Northampton South)* (Con)
† Lynch, Holly *(Halifax)* (Lab)
† McDonald, Stuart C. *(Cumbernauld, Kilsyth and Kirkintilloch East)* (SNP)
† O'Hara, Brendan *(Argyll and Bute)* (SNP)
† Owatemi, Taiwo *(Coventry North West)* (Lab)
† Pursglove, Tom *(Corby)* (Con)
† Richardson, Angela *(Guildford)* (Con)
Roberts, Rob *(Delyn)* (Con)
† Ross, Douglas *(Moray)* (Con)
† Sambrook, Gary *(Birmingham, Northfield)* (Con)

Anwen Rees, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 16 June 2020

(Afternoon)

[Graham Stringer *in the Chair*]

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

New Clause 9

Report on the impact to EEA and Swiss nationals

'(1) This Act shall not come into effect until a Minister of the Crown has laid a report before each House of Parliament setting out the impact of the Act on EEA and Swiss nationals in the UK.

(2) A report under subsection (1) must consider—

(a) the impact on EEA and Swiss nationals of having no recourse to public funds under Immigration Rules;

(b) the impact of NHS charging for EEA and Swiss nationals;

(c) the impact of granting citizenship to all EEA and Swiss health and social care workers working in the UK during the Covid-19 pandemic;

(d) the impact of amending the Immigration and Nationality (Fees) Regulations 2018 to remove all fees for applications, processes and services for EEA and Swiss nationals; and

(e) the merits of the devolution of powers over immigration from the EEA area and Switzerland to (i) Senedd Cymru; (ii) the Scottish Parliament; and (iii) the Northern Ireland Assembly.

(3) A Minister of the Crown must, not later than six months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report.

(4) In this section, "health and social care workers" includes doctors, nurses, midwives, paramedics, social workers, care workers, and other frontline health and social care staff required to maintain the UK's health and social care sector.'—*(Stuart C. McDonald.)*

This new clause would ensure that before this Act coming into force, Parliament would have a chance to discuss how EEA and Swiss nationals will be affected by its provisions, including no recourse to public funds conditions, NHS charging, the possibility of granting British citizenship to non-British health and social care workers, removing citizenship application fees and the potential devolution of immigration policy of EEA and Swiss nationals to Wales, Scotland and Northern Ireland.

Brought up, read the First time, and Question proposed this day, That the clause be read a Second time.

2 pm

Question again proposed.

The Chair: Just before we begin, I should say that if members of the Committee wish to take their jackets off, they have my permission to do so. The hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East and the Opposition Front-Bench spokesperson have spoken. If no Back Benchers indicate that they wish to speak, I will call the Minister. I remind the Committee that with this we are also discussing the following:

New clause 10—*Extension of registration for EU Settlement Scheme—*

'(1) The EU Settlement Scheme deadline shall be extended by a period of six months unless a motion not to extend the deadline is debated and approved by both Houses of Parliament.

(2) Any motion not to extend, referred to in subsection (1), must be debated and approved no later than three months before the deadline.

(3) In this section, "the EU Settlement Scheme Deadline" means the deadline for applying for settled or pre-settled status under the Immigration Rules.'

This new clause would ensure the EU settlement scheme was not closed to new applications until Parliament has approved its closure.

New clause 11—*Application after the EU Settlement Scheme deadline—*

'(1) An application to the EU Settlement Scheme after the EU settlement scheme deadline must still be decided in accordance with appendix EU of the Immigration Rules, unless reasons of public policy, public security, or public health apply in accordance with Regulation 27 of the Immigration (European Economic Area) Regulations 2016 (as they have effect at the date of application or as they had effect immediately before they were revoked).

(2) In this section—

"an application to the EU Settlement Scheme" means an application for pre-settled or settled status under appendix EU of the Immigration Rules;

"the EU Settlement Scheme Deadline" means the deadline for applying for settled or pre-settled status under appendix EU of the Immigration Rules.'

This new clause would ensure that late applications to the EU settlement scheme will still be considered, unless reasons of public policy, public security or public health apply.

New clause 25—*Report on status of EEA and Swiss nationals after the transition—*

'(1) This Act shall not come into effect until a Minister of the Crown has laid a report before each House of Parliament setting out the impact of the Act on EEA and Swiss nationals in the UK.

(2) A report under subsection (1) must clarify the position of EEA and Swiss nationals in the UK during the period between the end of the transition period and the deadline for applying to the EU Settlement Scheme.

(3) A report under subsection (1) must include, but not be limited to, what rights EEA and Swiss nationals resident in the UK on 31 December 2020 have to—

(a) work in the UK;

(b) use the NHS for free;

(c) enrol in education or continue studying;

(d) access public funds such as benefits and pensions; and

(e) travel in and out of the UK.'

This new clause would require Government to provide clarity on the rights of EU nationals in the EU in the grace period between the end of the transition period, and the closure of the EU Settlement Scheme.

The Parliamentary Under-Secretary of State for the Home Department (Kevin Foster): It is a pleasure to serve under your chairmanship this afternoon, Mr Stringer. These new clauses give us an important opportunity to consider the position of EEA citizens—those who are already here and are covered by the EU settlement scheme, and those who will come to the UK under our future points-based immigration system.

Before the break, I was asked a couple of questions. I can assure my right hon. Friend the Member for Scarborough and Whitby that we are looking at a range of communications materials, and have already done so, in a number of common European languages. We have

engaged with diaspora media, and are looking particularly at how we can work with them over the coming year, as we approach the deadline next year, to ensure that as many people as possible hear the message—not just those who need to apply, but their friends and families, so that people feel familiar with the system and realise that it is actually a relatively simple process. The vast majority of people do it via an app on their phone.

I was grateful for the question from the hon. Member for Halifax. She asked what the position would be if someone applied on 20 June 2021 and their application was still outstanding on 1 July 2021. That is a perfectly reasonable issue to raise. As set out in the withdrawal agreement, the rights of someone who has made a valid in-time application to the EU settlement scheme will be protected while that application is pending. The regulations under the European Union (Withdrawal Agreement) Act 2020 will save relevant rights in relation to residency and access to benefits and services for those who make an application before 30 June 2021 until it is finally determined.

The Home Office will clearly not take immigration enforcement action against an individual whose application is pending. That reflects some of the other principles in the migration system. Committee members may be familiar with 3C leave—the concept that if someone has extant leave and applies, their leave is extended until their application is determined.

I assure Members that the statutory instrument making the regulations will be subject to debate and approval by Parliament, and will need to come into force at the end of the transition period. The Government are currently developing those regulations, which will be debated and made in good time prior to their entry into force at the end of the transition period.

On the linked question of what happens in relation to status checks and other things, let me be clear that an individual undergoing an eligibility check while their EUSS application is pending will have the same entitlement to accommodation, work, benefits or services that they had before the grace period ended. The Home Office will confirm whether an application is pending when an eligibility check is carried out—for example, if someone has to prove their status to their employer. Given that it is a digital-only system, it will be very similar to the process that people would use if they had been given pre-settled or settled status. I hope that is of use. Given the nature of the issue, I will set that out in writing for members of the Committee. They may wish to refer to it later.

New clause 9, moved on behalf of our friends in Plaid Cymru by the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East, seeks to delay the ending of free movement and the introduction of the new points-based immigration system for as long as possible. That is no surprise, given the views of the hon. Gentleman and Plaid Cymru.

My response on behalf of the Government is simple: we must accept the wishes of the people of our United Kingdom. Free movement is ending now that we have left the European Union. It is just six months since the general election, during which my party said that we would introduce a points-based immigration system that will enable us to bring in the best talent from around the world—based on the skills that a person has, not where their passport is from. The Government will therefore reject any attempt to perpetuate free movement or delay the implementation of the new points-based immigration system. The Government have a mandate, and we will fulfil our pledges to the people. We will introduce our new firmer and fairer points-based immigration system from 1 January 2021, when the transition period ends.

Having said that, I appreciate the importance of proper data and information. It is precisely for that reason that the Government have published a detailed impact assessment to accompany the Bill. It was published on 18 May and can be found on gov.uk and the Parliament website. Copies were also placed in the Library, and I know it has been referred to at times during the debates we have had so far.

The impact assessment is slightly unusual because it is not confined simply to the scope of the Bill, which, as Sir Edward and you, Mr Stringer, have reminded us on a number of occasions, is relatively narrow. Instead, it seeks to map out the consequences that will flow from the introduction of the points-based immigration system that was set out in the policy statement, which my right hon. Friend the Home Secretary published on 19 February.

The impact assessment sets out the likely implications for both EEA and non-EEA citizens of the changes that we will make, and it deals with many of the issues raised by the new clause. In particular, it makes it clear that we will develop plans to evaluate policies under the future skills-based immigration system. I remind the Committee that we have expanded the role of the independent Migration Advisory Committee. Not only will the MAC respond to specific commissions from the Government; it will also be able to consider any aspect of immigration policy that it chooses.

We have also asked the MAC to produce an annual report, which will give it the opportunity to comment on what it believes is working well and anything it thinks is working less well in our system. Although it is for the MAC—as I have said, it is independent of Government—to decide how to exercise its new responsibilities, I would be surprised if it did not want to comment on the operation of the new points-based system once it is fully up and running, so that there is further assurance for the public and for the movers of the new clause. For those reasons, the Government cannot accept the new clause.

I will now speak to new clauses 10, 11 and 25, which concern the EU settlement scheme and the grace period that will run from the end of the transition period to 30 June 2021. New clause 10 is designed to extend the deadline for applications to the EUSS by six months, which would happen unless and until Parliament debated and approved a motion not to extend the deadline.

I share the aim of the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East to ensure that eligible EEA citizens are able to obtain the UK immigration status they need to continue to live and work here. As we constantly say, they are our neighbours and friends—we want them to stay. However, I do not think that is best achieved by the new clause, which has the effect of shifting the deadline for applications to the scheme potentially indefinitely. That would cause confusion. Instead, a clear deadline of 30 June 2021 will encourage applications to the scheme and ensure the greatest number of resident EEA citizens secure their status in a timely manner.

[Kevin Foster]

Furthermore, new clause 10 is ambiguous. It is not clear whether it is intended to be a one-off extension of six months or a rolling extension of a six-month period until such a time as Parliament votes to close the scheme with just three months' notice. Having a clear and well-publicised deadline by which eligible citizens need to apply ensures that the maximum number do so rather than putting it off due to the impact of new clause 10, which could mean that a deadline is set with three months' notice. The new clause could also mean that applicants face difficulties and delays in demonstrating their rights and entitlements in the future, as they would not be able to distinguish themselves from EEA citizens who arrived after the end of the transition period.

The Government have made it clear that we will continue to support eligible citizens in applying to the EU settlement scheme. In addition, as we have shown with all aspects of the scheme, we will take a flexible and pragmatic approach and allow people with reasonable grounds for missing the deadline a further opportunity to apply. We will set out further guidance on this issue in due course, but with over a year to go until the deadline, our focus is on getting as many applications before it as possible.

On new clause 25, we will bring forward a statutory instrument under powers in the European Union (Withdrawal Agreement) Act 2020 to set the deadline and save the residency rights of people who are eligible to apply to the scheme and who do so before the deadline. I am not sure whether this is the intention of the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East, but the effect of new clause 10 would be to breach our obligations under the withdrawal agreements. The deadline of 30 June 2023 applies only to EEA citizens and their family members who reside in the UK by the end of the transition period. Their close family members outside the UK at the end of the transition period—where the relationship existed before then and continues to exist when they seek to come here—and their future children have a lifelong right of family reunion with the resident EEA citizen. A universal deadline makes no provision for this group, whether it is 31 December 2021 or any other date, and it would be inconsistent with the provision to enable them to apply within three months of their arrival, as set out in article 18(1)(b) of the withdrawal agreement.

New clause 11 is intended to require the consideration of all applications to the EU settlement scheme made after the application deadline, unless reasons of public policy, public security or public health apply. As the hon. Gentleman will be aware, the withdrawal agreement requires late applications to be considered

"if there are reasonable grounds for the failure to respect the deadline."

As I said earlier, the Government will adopt a flexible and pragmatic approach to the consideration of late applications. Where an eligible EEA citizen or their family member has reasonable grounds for missing the application deadline of 30 June 2021, they will be given a further opportunity to apply. This approach gives people a clear deadline and incentive to apply while also protecting those who are unable to do so through no fault of their own.

Our collective focus must be on encouraging applications to the EU settlement scheme before the deadline.

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): In terms of intention, I think everybody in this room is at one. The Minister provides assurance in relation to people who miss the deadline through no fault of their own. Would that include people who, because of their complicated immigration nationality situations, had not appreciated that they needed to apply for the scheme?

Kevin Foster: I think it is safe to say that the list will not be an exhaustive one. There will need to be an element of discretion as we cannot list every single possible situation that might reasonably cause someone to be late in their application, but if, for example, they have had a difficult court case or something that meant they had not been able to apply, and a status had then been granted, it is likely that that would be seen as a reasonable excuse. It will be set out in guidance.

Our intention is to set out a list of situations that are not exhaustive but indicative. We can all think of circumstances that would be perfectly reasonable. For example, in the case of a child in the care of a local authority, we would expect the local authority to have made efforts to get them registered. We could make a very long list and still not get to an exhaustive level. The list will demonstrate grounds, but it will not be an exhaustive list of the only situations that we would accept as reasonable grounds for failing to apply on time.

As I say, we will take a flexible and pragmatic approach with those who miss the deadline. We have more than a year to go before the deadline. If people feel that they might need to make an application, the best thing to do is to find the information and make the application. That is our absolute focus at the moment. We are working closely with support groups to ensure that we can reach out to vulnerable communities who might need assistance. We have kept a range of support services running throughout the recent period and have now reinstated all routes for application, including paper applications that are made available to those with the most complex needs.

We want to encourage applications before the deadline. That will ensure that EEA citizens can continue to live their lives here, as they do now, without interruption. To make a commitment now that we would also consider all late applications would undermine that effort.

Where there are reasonable grounds for submitting a late application, we will consider the application in exactly the same way as we do now, in line with the immigration rules for the EU settlement scheme. That includes the consideration of conduct committed before the end of the transition period on the grounds of public policy, public security and public health, and of conduct committed thereafter under the UK conduct and criminality thresholds. As I have mentioned, we will publish guidance for caseworkers on what constitutes reasonable grounds, to ensure consistency of approach. Again, however, with more than a year until the deadline, it is premature to do so now, for the reasons I have given.

2.15 pm

Finally, it is not clear how new clause 11, which is about considering all late applications, fits with new clause 10, which is about continuing to extend the deadline until Parliament agrees to impose it. Both have the undesirable effect, however, of encouraging individuals

to put off their applications to the EU settlement scheme and, with that, the certainty that status granted under it will provide them.

New clause 25 requires that before the provisions in the Bill may come into effect, the Secretary of State must lay before both Houses of Parliament a report on the status of EEA citizens during the grace period—that is, from 1 January to 30 June 2021. I agree that we must be clear as to the rights of EEA citizens, in particular those resident here by the end of the transition period who have yet to apply for UK immigration status under the EU settlement scheme. However, the shadow Minister, the hon. Member for Halifax, may be unsurprised to hear that the Government believe the new clause to be unnecessary.

The rights of resident EEA citizens are set out in the withdrawal agreement, and the Government have made clear how they will deliver the grace period protections guaranteed by those agreements. Let me remind hon. Members of our approach. New clause 25 (1) states that the Government must produce a report setting out the impact of the Act on EEA and Swiss citizens. The Government have already published an impact assessment of provisions contained in the Bill, including the impact of ending free movement in preparation for the new points-based immigration system.

Subsection (2) provides that the report must clarify the position of EEA and Swiss citizens during the grace period. The Government have been clear that free movement will end at the end of the transition period, subject to the enactment of the Bill. EEA and Swiss citizens newly arriving here from 1 January 2021 will need a UK immigration status under the new points-based system.

However, those who are resident in the UK by the end of the transition period on 31 December 2020 are protected by the European Union (Withdrawal Agreement) Act 2020 and will be able to apply to the EU settlement scheme to secure their immigration status in UK law. They will have until 30 June 2021 to do so, unless there are reasonable grounds for them to miss that deadline, as we have already touched on.

The Government have been clear that status granted under the scheme will allow individuals to continue with their lives here as they do now, with the right to work, study and access benefits and services, including healthcare, as now, as well as the other entitlements listed in the new clause. We have also been clear that the rights of those eligible to apply under the EU settlement scheme are protected during the grace period, pending the outcome of an application to the scheme by 30 June 2021.

As we touched on, section 7 of the European Union (Withdrawal Agreement) Act provides powers to make regulations to provide temporary protection for this cohort during the grace period. That means that if someone has not applied under the EU settlement scheme by the end of the transition period, they will be able to continue to work and live their lives in the UK as they do now, provided that they apply by 30 June 2021 and are then granted status. The Government are currently developing those regulations, which will be debated and made in good time prior to the entry into force at the end of the transition period.

I hope I have provided some assurances regarding the hon. Members' concerns and set out why the Government will not accept these new clauses.

Stuart C. McDonald: It is a pleasure to serve under your chairmanship, Mr Stringer. I am grateful to all hon. Members for taking part in this debate and to the Minister for his response. There have been some useful comments, including on the transition period, in response to points made by the shadow Minister, the hon. Member for Halifax. We will take that back to discuss with concerned groups and may revisit the matter.

For those who fail to apply in time, we understand that there will be guidance in due course. Again, we are grateful for that little bit of further information on how that will function through a non-exhaustive list of types of case where caseworkers will look sympathetically on a late application. I am grateful for that. The Minister will understand that we will revisit that repeatedly between now and next June, due to our concern about what will happen to those people who have the right to be here but risk losing it.

As I said in my intervention, we have a similar purpose across the House; we just have different views on how to go about doing it. Having adopted this course of action, we will continue to press and push the Government at every possible opportunity, so that we get the maximum reach possible and as few people as possible lose their rights and end up being cast adrift in a hostile environment or lose their right to be in this country altogether.

The two new clauses were possible solutions to that. I will go away and think again about their detailed drafting. The Minister provided some interesting comments in that regard. At this juncture, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 12

IMMIGRATION HEALTH CHARGE

'No immigration health charge introduced under section 38 of the Immigration Act 2014 may be imposed on an individual who is an EEA or Swiss national.'—*(Stuart C. McDonald.)*

This new clause would prevent EEA or Swiss nationals paying the immigration health charge.

Brought up, and read the First time.

Stuart C. McDonald: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 42—*Immigration Health Charge: Exemption for EEA and Swiss citizens who are healthcare and social workers*—

'(1) The Immigration Act 2014 is amended as follows.

(2) After section 38 (Immigration health charge) insert—

"38A Health care workers and social workers from the EEA or Switzerland

(1) Any person who but for the provisions of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 would have the right of free movement is exempt from the Immigration health charge if that person is—

(a) a healthcare worker; or

(b) a social care worker.

(2) The exemption will also apply to a person who is a family member or dependant of an EEA or Swiss national who meets the conditions in section (1)(a) and (b).

(3) For this section—

"healthcare worker" means a worker who works in a healthcare setting within and outside the NHS who may come into contact with patients, including clinical administration staff, and care home staff;

"social care worker" means a worker as defined by section 55(2) of the Care Standards Act 2000.'

Stuart C. McDonald: This brings us to the hot topic of the immigration health surcharge. It is worth remembering that the health surcharge is a fairly new concept, as it was introduced in 2014. It is set at £400 per year for most applicants, with a discounted rate for students and tier 5 youth mobility workers. The Government have decided to increase the fee to £624 per person per year in October.

Those are hugely significant sums of money, as the charge has to be paid per person per year for the full duration of the visa being applied for, before that visa application has even been considered. Somebody who comes in under a typical five-year tier 2 visa will have to pay more than £3,000 up front in health charges. If they have a husband or wife and a couple of kids, that is three extra NHS surcharges, so more than £12,000 up front without even thinking about the visa fee. On a discounted rate, a student coming for three years will need to pay more than £1,400 up front. Again, that is completely separate from the visa fee. Of course, the Bill extends the scope of the immigration health surcharge to many more applicants.

A particular injustice is done to people applying for leave to remain based on long residence. They are individuals and families who are forced on to a dreadful treadmill of applications and expense. Repeatedly, they have to apply for 30 months' leave to remain. A single parent with two kids applying under those rules would need to pay almost £4,700 in health charges, and more than £3,000 in immigration fees, for just 30 months. They have to make that same application over and over again until they get to 10 years. When they get to 10 years and are met with a settlement fee of £2,400 per person, they will already have paid £10,300 per person. For a family, £10,000 per person is impossible. Shamefully, those people are often prohibited from having access to public funds.

Those people are applying because of long residence in the UK so, realistically, in many cases, there is no other country that they can go to. The children have spent most, if not all, of their lives here. It can put families in intolerable situations where they have to choose which family member they can afford to pay the fee for. A child may end up missing out because the most immediate and pressing priority is to pay the fee for a breadwinner.

In a way, the charge represents the worst of Home Office policy making, although the Treasury is as much to blame for stripping the Home Office right down to the core and instructing it to use migrants as cash cows to fund its activities. It also illustrates the Home Office at its worst, because the policy is more about grabbing the headlines than anything else. It is illogical, unjust and counterproductive.

The excuse given is that the policy ensures that migrants contribute towards the cost of the NHS system that they may use—but in that case, why is there an NHS charge but not an education charge, especially for families with kids? Why is there not a public transport or roads charge, or a local services charge? It is essentially a fig leaf for the fact that it is simply a general tax.

It is also unjust in that it is a form of double taxation and it is a poll tax. Migrants, of course, contribute to public services through general taxation like everybody else, through income tax, council tax and indirect taxes. The NHS surcharge is totally regressive. It falls unfairly on different migrants, as a wealthy bank worker with no dependants will pay about a quarter of the sum that an NHS careworker will pay if he or she comes in with kids. Most importantly, it falls unfairly on migrants as opposed to those who are citizens or settled. Migrants pay a general tax that the rest of us do not, while at the same time paying all the other taxes that we do.

Finally, from a different perspective, this is a policy that makes the UK an eye-wateringly expensive place for people to come to work. That will now expand to EU and Swiss nationals, and to the small and medium-sized businesses that employ them. Just as businesses are struggling to keep their noses above water, the Government intend to whack them with a plethora of fees, vis-à-vis skills charges and the NHS surcharge.

As we heard last week, it is the big multinationals that are well practised in this system over time, and that have the know-how and resources. Small and medium-sized businesses will end up not only having to navigate the complex tier 2 system, but often meeting the cost of the immigration health surcharge. If a job pays around £26,000 or £27,000, nobody in their right mind is going to come if they have to pay almost half a year's salary up front. The small hotel and the fish-processing factory will have to pay it on their behalf and, quite simply, they may well not be able to afford to do that. It will not just be one job that remains unfilled. The danger becomes that that hotel or factory simply cannot continue to function and it moves elsewhere. Workers will go where they are not being totally ripped off.

Can the Minister give me examples of other countries that operate such a system in relation to a health surcharge? If so, what is the comparable rate? All the comparisons that I have looked at show that the UK is charging people to come here at a rate that is several times that of most of our competitor countries. In short, this is unjust, it is counter-productive, it is a double poll tax and it should be axed altogether. We support the Labour amendment and new clause as far as they go, but our view is that the solution is total abolition, rather than trimming around the edges.

Holly Lynch (Halifax) (Lab): It is a pleasure to serve under your chairmanship once again, Mr Stringer. I rise to speak to new clause 42. I agree with a great deal of what my friend the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East said about the immigration health surcharge.

The Labour party is undertaking a significant piece of work with colleagues in the health team about the subject, so we will not make any further comments at this stage about new clause 12. We tabled new clause 42 and we welcome the Government's commitment to scrap the NHS surcharge for migrant health and care workers, which we feel is long overdue.

The pandemic has shown the enormous contribution of overseas workers to our health and care system. They have put their lives on the line every day to keep us

safe. It has been an insult and injustice to then ask them to pay extra for the very services they help provide. The Government acknowledged it was wrong, and said they would be scrapping the fee, which was described as "appalling, immoral and monstrous" by Lord Patten, the former Conservative party chairman, on 21 May, but details have yet to be published about exactly how and when it will happen.

I am mindful that the commitment made by the Prime Minister, following the exchanges between our party leaders at the Dispatch Box, was broader than the new clause before us due to the scope of the Bill. The U-turn was made when a No. 10 Downing Street spokesman announced:

"The PM has asked the Home Office and the Department for Health and Social Care to remove NHS and care workers from the NHS surcharge as soon as possible. Work by officials is now underway on how to implement the change and full details will be announced in the coming days."

We share the opinion of Donna Kinnair, general secretary of the Royal College of Nursing, who said it was

"a shame it took this pandemic for the government to see sense".

We also share the opinion of the British Medical Association, the Royal College of Nursing, the Royal College of Physicians and Unison, which have written to the Prime Minister to demand clarity about his commitment. I hope that the Minister can update the Committee and, indeed, the general public on what progress the Government have made. Can he confirm that all health and care workers will be exempt from the charge on a permanent basis, including those employed in the NHS, independent settings and the social care sector; that the spouses and dependants of health and care workers will also be exempt from the charge; and that health and care staff, who have paid the charge in advance, which will be all those currently working in the NHS and social care, bearing the brunt of the pandemic, will be appropriately reimbursed?

New clause 42 intends to hold the Government to the commitments made following PMQs on 20 May. As you can imagine, Mr Stringer, international doctors and nurses, who have just had to endure the most difficult, traumatising period of their careers, were hugely relieved when the Government made the overdue decision to scrap this unfair charge for health and care workers, finally recognising the vital contribution that overseas staff make to the NHS. However, we are nearly a month on since the announcement was made and we are still awaiting the details that we were promised.

2.30 pm

Will the Minister clarify whether the Government are still taking the NHS health surcharge from health and social care workers in the time since the commitment was made, but before they have published their plans to deliver the policy change? The information that we have suggests that doctors renewing visas are continuing to be charged, so we need to put this to bed now. On top of dealing with the pandemic, this further uncertainty is one more thing on the minds of our hard-working NHS and social care staff. We should be able to address this issue for them without delay.

We will continue to hold the Government to a system that is fair, and which leaves no international doctor, nurse or care worker worse off for contributing their valuable skills and expertise to the NHS and its patients. If we are to show how much we truly value our overseas staff, it is crucial that the Government commit to excluding all health and care workers from the charge, as well as their families. New clause 42 would be a really good start. There is no point scrapping the charge for individuals if they are still forced to pay thousands for their families to join them.

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 Prime Minister and Conservative party have joined the country in its outpouring of gratitude for health and care workers throughout the pandemic, with "Clap for our Carers" every Thursday, which I think we can all agree has been an absolute phenomenon—when we talk about this pandemic to our children and grandchildren, we will reflect on "Clap for our Carers" as bringing out the very best in society.

The immigration skills charge—the employer-paid fee—is the other part of this. Addressing both together would be a big step in the right direction. Warm words now need to make way for firm proposals, and I look to the Minister to provide just that. It would not be right to clap for people and then charge them.

I call on the Minister to support the new clause, honour its commitments and let us show our gratitude for the hard work that health workers and care workers continue to do for us in the fight against the coronavirus.

Mr Robert Goodwill (Scarborough and Whitby) (Con): I thank the hon. Member for Halifax for making the point about the contribution that overseas workers make to our health service and the way the Government have responded to that by suspending the immigration health charge. However, I have some concerns about new clause 12 and its discriminatory nature.

For example, it would extend an exemption to Poland, which has a 0.1% black and minority ethnic population, but not to other countries, particularly Commonwealth countries, which have very close links to the UK. If one looks at the European Union as a whole, its record on inclusivity is not good. For example, all 28 commissioners are white. Following the departure of the UK from the European Union, the number of Members of the European Parliament dropped by 20% as our MEPs left Strasbourg and Brussels, and only 24 of the 705 MEPs are from black and minority ethnic groups.

Stuart C. McDonald: The simple problem that I face here—again—is the scope of the Bill. I would love to abolish the immigration health surcharge altogether. If that is the only problem that the right hon. Gentleman has, I urge him to get in behind the new clause and we can work to scrap it for everybody else as well.

The Chair: Before the right hon. Member for Scarborough and Whitby resumes, I refer him to what the new clause says. He is beginning to stray a little.

Mr Goodwill: Thank you, Mr Stringer. The point that I was working up to was that by having an exemption only for EU citizens, we are discriminating against a large number of people who would wish to come and

[Mr Goodwill]

work in the UK from around the world. The ethnic mix of those particular groups would indicate that allowing the new clause would give a land bloc where the majority of people are white an unfair advantage over the rest of the world. I understand the aspiration to abolish the charge completely globally, but if we were to agree the new clause, we would end up in a situation where black and minority ethnic people from around the world would be at a great disadvantage to predominantly white people coming in from the European Union, EEA countries and Switzerland.

Kevin Foster: I thank the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East for tabling new clause 12 and the hon. Member for Halifax for tabling new clause 42, both of which relate to the immigration health charge, and for the opportunity they provide to debate this issue.

The background, for members of the Committee, is that the immigration health charge ensures that temporary migrants who come to the UK for more than six months make a fair contribution to the NHS services available to them during their stay. Income from the charge contributes to the long-term sustainability of our fantastic health service across our Union, although certain groups are exempt from the requirement to pay the charge and others benefit from a discounted rate.

The health charge is designed to help support the NHS services that we rely on throughout our lives. It raised approximately £900 million in much-needed income for the NHS from its introduction in 2015 to the end of the 2018-19 financial year—income that, I will be clear, has been shared between the four devolved health administrations in line with the Barnett formula, helping to fund the NHS across our United Kingdom.

Turning to the future, all migrants will be treated the same under our new points-based immigration system. The expectation is therefore that all nationals applying, including EEA citizens, will pay the charge if staying for temporary periods of longer than six months, unless an exemption applies. Of course, EEA citizens who are resident in the UK before the end of the transition period on 31 December 2020 are not subject to the immigration health charge. That was agreed as part of negotiations on the withdrawal agreement with the EU, which also protects the rights of UK nationals in the EU.

To touch on the point made by my right hon. Friend the Member for Scarborough and Whitby, now we have left the European Union, it would be rather hard to defend having an exemption for EEA nationals alone, given that we no longer have freedom of movement in place and will no longer members of the EU, and then applying this to the rest of the world. I respect the SNP's point—they have made it regularly and I am sure they will make it again at regular intervals—and their principled view on this issue overall, but it would not make sense to have an exemption for one group applying under the points-based system rather than another, based on nationality alone. I appreciate the point and it will be interesting to hear what conclusions the hon. Member for Halifax comes to as part of her review.

The Government believe that new clause 42 is unnecessary. As has already been said, hon. Members will be aware that my right hon. Friend the Prime Minister has asked the Home Office and the Department of Health and Social Care to exempt NHS and social care staff from the charge. The exemption will apply to the relevant applications regardless of nationality—as I say, we are moving to a global points-based system—once that system is in place.

Officials are currently working through the detail of the exemptions; sadly, I will have to disappoint the hon. Member for Halifax and say that I cannot go into the full details today of where it will be, but hon. Members will appreciate that that is because we want to get this right and are working with our colleagues in the DHSC to do that.

There was a point made about renewals for doctors currently in the NHS. It is worth pointing out that those who are currently working in the NHS as doctors, nurses or in a number of health professions, are subject to automatic extension for a year. If they get an automatic extension for a year, that also waives the immigration health charge. It is not just the visa fee that goes, but the immigration health charge. Someone currently working for the NHS whose visa is due for renewal is getting a free year, and certainly by this time next year we will have the detailed guidance out there for them. I hope that provides some reassurance about the position as we stand here today.

I recognise the concerns about the financial impact of the health charge on people migrating here, including those who contribute to the NHS through tax and national insurance payments. The health charge provides comprehensive access to NHS services regardless of the amount of care needed during a person's time in the UK, and includes treatment for pre-existing conditions.

The IHS not only represents excellent value when compared with the alternatives, but ensures that individuals do not need to worry about insurance or how they will pay for unexpected treatment while they are here. It compares favourably with the type of health insurance or other health care costs that those migrating to other countries might well face in order to get the same level of services that our NHS provides to all at point of need, free of charge, here.

As I said earlier, the Government is exempting NHS and care workers from the charge in recognition of the enormous contribution they make to the NHS directly. It is, however, only fair to expect people arriving in the UK to work in non-health-related roles to contribute to the range of NHS services available to them, given that they will not have the history of making contributions towards it that most long-term UK residents will have. It is also worth remembering that those who receive indefinite leave to remain—that is, settlement—are exempted from the IHS, in recognition of the long-term commitment to our United Kingdom this represents.

Finally, the Government are in the process of negotiating reciprocal healthcare arrangements with the EU, and it is important that we do not undermine the integrity of those negotiations through this Bill. I therefore invite the Members from the Scottish National party to withdraw the motion.

Stuart C. McDonald: I am grateful to the Minister for his response. We are essentially debating a fundamental point of principle here: we have different views about the appropriateness of this charge.

To respond to the right hon. Member for Scarborough and Whitby's intervention, I am of course constricted in what I can table as an amendment or new clause. I would scrap the charge for everybody, not just EEA nationals, but the scope of the Bill prohibits me from tabling a broader amendment. I think that if an assessment of the NHS surcharge's impact on black and minority ethnic people were carried out, it would make for interesting reading, but that is a debate for another day. I stand by my party's position that this is a double tax that is completely unjustifiable, and will therefore push new clause 12 to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 8.

Division No. 12]

AYES

McDonald, Stuart C.	O'Hara, Brendan

NOES

Foster, Kevin	Pursglove, Tom
Goodwill, rh Mr Robert	Richardson, Angela
Holden, Mr Richard	Ross, Douglas
Lewer, Andrew	Sambrook, Gary

Question accordingly negatived.

New Clause 13

Registration as a British citizen by EEA and Swiss nationals

"(1) No person, who has at any time exercised any of the rights for which Schedule 1 makes provision to end, may be charged a fee to register as a British citizen that is higher than the cost to the Secretary of State of exercising the function of registration.

(2) No child of a person who has at any time exercised any of the rights for which Schedule 1 makes provision to end may be charged a fee to register as a British citizen if that child is receiving the assistance of a local authority.

(3) No child of a person who has at any time exercised any of the rights for which Schedule 1 makes provision to end may be charged a fee to register as a British citizen that the child or the child's parent, guardian or carer is unable to afford.

(4) The Secretary of State must take steps to raise awareness of people to whom subsection (1) applies of their rights under the British Nationality Act 1981 to register as British citizens."—*(Stuart C. McDonald.)*

This new clause would mean that nobody whose right of free movement was removed by the Bill could be charged a fee for registering as a British citizen that was greater than the cost of the registration process and would abolish the fee for some children.

Brought up, and read the First time.

Stuart C. McDonald: I beg to move, That the clause be read a Second time.

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

New clause 36—*Immigration Fees*—

"(1) No fees may be charged for processing applications included in subsection (3) for those persons who have lost rights of free movement under section 1 or schedule 1 beyond the cost of that processing, unless the Secretary of State has complied with the procedure in subsection (2).

(2) If the Secretary of State proposes to make changes to the rules under subsection (1), the Secretary of State must get the approval of both Houses of Parliament.

(3) The list of fees to which subsection (1) applies includes, but is not restricted to, the following—

(a) fees for applications to enter or remain in the UK;

(b) fees for sponsorship licenses;

(c) immigration health surcharges; and

(d) immigration skills charges."

This new clause will ensure that immigration fee changes must be agreed by Parliament.

New clause 37—*Citizenship Fees*—

"(1) No fee may be charged for processing applications relating to the citizenship status of a person who has lost rights of free movement under section 1 or schedule 1 beyond the cost of that processing, unless the Secretary of State has complied with the procedure in subsection (2).

(2) If the Secretary of State proposes to make changes to the rules under subsection (1), the Secretary of State must get the approval of both Houses of Parliament."

This new clause will ensure that citizenship fee changes must be agreed by Parliament.

Stuart C. McDonald: These new clauses continue with the broad topic of fees and expense. Although I understand why they have been grouped together, it is important that they are not treated as being about exactly the same thing; we must separate out two distinct issues.

New clauses 36 and 37 were designed to flag up the issue of how far above the cost of processing immigration and citizenship fees have been set, generally speaking, and to challenge the Minister and Committee members about why we have allowed that to happen and what the appropriate approach to setting fees should be. I accept that there will be a whole range of views on what the price of immigration applications or certain nationality applications, particularly naturalisations, should be. My own view, and that of my party, is that the prices have been set too high. This brings us back to the fact that the Home Office's budget has been cut to smithereens in recent years by the Treasury, and it is left with no other option but to milk every penny from the immigration and citizenship system to subsidise its activities. I urge Members to wake up to the enormous burden that, at this time of crisis, the Government are about to dump on business—especially small and medium-sized enterprises—as well as individuals by expanding all these fees to companies that recruit from the EEA labour market.

It is important to distinguish new clauses 36 and 37 from new clause 13, which raises a wholly separate issue and is about righting a profound injustice. We can debate fees more generally, but there should be no scope for debate about new clause 13. I know that Members of all parties have been troubled by Government policy in this area, because, like Labour, Liberal Democrat, Democratic Ulster Unionist, Green and Plaid Cymru Members, Conservative Members also signed an early-day motion that I tabled on the topic in 2018. When I applied for a Backbench Business debate I had support from Conservative MPs as well, as I did during the debate.

2.45 pm

The issue highlighted by new clause 13 is that many children and adults who have the right to British citizenship do not have access to it because, first, they are not aware of their right, but, secondly, the Home Office charges

ludicrous sums of money. Indeed, the right hon. Member for Bromsgrove (Sajid Javid), giving evidence as Home Secretary to the Home Affairs Committee, described it as a "huge" sum of money.

In 1981, Parliament decided that British citizenship should no longer be conferred automatically by birth, for reasons that many countries went along with—that, in an age of international travel, something more should be required that means there is a tie or a bond between an individual and the country. However, at that time Parliament was incredibly careful and cautious about ensuring that it did not just cut away citizenship from those kids who did indeed have a tie to the United Kingdom. It provided for a new procedure—registration of children.

The key provisions under which children born in the UK but not born automatically British are entitled to register as British citizens arise when a parent becomes British or settled while the child is still under 18, the child lives in the UK for the first 10 years of his or her life, or the child is born stateless, and, remaining so, lives in the UK for five continuous years. Those kids are de facto British. They are entitled in law to be British as long as they register. That right to citizenship is every bit as real as the right that everyone in this room—or any of our children—has. It would be unthinkable for us to deprive our kids of their citizenship because of a fee, but that, in essence, is what the Home Office is now doing, aggravated by a lack of knowledge, generally speaking, of the law.

When Parliament set up the laws on registration, the fee was set at the level of the cost of processing the application. It remained at that sort of level for many years. Over the past decade the Home Office has changed its approach. It has just lumped those applications in with all the others, and relentlessly ramped up the fee. It has become as routine to increase the fees for access to British citizenship as to increase them for any old visa, but the two are utterly different.

As I said earlier, I disagree with what the Government have done to immigration fees generally and to fees for overseas nationals who make a choice about coming to the United Kingdom and becoming British. The Government have the right, however, to take that approach if they choose. However, it is wholly inappropriate, and indefensible, in relation to people with a right to citizenship by registration. That is a wholly different type of case. Those people did not choose the UK as their home. Circumstances made the UK their home and Parliament chose to confer citizenship on all who wanted to avail themselves of it. It is inappropriate for the right to be denied to them and for Parliament's intention to be subverted simply because the Home Office wants to cross-subsidise visit visas, or whatever else.

I wonder whether any hon. Member in this room can imagine being asked for more than £1,000 before their kids could be allowed legal access to British citizenship, even though they had the right to it in law. It would be totally unacceptable. I urge hon. Members to take that same approach to those who should have access to that right via the registration process.

The result of all that I have described is that many thousands of kids and their families cannot afford to register. Some will not even be aware that it is an issue until it is too late, unfortunately. However, there are instances when families manage to save up enough to provide one child with the citizenship that they are entitled to, but another has to go without. Imagine facing that choice: "Which kid will I register for British citizenship and which will have to do without?" There are not even any exemptions for families who cannot afford the fee.

Subsection (4) of the new clause would provide for steps to be taken to raise awareness of the right to citizenship via registration. That is all the more important at the moment because of the danger that many people who would be entitled to register as UK citizens take on instead the less secure and generous status offered under the settled status scheme. We should and must do all that we can to support all those who are entitled to UK citizenship to get access to it.

I do not expect a sudden change in Government policy, but Members across the House feel strongly about the matter, and I urge Conservative Members to think about it and make it their cause, and lobby the Home Office. The current approach with respect to kids entitled to British citizenship defies common sense or any principle.

Holly Lynch: We support new clauses 13, 36 and 37, which were tabled by the SNP and address immigration and citizenship fee charges that fall within the scope of the Bill. We believe that visa charges should not exceed the cost price, for all the reasons that have already been set out.

Subsection (1) of new clause 13 would prohibit EEA and Swiss citizens from being charged a fee for registering as a British citizen that is greater than the cost of the registration process. As we have already heard, there is enormous cross-party support for this approach.

The Home Office makes a profit of up to 800% on immigration applications from families. The fees are now £1,012 for children and £1,206 for adults, which are really quite significant sums. We have all had constituents come to us because such fees are causing a huge amount of anxiety and stress after a change in circumstances. We have all had casework in which applications have been turned down on technicalities, which we have been able to challenge through our parliamentary offices. Families are often forced to make further appeals and further applications, and to pay again.

EEA and Swiss nationals will soon join the rest of the world in having to pay visa fees or fees for starting the journey towards British citizenship. The British Nationality Act 1981 contains provisions to ensure that no child with entitlement to register for British citizenship should have to pay a fee. Subsections (2), (3) and (4) of new clause 13 are designed to safeguard that Act, in spite of the Bill. I particularly welcome subsection (2), which would provide a further safeguard for children who receive assistance from their local authorities, adding to our proposals in new clause 58. We will come on to clause 58, but those provisions seek to provide automatic settled status for all EEA and Swiss children in care, and for those entitled to care-leaving support.

With that in mind, we welcome the independent chief inspector's report, "An inspection of the policies and practices of the Home Office's Borders, Immigration and Citizenship Systems relating to charging and fees", which was presented to the Home Secretary last September. It set out concerns about the legislative procedure for citizenship and immigration fees, and it recommended

that the Home Office undertake to provide considerably more clarity on fee levels, stating that the Government should:

"Either make public any Policy Equality Statements produced for ministers or publish separate statements that show clearly what has been considered when proposing fees levels/increases in terms of equality and diversity, in particular the social and welfare impacts on children, families and vulnerable persons."

New clauses 37 and 38 would require Parliament's consent for changes to be made to citizenship fees and immigration fees respectively. As we have discussed, the Government are attempting to grant themselves sweeping Henry VIII powers throughout the Bill; we have rehearsed that debate several times. We believe it is vital that parliamentary oversight is at least afforded to these charges, which will dictate the lives and prosperity of EEA and Swiss migrants in the UK for years to come. Ideally, that should be done through parliamentary legislation rather than through the current framework, which relies on statutory instruments.

Kevin Foster: I am grateful to the hon. Members for Cumbernauld, Kilsyth and Kirkintilloch East and for Argyll and Bute for tabling new clauses 13, 36 and 37, which provide the Committee with the opportunity to consider fees charged in respect of applications made by those who will lose the right of free movement under the Bill for citizenship, leave to enter or remain in the United Kingdom, the immigration health surcharge, the immigration skills charge and sponsorship licences. I pay tribute to the hon. Gentlemen's diligence in going through all the points that they wished to highlight.

It may be helpful to provide some background information for the Committee. Application fees for border, immigration and citizenship products and services have been charged for a number of years, and they play a vital role in our country's ability to run a sustainable system. To put them into context, the current charging framework across the operation delivered £1.98 billion of income in the financial year 2018-19. That income helped to deliver the funding required to run the borders, immigration and citizenship system, and it substantially reduces the burden on UK taxpayers, as I am sure members of the public would rightly expect us to do.

The immigration health charge ensures that temporary migrants who come to the UK for more than six months make a fair contribution towards paying for the NHS services that are available to them during their stay. As was touched on earlier, income from the charge directly contributes to the long-term sustainability of our fantastic health service across our United Kingdom. Certain groups are already exempt from the requirement to pay the charge, and others benefit from a discounted rate.

The immigration skills charge is designed to incentivise employers to invest in training and upskilling the resident workforce to move away from reliance on the UK's immigration system as an alternative to investment in staff retention, productivity, technology and automation. Income raised from the charge will be used to address skills gaps in the UK workforce, and that will be of benefit to businesses in the long term. Any fees to be charged are already approved by both Houses of Parliament.

New clause 13(1) is designed to limit the Secretary of State's power to charge a fee for applying for British citizenship to the cost of processing. That would apply to anybody who has enjoyed free movement rights at any point. Imposing such a provision would cut across the existing statutory framework for fees and would risk undermining the funding and coherence of the whole current and future system.

Additionally, making fee provisions that are specific to certain nationalities as part of the Bill would be unfair to all users of the border, immigration and citizenship system, and it could lead the Home Office to discriminating on the basis of a person's nationality. That clearly goes against our policy, although I accept that part of the rationale for that was to get the new clause into the scope of the Bill.

Stuart C. McDonald: Yes, that is absolutely the case. This does not apply even to every EU national exercising free movement; it applies to EU nationals who have the right to British citizenship through registration. It is a very specific subset, to which hugely different considerations apply; they are not in the same position as folk who have chosen to turn up and apply through naturalisation. They have a right, under an Act of Parliament, to British citizenship.

Kevin Foster: I re-emphasise that having this type of provision in the Bill would cut across and create a new precedent. We would be talking about someone whose right of free movement was removed by the Bill. That would create incoherence, particularly once we have left the European Union, with provisions based on rights from being in the EU—a situation that does not now exist. We have put in protections that are appropriate and proportionate.

New clause 13(2) is designed to prevent the Secretary of State from charging the child of a person who has exercised free moment rights a fee to register as a British citizen, if the child is in receipt of local authority assistance. "Local authority assistance" is too broad a term and could include those who access a range of financial and practical support measures offered by local authorities. For example, a child may receive assistance from a local authority if they attend day-care facilities while they are not yet at school. That is quite different from a child who is looked after and in the care of the local authority by way of a care order made by a court, or a voluntary agreement with the parent to accommodate the child.

It is important to remember that any child, irrespective of nationality, who is looked after by their local authority can apply for limited and indefinite leave to remain without being required to pay application fees, ensuring that no child in local authority care is unable to access leave to remain. Although many will choose to pursue British citizenship, having citizenship, as opposed to an award of indefinite leave to remain, is not essential for any individual to work, live, study or access services in the UK .

Stuart C. McDonald: I urge the Minister not to pursue that line, which was pursued by a previous Prime Minister and Home Secretary. No one would say to anyone in this room, "You don't really need British citizenship. Why not just settle for indefinite leave to remain?" The Minister is missing the point—I am talking about people who have as much right to British citizenship as anyone in this room. It is not a substitute to say, "Just become a migrant in your own home country and apply for immigration status here."

Kevin Foster: I was talking about the logic of our fee system and the fact that we have exemptions to do with the status of people who need to access public services. Traditionally, our position on citizenship is that it is not something that people need in order to access services. I re-emphasise the breadth of the provisions in the new clause—I notice that that was not disputed.

New clause 13(3) would remove fees for the children of people who have exercised free movement rights to register as a British citizen where the child or the child's parent, guardian or carer is unable to afford any associated fees. It raises similar points to subsection (1) in respect of fairness, discrimination and suitable legislative structures already being in place. Subsection (4) would require the Secretary of State to take steps to make persons who have exercised free movement rights aware of their rights to obtain British citizenship under the British Nationality Act 1981.

When explaining the rights that are afforded by settled status obtained via the EU settlement scheme, we make it clear that they may include a right to apply for British citizenship, provided that eligibility requirements are met. Of course, there is no charge for applying to the EU settlement scheme. Information about becoming a British citizen is also available in published guidance on gov.uk, and we are committed to ensuring that information of this nature is fully accessible for all. I hope that reassures the Committee that we are taking steps to make people aware of their rights, and that a statutory obligation to that effect is therefore unnecessary.

3 pm

To return to my pertinent point on new clause 13, we already have a legislative structure for application fees, with long-standing and appropriate checks and balances. Making any change by way of amendments to the Bill would therefore undermine the current legal framework and its purpose of providing the ability to set fees and exceptions in secondary legislation. It would also reduce clarity in the fee structure by creating an alternative statutory mechanism for controlling fees.

I now want to focus on subsection (1) of new clause 36, the aim of which is to limit the fee that may be charged by the Secretary of State for leave to enter or remain, sponsorship licences, the immigration health surcharge and immigration skills charges to anyone who has enjoyed free movement rights at any point. As I have already mentioned in respect of new clause 13, application fees for border, immigration and citizenship products and services play a vital role in our country's ability to run a sustainable system. Under no circumstances do the Government want to undermine the future system or discriminate on the grounds of nationality, which would almost certainly be the case if we were to accept such proposals. As we have mentioned before, we have now left the European Union and free movement rights have dropped away, so it would be difficult to justify maintaining exemptions beyond those that we have already granted in order to guarantee existing rights.

The immigration skills charge serves an important role by incentivising employers to invest in training and upskill the resident workforce, reducing reliance on migrant workers. Any fees that are charged are already provided for in legislation that has been approved by both Houses. It is also important to note that the immigration health surcharge, which ensures that temporary migrants who come to the UK for more than 6 months make a fair contribution to our fantastic health service that is available to them during their stay, is not subject to an application process. The level of the surcharge, which is agreed by Parliament, is set by the Department of Health and Social Care and is based on actual data on surcharge payers who use the NHS. It is an estimate of the total NHS cost of treating the average surcharge payer per year.

Under the new points-based immigration system, all migrants to the UK who are subject to immigration control will be treated the same. That includes payment of the immigration health surcharge. People will be required to pay the charge if they are staying for temporary periods of longer than 6 months, unless an exemption applies. Earlier we discussed the exemptions that are being created for those who work in the NHS and social care. Hon. Members will be aware that EEA and Swiss citizens who are resident in the UK before the end of the transition period on 31 December 2020 will be eligible to apply to secure their status under the EU settlement scheme, and they will have until 30 June 2021 to make their application.

Applications under the EU settlement scheme are not subject to application fees or the immigration health surcharge. That was agreed as part of the negotiations on the withdrawal agreement with the EU, which also protects the rights of UK nationals in the EU. In addition, certain groups are already exempt from the requirement to pay the charge, and others benefit from a discounted rate. As we touched on earlier, hon. Members will be aware that the Prime Minister has asked the Home Office and the Department of Health and Social Care to exempt NHS and care staff from the charge. The exemption will apply to relevant applications made by EEA and Swiss citizens once the new immigration system is in place.

Making provisions in the Bill that are specific to certain nationalities would be unfair to all users of the border, immigration and citizenship system by creating a two-tier fee system: one tier for members of the EEA, and one tier for the rest of the world. That is clearly against our policy intent, and imposing such in this legislation would cut across the existing statutory frameworks for fees and risk undermining the coherence of the future system.

Let me turn to subsection (2) of new clause 36, which seeks to ensure that the Secretary of State must seek approval from both Houses of Parliament should they propose to make changes to the rules under subsection (1). As I noted in response to new clause 13, we already have in place a legislative framework that governs immigration and nationality fees. The hon. Members who tabled the new clause already have the opportunity to scrutinise and approve or prevent proposed changes to immigration and nationality fees. A fees order, which sets the maximum fee that could ever be charged, is laid in Parliament and is subject to the affirmative resolution procedure. Fee levels are then set out in regulations that are presented to Parliament and are subject to the negative procedure. The Home Office cannot amend fee levels without discussion across Whitehall and the approval of Parliament.

Nothing proposed in these new clauses would add additional powers or provide further flexibility to the existing framework. In fact, they would have the opposite

effect and increase the demand on parliamentary time, which the introduction of the current structure under the Immigration Act 2014 aimed to reduce, while maintaining those key safeguards and opportunities for scrutiny. I do not think that any Immigration Minister feels that they have been short of opportunities to be scrutinised, and the interest in the brief shown by Members across the House is welcome.

The immigration health charge and the immigration skills charge are both set and approved by Parliament through legislation, which is approved by a resolution of each House. Nothing proposed in new clause 36 would alter the current position or provide additional parliamentary scrutiny.

Finally, I would like to address new clause 37, the aim of which is to limit the Secretary of State's power to charge a fee for applying for British citizenship to the cost of processing the application, for anyone who has enjoyed free movement rights at any point and requires the Secretary of State to get the approval of both Houses of Parliament to deviate from this position. The new clause raises similar points to those raised by new clauses 13 and 36, on which I have spoken about existing safeguards and parliamentary scrutiny of the fees charged by the Home Office, and why we do not agree that specific fee requirements should be set for certain nationalities, so I will not reiterate them now.

I hope that our intention to maintain the coherence of the current and future system, and the fact that Parliament already has the opportunity to scrutinise and approve any proposed changes to immigration and nationality fee levels, the immigration skills charge and the immigration health charge, reassures the Committee. Accordingly, for all the reasons I have given, the Government will not accept the new clauses.

Stuart C. McDonald: I am grateful to the Minister for his comprehensive explanation, at least in so far as it related to new clauses 36 and 37. I do not agree with everything he said about the degree of scrutiny that MPs can apply on these matters, but he makes a very detailed case.

On new clause 13, I think that the Minister, probably for the first time, has not got the point that was being made. I challenge him to go back and speak to his officials about what the issue is really about. It is quite a narrow issue, in some respects, but none the less it is profound. It relates to kids, in particular—although it can be adults—who have a right to British citizenship. That is a small subset of EEA and Swiss nationals.

It is slightly bizarre that it is a Scottish National party MP who is having to stand up and champion the cause of British citizenship in this Parliament—I urge some Conservative Members to make this their cause, grab some headlines and win the day. These kids deserve it. They are as entitled to British citizenship as anybody in this room, and it is totally inappropriate for them to be priced out of that. I ask Conservative Members to think again.

I ask the Minister to speak to his officials again. Under his predecessor, I had the privilege of being able to take some kids who had been impacted to discuss the matter, along with some organisations representing them, and I would love to have that opportunity again. I feel very strongly about new clause 13 and wish to press it to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 13]

AYES

Elmore, Chris	McDonald, Stuart C.
Green, Kate	O'Hara, Brendan
Johnson, Dame Diana	
Lynch, Holly	Owatemi, Taiwo

NOES

Foster, Kevin	Pursglove, Tom
Goodwill, rh Mr Robert	Richardson, Angela
Holden, Mr Richard	Ross, Douglas
Lewer, Andrew	Sambrook, Gary

Question accordingly negatived.

New Clause 14

LEGAL AID FOR EEA AND SWISS NATIONALS

'(1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended in accordance with subsection (2).

(2) In Schedule 1, paragraph 30, after sub-paragraph (d), insert—

"(e) the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020."'—*(Stuart C. McDonald.)*

This new clause would allow individuals to seek legal aid in order to obtain advice on the right to enter and remain under this Act.

Brought up, and read the First time.

Stuart C. McDonald: I beg to move, That the clause be read a Second time.

The Bill, in combination with others that have gone before, removes from some people the right to be in this country, and requires them to apply for rights under the EU settlement scheme. As hon. Members know, I object to that approach, but I acknowledge that, for the vast majority of people, it will thankfully be a fairly straightforward matter and there will be no need for legal advice. As we have seen, the scheme has reached a good number of people so far. We have also seen that these issues can be complicated. It can be complicated for someone to know whether they are required to apply or whether they have the right to be here as a UK citizen or through some form of migration status. For some, proving the right to be here in order to get settled status can be tricky, and advice will be needed on the type of evidence required or whether, for example, an old criminal conviction brings a risk in applying.

In Scotland, some will be able to get advice and assistance funding from the Scottish Legal Aid Board in order to seek some support on these issues, subject to a means test, but it is not the same in England and Wales. We have to learn the lessons of history: restrictions on access to legal aid were a contributing factor to the Windrush scandal. In itself, it would not cost much money to allow some basic legal advice to be handed out to those who need it. I very much hope the Government will consider this proposal seriously and put right the absence of legal aid.

Holly Lynch: We very much support the right to access to justice for all, and legal aid is an essential component of that, so we support new clause 14. Cuts to legal aid have been disastrous for access to justice. Time and time again, we have seen that it is the most vulnerable who suffer. Huge swathes of areas of law were deemed out of scope by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Most evidence now suggests that there have been few or no cost savings to the Ministry of Justice from taking those areas of law out of scope, especially in relation to early advice.

When those representing themselves try to navigate complex areas of law without representation, cases are often longer and precarious, and thus more costly to the taxpayer. Indeed, the Williams review found that the withdrawal of legal aid contributed significantly to the problems faced by the Windrush victims. We do not want anyone else to be in a similar position when free movement comes to an end. We therefore support new clause 14.

Kevin Foster: I thank hon. Members for their contributions. The legal aid scheme is designed to target legal aid funding at those who need it most. Legal aid is available for the most serious cases to ensure and maintain access to justice while delivering value for money for taxpayers. The Bill itself does not provide a right to enter or remain for EEA citizens, and the new clause would bring issues relating to the end of free movement, such as applications under the EU settlement scheme, into scope for legal aid.

The EU settlement scheme has deliberately been designed to be streamlined and user-friendly. The majority of applicants will be able to apply without the need for advice from a lawyer. However, we recognise that there will be some vulnerable individuals who may need support in using the scheme, and we have put in place safeguards to ensure that the scheme is accessible to all.

The Government have always been clear that publicly funded immigration legal advice is available to some particularly vulnerable individuals. Individuals who are claiming asylum, those identified as potential victims of modern slavery or human trafficking, separated migrant children and victims of domestic violence are eligible for legal aid funding for immigration legal advice, subject to statutory means and merits tests.

3.15 pm

Furthermore, legal aid may be available through the exceptional case funding scheme, subject to the relevant criteria being met. The Government are working to simplify the exceptional case funding process and improve the timeliness of funding decisions, to ensure that those who need legal aid funding can access it when they need it.

Given the specific design for EU settlement schemes to be simple and accessible, evidenced by the sheer number of applications already made and concluded, plus legal aid being already available, whether in scope or via exceptional case funding where the relevant criteria are met, an attempt to widen the scope of legal aid funding for certain groups of individuals, as proposed through the new clause, goes against the spirit and intention of the legal aid scheme. For these reasons, the Government cannot accept the new clause.

Stuart C. McDonald: I am grateful to the Minister for his explanation. By reassuring us how simple the scheme is, which it is for the vast majority of people, he also makes the case that this will not cost a great deal of money. Only a very small number of people will require legal advice, but there will be some significant issues that they will need to work through. This is fundamentally about the rule of law, which the Westminster Parliament has lost sight of in relation to how important legal aid is. For that reason, I will stick to my guns and press the new clause to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 14]

AYES

Elmore, Chris	McDonald, Stuart C.
Green, Kate	O'Hara, Brendan
Johnson, Dame Diana	Owatemi, Taiwo
Lynch, Holly	

NOES

Foster, Kevin	Pursglove, Tom
Goodwill, rh Mr Robert	Richardson, Angela
Holden, Mr Richard	Ross, Douglas
Lewer, Andrew	Sambrook, Gary

Question accordingly negatived.

New Clause 15

ILLEGAL WORKING: EEA AND SWISS NATIONALS

'Section 24B of the Immigration Act 1971 does not apply to any work undertaken by an EEA or Swiss nationals.'—*(Stuart C. McDonald.)*

This new clause would limit the offence of illegal working so that it did not apply to EEA or Swiss nationals.

Brought up, and read the First time.

Stuart C. McDonald: I beg to move, That the clause be read a Second time.

Illegal work was made a crime in its own right in the Immigration Act 2016. Lots of groups and MPs raised concerns at the time about the negative implications that would have, compared with any benefit it might bring. I think it is important always to revisit changes that this Parliament makes and to push the Government to explain what impact they really had.

I look forward to hearing from the Minister about the impact of that legislation. How many prosecutions have there been? What were the results of those prosecutions? What sorts of sentences were handed down? When the Government or law enforcement took that approach—the other side of the coin—what action was taken against those employers who were found to be employing people illegally?

As the Minister will be aware, at the time that legislation was introduced, all sorts of concerns were raised about the fact that it would strengthen the hand of exploitative employers, who would be able to have greater control over undocumented workers, essentially by having the knowledge that these individuals were committing a crime by undertaking that work and making it much

less likely that they would even consider, never mind actually report to the authorities, the abuse and exploitation that they were suffering.

The offence applies to any migrant found to be working while they do not have valid legal status granting them leave to be in the UK, or when visa conditions ban them from working, such as in the case of asylum seekers, or if they work hours beyond those permitted by their visa, as may be the case for students. The penalty includes a maximum custodial sentence of six months and a fine at the statutory maximum. It also allows any wages paid to an illegal worker to be seized as the proceeds of crime.

The concerns raised in 2016 were that undocumented migrants in the UK forbidden from working illegally are forced to rely on illegal work, on charity and on the support of friends or family members, which can lead to situations of abuse and dependency, as well as instances of survival sex, for example, and destitution, homelessness and starvation. Often, agents who find work for undocumented migrants also run overcrowded, slum-like accommodation for the workers, keeping them isolated and cheaply accommodated.

Undocumented migrants who find work despite the prohibition are forced to look for work among some of the most unscrupulous and exploitative of employers. They are often underpaid or unpaid, forced to work extremely long hours, denied all workplace health and safety protections and threatened with being reported if they complain. As much of the work can be carried out cash in hand, the state sees none of the tax benefit either.

There are huge concerns here about modern slavery. I am grateful to the Catholic Bishops' Conference on migration for its briefing, which states:

"Those perpetrating the horrors of modern slavery will seek every chance to take advantage of new migration policies. The government has a responsibility to ensure that proper safeguards are in place… the fear of prosecution currently deters people from escaping abusive employment practices or presenting themselves to the police. One particularly important step towards protecting people from exploitation would therefore be to repeal the offence of illegal working, so that no victim is at risk of being punished."

Will the Government explain how this measure has helped in any way with what they want to achieve, and what steps they have taken to assess all the negative implications that we have been warning about and to militate against them?

Holly Lynch: We have one or two unanswered questions on how the new clause would work in practice. We want to ensure that we have done all our due diligence before lending it our support. We may well come back to this on Report.

The new clause gives us the opportunity to say to the Minister that we are incredibly concerned that there are people who, when free movement ends—innocent, ordinary, decent, hard-working people—for the whole raft of reasons that we have already been through in the Committee, may find that they have missed the deadline. They have then not only got a precarious migration status, but could, if they continue to wait, find themselves in the criminal justice system and criminalised. We need to address the issue now.

One example that we have mentioned is that which the BMA raised with me. Its doctors, on the frontline of fighting coronavirus, will potentially leave applying to the EU settlement scheme to the last minute for that reason. If they continue to work as a doctor, would they be criminalised if they had not done their due diligence in making sure they have their applications in, but were continuing to work in our NHS? Will the Minister reassure us that nobody will be criminalised and in our criminal justice system who absolutely does not belong there when free movement comes to an end at the end of this year?

Kevin Foster: To respond to my shadow, the hon. Member for Halifax, as we touched on at some length earlier, there would be grounds for reasonable excuse as to why someone had filed a late application. We will set out the criteria; it will not be an exhaustive list, because it would be impossible to come up with an exhaustive list of things that would be reasonable in many individual circumstances.

It is worth noting that the scheme has now been open for more than a year. The first group who started to apply to it were NHS workers, and there has been some very welcome work by NHS trusts and employers to make sure their employees are aware of it. For those very skilled people working in our NHS, it is worth remembering that what we are talking about is using an app on their phone with chip checker technology—it is a relatively simple and appropriate process. Certainly, any enforcement will be proportionate throughout the system, as people would expect.

New clause 15 intends to exclude all EEA citizens from the criminal offence of working illegally created by the Immigration Act 2016, as stated by the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East. I am grateful to him for the opportunity to debate this important topic. Again, as he would expect me to say, the amendment is at odds with our commitment to introduce a single global migration system. I accept that he wants to pick the issue up in the scope of the Bill, but that is a core reason why the Government believe it is right for us to have a single system.

Under the new system, everyone will be required to obtain the correct immigration status, and we will clearly distinguish between those who are here lawfully and those who are not, regardless of where their passport is from. Working illegally is a key driver of illegal migration and we are determined to tackle it. Illegal working results in businesses that do not play by the rules undercutting legitimate businesses that do. It encourages people to break our immigration laws, leaving people vulnerable to exploitation, and means that they are paid under the legal minimum wage.

The offence of illegal working applies if an individual works in the UK when they are or have reasonable cause to believe that they are disqualified from working because of their immigration status. The new rules will be clear and will set out what is expected of people as well as their entitlement. Any person who wants to work in the UK will need to have the correct status before starting a job.

EEA citizens with EU settlement scheme status will continue to enjoy the right to work and access the same services as they do now. As I have already said, we will continue to encourage applications to the EU settlement scheme before the deadline, and will implement the new points-based system that treats EEA and non-EEA citizens equally.

[Kevin Foster]

The new clause would discriminate in favour of EEA citizens, which is not justifiable after we have left the European Union. I appreciate the hon. Gentleman's principled position in the provisions. I have touched on the provisions that are implemented proportionately, where they are applied. There is enforcement, particularly against employers who seek to exploit people. I hope that, in the light of those points, he will withdraw the clause, because it is not one that the Government can support.

Stuart C. McDonald: I am grateful to hon. Members for discussing the subject, but I do not think we really got into the meat of it. I do not think that only EEA nationals should be exempt from the criminal offence of illegal working; there are good grounds for getting rid of it altogether. I wanted to find out whether the Government have done any analysis about how it has helped in any way and, in contrast, about the unintended consequences, such as making exploitation more serious and more significant. We will perhaps return to some of those issues when we debate other aspects of the hostile environment later. I might write to the Minister to try to press again for answers to some of the questions that I raised at the outset. In the meantime, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 16

IMMIGRATION RULES ADVISORY COMMITTEE FOR IMMIGRATION RULES FOR EEA AND SWISS NATIONALS

'(1) The Secretary of State must establish an Immigration Rules Advisory Committee to consider relevant Immigration Rules.

(2) In this section "relevant Immigration Rules" mean Immigration Rules that apply to persons whose right of free movement is ended by section 1 and schedule 1 of this Act.

(3) The function of the Immigration Rules Advisory Committee shall be to give advice and assistance to the Secretary of State in connection with the discharge of his functions under this Act and in particular in relation to the making of relevant Immigration Rules.

(4) The constitution of the Immigration Rules Advisory Committee shall be set out in regulations.

(5) The Secretary of State shall furnish the Immigration Rules Advisory Committee with such information as the Committee may reasonably require for the proper discharge of its functions.

(6) No relevant Immigration Rules may be made by the Secretary of State, until the Immigration Rules Advisory Committee is established.'—*(Stuart C. McDonald.)*

This new clause would require an advisory committee to be established in order to provide advice on immigration rules for EEA and Swiss nationals.

Brought up, and read the First time.

Stuart C. McDonald: I beg to move, That the clause be read a Second time.

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

New clause 30—*Procedures for amending Immigration Rules*—

'(1) The Immigration Act 1971 is amended in accordance with subsection 2.

(2) After section 3(2) insert—

"(2A) Any statement of the rules, or of any changes to the rules, which affect the rights and obligations of persons who will lose their right of freedom of movement under the provisions of the Immigration and Social Security Co-Ordination (EU Withdrawal) Act may not be made or have effect unless the Secretary of State has complied with subsections (2B) to (2F) below.

(2B) If the Secretary of State proposes to make changes to the rules under subsection (2A) above, the Secretary of State must lay before Parliament a document that—

(a) explains the proposal; and

(b) sets it out in the form of a draft order.

(2C) During the period of 60 days beginning with the day on which the document was laid under subsection (2B) (the "60-day period"), the Secretary of State may not lay before Parliament a draft order to give effect to the proposal (with or without modification).

(2D) In preparing a draft order under section (2A) above, the Secretary of State must have regard to any of the following that are made with regard to the draft order during the 60-day period—

(a) any representations; and

(b) any recommendations of a committee of either House of Parliament charged with reporting on the draft order.

(2E) When laying before Parliament a draft order to give effect to the proposal (with or without modifications), the Secretary of State must also lay a document that explains any changes made to the proposal contained in the document under subsection (2B).

(2F) In calculating the 60-day period, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is not adjourned for more than 4 days."'

This new clause would amend the Immigration Act 1971 to ensure that any changes to the UK's Immigration Rules which affect EEA or Swiss nationals must be made under the super affirmative procedure.

New clause 31—*Powers to make immigration rules on specific topics*—

'(1) Powers to make Immigration Rules in relation to certain persons who have lost free movement rights under section 1 and schedule 1 must be exercised only by the relevant Secretary of State as set out in subsection (2).

(2) For the purposes of (1), the "relevant Secretary of State" is as follows—

(a) if the rules relate to students, or to family members, the Secretary of State for Education,

(b) if the rules relate to investors, workers, or the self-employed, the Secretary of State for Business, Energy and Industrial Strategy.'

Stuart C. McDonald: New clause 16 is about how we make immigration rules. I would like to know how many hon. Members present have ever looked at the immigration rules, at least directly for any considerable period of time, because they would drive anyone round the bend, frankly. I am not looking for raised hands but I make the point because they are vital, but we never really have an opportunity to debate their context in any holistic way or to suggest amendments to them.

Instead, hundreds of amendments to the rules are tabled each year and we barely get a look in. They contain fundamental questions about family, workers, education, business and how we run our economy, yet

the Home Office keeps all of those—essentially legislation-making powers—to itself. If we look at immigration rules and immigration statutes, we find that they can be incredibly technical. Hence, we have recently seen the Law Society tasked with the job of trying to simplify them—work that will be incredibly challenging but is nevertheless essential. It is for these reasons that I have proposed new clauses 16 and 30, to change the way the rule making is done in this country, to help MPs to understand immigration law and the changes that have been made and to give them a say in what those rules are.

Last week we heard Jill Rutter from British Future refer to the work done by the Social Security Advisory Committee in providing analysis that aids MPs' understanding of changes that have been made to social security law and flagging up things that perhaps require greater scrutiny and debate. She supported the idea of something similar operating in the field of immigration. That is why I have tabled new clause 16, as I think I did last year as well. In a similar way, a committee would analyse what the Government are doing and their proposals for changing immigration rules; it would flag up any concerns it might have and allow MPs to decide what further steps were required by way of scrutiny or challenging the Government on the proposals.

3.30 pm

New clause 30 would allow us a debate and vote on immigration rules. I am not wedded to any particular procedure for how that happens, and I am sure the Immigration Minister will make points about how he needs to have the ability to act quickly and with a degree of flexibility in certain circumstances. By all means, we can build that into the procedures, but what I am saying is that at least a couple of times a year, we in this place should have the opportunity to look holistically at what the immigration rules are and the changes that have been made by the Government, and to have some say on the direction of travel.

I tabled new clause 31 to flag up the slightly more controversial idea that we perhaps need to go further. We need to start thinking about whether immigration policy making should be the sole preserve of the Home Office, because time after time it has got itself into a terrible mess. It is not that long ago that John Reid, the former Home Secretary, declared it "not fit for purpose", and not long afterwards the right hon. Member for Maidenhead (Mrs May) did exactly the same thing. Both episodes prompted significant reorganisations, yet here we are with the Home Office again in significant trouble because of the Windrush fiasco and under investigation by the Equalities and Human Rights Commission. That reminds me that, during the Windrush fiasco, I think it was Amber Rudd who said that the Home Office had lost sight of the individual in all this.

That is really the nub of the matter. The Home Office tends to see migrants only as migrants and nothing more; it seems to be driven only by migration policy, and it does not seem to fully consider the significance of what migration does for the economy, for education, for families, for communities, for employers and for public services. Time and again, I speak to stakeholders in agriculture or food who say, "Well, we wanted to engage with the Home Office but we were referred to the Department for Environment, Food and Rural Affairs," or universities that want to engage with Home Office but are told to speak to the Department for Education.

My view on education is that if the policy around student visas and post-study work was in the hands of the Department for Education, there is no doubt that the post-study work visa would never have been abolished in the first place, and it would have been reinstated years ago. Yet we are still here waiting for the Home Office to get its finger out and put that back in place. I also have little doubt that, were our transition to a new visa system being handled by the Department for Business, Energy and Industrial Strategy, it would not be foisting red tape and expense on small and medium-sized enterprises in double-quick time right at the height of a public health or economic crisis.

I could go on, but I think hon. Members get the point. Indeed, when I visited Dublin I was struck by the fact that there was no congregation of immigration powers in just one Department; it was the Business Department, for example, that designed work visa policy. That seems a sensible idea to me, and one that is at least worth exploring.

Kevin Foster: I am once again grateful to the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East, and to others, for providing a further opportunity to discuss parliamentary scrutiny of the immigration rules and the powers to make them. Parliamentary scrutiny is an important issue, and one that I am aware members of the Committee are rightly very interested in. I will therefore take each new clause in turn.

I will first address new clause 31—I think I can respond pretty swiftly to this one. The UK Government work on the basis of collective responsibility. All policies are collectively agreed and reflect the views of all parts of Government. I may be the Minister for Future Borders and Immigration, and I have the good fortune to speak for the Government on matters connected with our new immigration arrangements, but I can assure the Committee that the policies I put forward are the policies of the entire Government, which were endorsed in December's general election by the British people. No other Minister standing in this spot would advocate any different policies.

The notion of collective agreement and collective responsibility has long been a feature of the way this country is governed, which is why legislation confers powers on "the Secretary of State" generically. Incidentally, this approach also has the benefit of future-proofing our legislation in the event of machinery of Government changes.

I have the utmost respect for my right hon. Friends the Secretaries of State for Education and for Business, Energy and Industrial Strategy; both are doing excellent work in their posts and we are lucky to have them. But let me be very clear: were they to make immigration rules, they would be no different from those that my right hon. Friend the Home Secretary will be making, because this is a single united Government with a clear policy on these matters.

Our policies were put before and endorsed by the electorate, more detail was set out in a policy statement endorsed by the entire Government, and they represent the settled view of the Government as a whole. New clause 31 would therefore add nothing to the Bill. Having heard the explanation of how the Government system works, I hope the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East will withdraw it.

[Kevin Foster]

New clause 16 would require the Home Secretary to establish an immigration rules advisory committee to provide advice and assistance on any immigration rules relating to EEA citizens once free movement to the UK has ended as a result of this Bill. I have said previously that our new points-based system will be set out in the immigration rules. Those rules will be subject to parliamentary scrutiny in the usual way. The new clause seeks to add an additional layer of scrutiny, and will prevent the Home Secretary from making any immigration rules before an advisory committee is established by regulation. There is no justification for establishing a statutory advisory body to advise specifically on the rights of EEA citizens, who will be treated as other EEA citizens under the future immigration system.

Mr Goodwill: Does my hon. Friend agree that the Migration Advisory Committee carries out much of the work already? New clause 32 is specifically covered by the MAC.

Kevin Foster: I thank my right hon. Friend for his intervention. I will come on to new clause 32, which is about an annual report on the labour market, in a moment. We are freeing up the MAC to consider matters of interest to it and to provide recommendations on policies, although I expect it will be more nuanced when we come to reports on the labour market overall. That is more to do with the Department for Work and Pensions. We want a coherent strategy where migration is a part of that. We did not want to set it out purely in relation to EEA nationals.

Kate Green (Stretford and Urmston) (Lab): The difference between the MAC, which, as the Minister rightly says, is interested in labour market trends and developments, and the Social Security Advisory Committee, which the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East set up as an analogy for the Minister to consider, is that the SSAC looks specifically at the implementation of secondary legislation and advises on new regulations that the Government might introduce. Given the extent of immigration policy introduced in immigration rules, I would suggest that the MAC is not actually set up, and is not even likely to be set up in future, to provide advice to the House on those matters.

Kevin Foster: The hon. Lady makes a not unreasonable point. The MAC gives advice on general policies on immigration. For example, it came up with what occupations should be on the shortage occupation list. It does not necessarily draft the legislation. However, the core of what we are driving at is there. I will continue with my speech because there have been significant changes in relation to simplification since an identical Bill was considered in the previous Parliament. Fundamentally, creating a statutory advisory body would simply delay the Government from introducing new consolidated and simplified rules by 1 January 2021, which could cause considerable confusion and ambiguity about which rules apply to EEA citizens once free movement ends.

In any event, the new clause is unnecessary. The Law Commission, in its consultation paper on simplification of the immigration rules, published in January 2019, asked whether an informal consultation or review of the drafting of immigration rules would help to reduce complexity. In its final report, published in January 2020, the Law Commission recommended that the Home Office should convene at regular intervals a committee to review the drafting of the rules in line with the principles recommended by the Law Commission. That is the more nuanced point that the hon. Member for Stretford and Urmston referred to. On 25 March the Government published our response to the Law Commission report and recommendations, and we accepted that recommendation. We included in our response the terms of reference for and membership of the simplification of the rules review committee. To be clear, this covers the whole ambit of the rules, not just those as they relate to EEA nationals.

The committee is, as recommended by the Law Commission, made up of Home Office civil servants, immigration practitioners and organisations representative of non-expert users of the rules, including those representing vulnerable applicants such as children. The review committee meets monthly to advise on the Home Office's proposals to draft simpler rules and accompanying guidance and how they can be made more accessible online.

I hope that, as we have already established a review committee and its terms of reference and membership are transparent, that will give the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East the confidence to withdraw new clause 16.

New clause 30 seeks to introduce the super-affirmative procedure for immigration rules. Typically, that procedure is used only for deregulatory orders that amend or repeal primary legislation, such as legislative reform orders or public bodies orders, or remedial orders under the Human Rights Act. In those circumstances, it is right that the highest level of scrutiny should be applied, but it is not appropriate to apply the same procedure in respect of changes to immigration rules, which obviously are not, and cannot amend, primary legislation.

Under the current, well-established procedure, the Government are able to update the immigration rules in a responsive way, to ensure that we have an immigration system that meets the UK's needs, commands the confidence of the public and reflects the wider economic, social and political context in the UK at any time. Requiring a minimum 60-day standstill period—that would be a minimum, because if, for example, changes were laid in late June, the period would not expire until late October—would severely hamper our ability to make timely and effective changes to the rules to respond to emerging situations.

Mr Richard Holden (North West Durham) (Con): In evidence at the start of Committee proceedings, we heard from Mr McTague from the Federation of Small Businesses, who picked up this point. He said:

"I think the fact that the Home Secretary is in a position to vary it and respond to changes in market conditions is better than if…we had to go through some sort of legislative process".—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; c. 14, Q28.]

That is exactly the point that we are trying to get at. Changes are much better if they are in the hands of the Home Secretary, who can then address Parliament on them, rather than having to go through statutory changes like this.

Kevin Foster: I thank my hon. Friend for reminding us of the evidence that was given. The core of the matter is that our immigration rules need to remain flexible to respond to emerging situations. For example, if the conditions around visas were in primary legislation, we would have to be putting through Acts of Parliament to alter and extend visas in relation to the current covid-19 situation, which none of us would feel was a sensible way of handling that type of thing. In addition, this process has been established for a very long time. Parliament, rightly, can oversee the immigration rules, but they can be flexible and adapt. To be clear, putting forward, effectively, an immigration rules change could not, for example, alter the provisions that we have on Irish citizens in this Bill and in the primary legislation.

Kate Green: I just want to make sure that I have understood correctly—I may not have—what the Minister is saying and the provisions of the Bill. I understood him to say that the super-affirmative procedure is appropriate only in circumstances that include amending primary legislation, but is it not the case that the provisions of this Bill give the Government, in some circumstances, the opportunity to do that?

Kevin Foster: They do, subject to the affirmative procedure, but that is—as we discussed under previous clauses and particularly in the clause 4 debate—for specified purposes. The measure does not just give us an unending power.

We could not, for example, change our international obligations and some other areas via this method, the use of which relates to the narrower areas of the Bill. It is not a carte blanche to change all primary law that affects immigration law, but applies where it is consequential to the purposes of the Bill.

3.45 pm

I hope that those explanations have been of interest. I also hope that the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East will be genuinely pleased with the progress that we have made on the simplification agenda since the last Parliament—in which he discussed a very similar Bill—and with the establishment of the committee, which includes a range of stakeholders who welcome the opportunity to be involved in this work to reduce what I think we can all agree, as he touched on, has not been the most simple form of rule that we have created. We will get to a point where we can deliver a more concise level with which it is easier to engage.

Stuart C. McDonald: I am grateful to the Minister for his response. New clause 31 was simply an opportunity to flag up the idea that we perhaps need to ensure that we look at immigration policy with a slightly broader perspective than simple numbers. The Minister protests perhaps slightly too much about collective responsibility and the idea that other Departments would have come to the same decisions as the Home Office in relation to certain policies, but I will leave that there.

I anticipated in my remarks about new clause 30 that the Minister would speak about the need for flexibility and the ability to act quickly. I am not calling for immigration rules in Acts of Parliament or anything like that; I am just saying that anyone who follows this area of policy closely over time knows that, in essence, Parliament has no realistic role in it whatsoever, and that has to change. It will not be changed by the Bill, but it is something that we should think about in the longer term.

On new clause 16, I absolutely agree with the Minister and totally welcome the ongoing work to simplify the immigration rules; the proof will be in the pudding. That is not an easy task, and I do not envy the folk who are undertaking it, but I wish them the very best of luck. However, new clause 16 is not just about simplifying what is already there, but about understanding the changes that the Government propose as we go along and providing detailed advice to help us in our scrutiny role. As some witnesses said last week, it is every bit as appropriate to do that in this sphere of policy as it is with social security, between which pretty good parallels can be drawn. I insist on pressing new clause 16 to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 15]

AYES

Elmore, Chris	McDonald, Stuart C.
Green, Kate	O'Hara, Brendan
Johnson, Dame Diana	Owatemi, Taiwo
Lynch, Holly	

NOES

Foster, Kevin	Pursglove, Tom
Goodwill, rh Mr Robert	Richardson, Angela
Holden, Mr Richard	Ross, Douglas
Lewer, Andrew	Sambrook, Gary

Question accordingly negatived.

New Clause 19

EU Settlement Scheme: physical documented proof

'(1) The Secretary of State must make provision to ensure that EEA and Swiss nationals and their families who are granted settled status and pre-settled status receive proof of that status.

(2) The Secretary of State must issue a paper certificate confirming pre-settled status or settled status.

(3) No fee may be charged for issuing a paper certificate under this section."—*(Holly Lynch.)*

This new clause seeks to provide physical proof of settled and pre-settled status to those who make a successful application through the scheme, providing physical evidence of their migration status.

Brought up, and read the First time.

Holly Lynch: I beg to move, That the clause be read a Second time.

The new clause stands in my name and those of the shadow Home Secretary and my Committee colleagues. The new clause offers a sensible method to help to safeguard the rights of all EEA and Swiss nationals who are registered through the European Union settlement scheme by providing them with physical proof of that registration. We have already discussed some of these issues under new clause 25.

In the largest survey of EU citizens' experiences of the EUSS, which was carried out by the3million, 89% expressed unhappiness about the lack of physical

[Holly Lynch]

proof of their status. Simple physical proof would provide citizens with the type of reassurance that is offered only by something that can be held in the hand. Although in principle we largely support the aspiration to move toward a much more digital immigration system, we have already pointed out to the Committee time and again that, as the hostile environment persists, in the shameful shadow of the Windrush scandal, confidence in the system is at an all-time low.

The Home Office works through banks and landlords, and across Departments, actively to query a citizen's immigration status. To have physical paperwork to hand, in order to put to bed any doubts about a person's status quickly and confidently, would be a welcome addition to an e-visa.

There are also inherent IT risks when relying on purely digital proof for immigration status. The truth is that the Government cannot completely rule out the possibility of an irretrievable data loss or, even worse, the hacking of a data system. It is less than two years since the so-called WannaCry cyber-attack caused havoc for the IT systems of the NHS, locking users out of personal computers and resulting in 19,000 cancelled appointments. It transpired that the systems that the NHS used included Windows XP, which at the time was already a 17 year-old operating system and so was vulnerable to such interference. It does not bear thinking about, but in a nightmare scenario where such hacking or corruption affected the Home Office, a potential loss of data, or even the inability to access the data for a period of time, could have devastating consequences for those at the mercy of the hostile environment.

As stated by Luke Piper on behalf of the3million in last week's evidence session, to trial a new digital-only scheme on over 3 million people is quite a gamble, and currently no other group in the UK is managed in this way. We share the concerns of the House of Lords European Union Committee, which were mentioned by Luke Piper in his evidence to this Committee. He said:

"The House of Lords European Union Committee made the point that there are real worries that those without physical proof will face similar problems to those faced by the Windrush generation; there is a risk that they will face discrimination because they do not have physical proof of their status."—[*Official Report, Immigration and Social Security Co-ordination Public Bill Committee,* 9 June 2020; c. 61.]

There are day-to-day practical complications that will be inflicted upon those in the EUSS who do not have physical proof of their status. For example, the Residential Landlords Association has repeatedly called for some form of physical proof to assist its members in both adhering to the law and avoiding discriminatory practices.

The Joint Council for the Welfare of Immigrants carried out research on the right-to-rent scheme in 2017. Out of 150 emails from migrants requesting that landlords check their identity online, 85% received no response. Only 12% of inquiries received a response that might invite a follow-up, such as a phone call or a viewing. Only three responses explicitly stated that the landlord was willing to conduct an online check. A migrant with documentation received a response rate of roughly 50%. Although there are still indications that renting migrants face unacceptable barriers, that is at least a marked improvement on the previous situation.

The fear is that the lack of physical proof will also act as an impediment for EU citizens applying for jobs. Millions of people work in the gig economy, which is characterised by short-term contracts and freelance work. We have already referred to the work of the Institute for Public Policy Research, which recently used data from the labour force survey in a report that found migrants are more likely to be working in industries or sectors, such as accommodation and food services, that have around 9% of EU workers. Facing competition from British citizens, who can prove their right to work by showing a passport, should that be required, and from non-EEA citizens, who can prove their right to work by showing their physical residence card, EU citizens have to go through the complicated hassle of a nine-step online process and then ask their potential employer to go through a 10-step process. It is inevitable that many employers will not have the desire or the time to complete such an arduous process, and as a result the employment prospects of those registered in the EUSS could potentially suffer.

Those are just a few examples of how a lack of physical proof could affect those who have pre-settled or settled status through the EUSS but exclusively digital confirmation of that status. The inconveniences and delay that could result threaten to permeate through daily life for millions of people, yet that could so easily be remedied by the Government with a degree of physical proof.

I want to take the Minister back to something he said during last week's evidence session, when he put a question to the Children's Society on the issue of granting automatic status to children in care and care leavers, which we will come to later. He said to Lucy Leon, the immigration policy and practice adviser for the Children's Society:

"You talked about automatic status—granting something under a piece of legislation to someone. Under your suggested system, how, in decades to come, would an adult evidence the status that they were granted as a child?"

As it took several attempts for the question to be heard, due to the terrible sound quality, the Minister, in his second attempt, repeated:

"If they had to evidence their status many years later, how would they do it? How would they be able to define their status…?"—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; cs. 64-65.]

The Minister put a very good question. In the scenario that he described, he said that if status was granted by the Home Office, how would it then be evidence? We must acknowledge that the granting of a status only solves half the problem. The ability to prove that status is the other half of the problem.

On this issue, I am inclined to agree entirely with the Minister. I politely remind him that he proposes a problem, but he is the architect of the solution to this issue. He can overcome our own reservations by granting the physical proof to his own satisfaction, however he sees fit to do so. The Government should ensure that their systems automatically issue physical proof on granting status to someone, and they should allow the millions of people on the EUSS the certainty and convenience of physical proof of status.

Kevin Foster: It is a pleasure to talk about the new clause and to hear that my shadow agrees with me on some issues, but we slightly disagree on how best to evidence things. I accept that the new clause is well

intentioned, but it may help if I explain first that we email everyone granted status under the scheme a PDF document, which they can print and retain for their own records as confirmation of their status and for future reference, as they may wish.

Like many other countries, we are moving away from issuing physical documents to be used as evidence of a person's immigration status and their entitlement to work and access benefits and services, and towards a system that enables direct checks through online sharing of status by the individual or via system-to-system checks. Our border and immigration system will become digital by default for all migrants, and we intend over time to replace physical and paper-based products with secure online access to immigration status information, which the migrant can share with prospective employers, landlords and service providers.

New clause 19 is unnecessary, as we are already legally required to issue everyone granted status under the EU settlement scheme with a formal written notification of their immigration status in the United Kingdom. The notification also includes information about how they can access and share their immigration status information online, and about where they can find help to do so if needed. However, it is important that we do not return to relying on insecure paper documents, which can be lost, damaged or stolen, to evidence immigration status and entitlements.

The use of digital technology is now a well-established mechanism that people use when banking and shopping. Employers, landlords and service providers are likely to be concerned by any decision to issue what is specified as an insecure physical document, such as a paper certificate. They would also see it as an undesirable retrograde step that places additional administrative burdens on them to ensure that their staff are aware of the characteristics of a certificate, which might be some years old, and what it means. It would also be very susceptible to forgery and being tampered with, which could actually make it more difficult for EEA citizens, employers and others to determine genuine entitlement. We cannot allow that to happen.

Mr Goodwill: Does the Minister agree that some of the identity documents issued in places such as Greece and Italy are very insecure because they do not contain biometric data? That is an example of why a paper document would not be secure.

Kevin Foster: My right hon. Friend hits the nail on the head, and that is particularly true in an era of modern computing, scanning and high-quality printers available at home. We used to rely on paper documents as standard across society—for example, driving licences. To be fair, the previous Labour Administration moved away from having a paper driving licence that nowadays could probably be easily printed on most printers at home, and towards a plastic version. As we now move on, most people do checks digitally—for example, how many of us have a physical MOT certificate? It is done via an online system, which allows people to check easily. It is even possible to check online whether a car has an MOT before buying it, rather than having to look for a paper certificate.

We all know about the issues there used to be with paper MOT certificates, with blank books being quite valuable. That is why we have started to move towards digital status, which is more secure. It is, of course, retained by the Home Office for many years and allows that access. Again, we touch on some of the lessons learned from the Windrush review. Part of this is about having up-to-date and easier ways to access information, rather than relying on people to recognise documents that could have been issued some decades before. It is better that we have secure digital status that can be easily shared as technology advances and people move forward. That is right, but we are still already obliged to send a PDF confirmation so that if someone wants to print something out and keep it for their records, they can.

4 pm

Holly Lynch: I just stress the point that we are not talking about an either/or approach to digital confirmation and physical proof. I am open to the taking of physical proof, and whatever format the Minister is most comfortable with. However, we are not talking about a system where someone relies exclusively on physical proof. Something will be issued in addition to digital status. Does the Minister accept that that would address the anxieties felt by the 3 million and more?

Kevin Foster: Again, I appreciate the points that are being made, but a secure, easy-to-share digital status does what it says on the tin. More and more countries are heading towards that, and we have seen it in other areas of life. To be clear, the new clause specifies a paper certificate as the preferred means. I do not think that something like that adds to something that is easily shareable—and easy to update, in relation to changing passport, or in other areas. That is why we have taken this approach and why we are clear that it is what we want migration status to move towards more generally. I do not think that printing out paper certificates, and having that as an either/or, is the best place to be headed, in trying to prove status. It is better that there should be a clear process and that landlords and employers should know the process that they need to engage with when employing EEA citizens beyond the end of the transition period.

As a transition measure, employers, landlords and public service providers will continue to be able to accept the passports and national identity cards of EEA citizens until 30 June 2021—the same day as the deadline for applying to the EU settlement scheme. After that date, EEA citizens with status under the EU settlement scheme will need to share their immigration status online to prove their rights and entitlements in the UK. Alongside that, in future, when an individual accesses public services such as benefits or healthcare, the Home Office will be able to confirm their status to the service provider automatically through system-to-system checks, at the point at which the person seeks to access the service. Their non-EEA family members will also continue to be able to use their biometric residence card until we have completed the roll-out of digital services online.

Eventually, all migrants to the UK—not just from the EEA but from the rest of the world—will have an immigration status that can be accessed and shared online. Having to rely on a document to prove immigration status will be seen as old-fashioned and vulnerable to abuse. By contrast, new clause 19 would impede our ability to encourage migrants to access and share their immigration status securely online, creating confidence

[Kevin Foster]

that it is the appropriate process, and giving confidence to those who engage with it. I hope that, with the assurances that I have given, the hon. Lady will feel able to withdraw the new clause.

Holly Lynch: I am grateful to the Minister for his explanation of why he rejects the new clause. I stress again the vulnerability that people feel in the shadow of Windrush, when they do not have something they can physically hold in their hand, to give an assurance of their immigration status. There is great support for the physical proof approach in the House of Lords and I suspect that we have not necessarily seen the end of the issue, but I do not want to divide the Committee at this time and I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 21

ANNUAL REVIEW: IMPACT ON HEALTH CARE AND SOCIAL CARE SECTOR

'(1) The Secretary of State must commission an annual report from the Migration Advisory Committee on the impact of the provisions of this Act on the health care and social care sector in the UK.

(2) In undertaking the evaluation, the Secretary of State must consult—

(a) the relevant Scottish Ministers;

(b) the relevant Welsh Ministers; and

(c) the relevant Northern Ireland Ministers

(3) The report must be laid before each House of Parliament as soon as possible after it has been completed.

(4) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report.'—*(Holly Lynch.)*

Brought up, and read the First time.

Holly Lynch: I beg to move, That the clause be read a Second time.

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

New clause 49—*Impact assessment on the social care workforce—*

'(1) No Minister of the Crown may appoint a day for the commencement of any provision of this Act until the condition in subsection (2) is met.

(2) This condition is that a Minister of the Crown has published and laid before both Houses of Parliament an assessment of the impact of the Act on recruitment of EU citizens, EEA nationals, and Swiss citizens working to the social care sector.'

This new clause makes the coming into force of the Act conditional on the production of an impact assessment of the changes on the social care workforce.

New clause 61—*Duty to commission an independent evaluation: health and social care sectors—*

'(1) The Secretary of State shall commission an independent evaluation of the matters under subsection (5) and shall lay the report of the evaluation before each House of Parliament.

(2) The Secretary of State must appoint an independent person to undertake the evaluation ("the independent evaluator").

(3) In this section, "independent person" means a person who is independent of Her Majesty's Government.

(4) No person may be appointed under subsection (2) unless their appointment has been consented to by—

(a) the relevant Scottish Ministers;

(b) the relevant Welsh Ministers; and

(c) the relevant Northern Ireland Ministers.

(5) The evaluation under subsection (1) shall consider an assessment of the effects of this Act on—

(a) the health and social care workforce;

(b) the efficiency and effectiveness of the health and social care sectors;

(c) the adequacy of public funding for the health and social care sectors; and

(d) such other relevant matters as the independent evaluator sees fit.

(6) In undertaking the evaluation, the independent evaluator must consult—

(a) the Secretary of State;

(b) the relevant Scottish Ministers;

(c) the relevant Welsh Ministers;

(d) the relevant Northern Ireland Ministers;

(e) providers of health and social care services;

(f) persons requiring health and social care services;

(g) representatives of persons requiring health and social care services; and

(h) such other relevant persons as the independent evaluator sees fit.

(7) The independent evaluator must prepare a report on the evaluation for the Secretary of State.

(8) The Secretary of State must lay that report before Parliament no later than one year after this Act is passed.

(9) A Minister of the Crown must, not later than six months after the report has been laid before Parliament, make arrangements for—

(a) a motion relating to the report to be debated and voted upon by the House of Commons; and

(b) a motion relating to the report to be debated and voted upon by the House of Lords.'

This new clause would require an independent evaluation of the impact of the Act upon the health and social care sectors across the UK to be produced and laid before Parliament. It would require that the devolved nations are consulted as well as other interested parties.

Holly Lynch: The new clause would require the Government to commission the Migration Advisory Committee to produce a report on the impact on the health and social care sector of ending free movement. I very much welcome some of the new developments that the Minister outlined earlier, to do with the changes in the way that the Migration Advisory Committee will operate. The group includes a number of new clauses, and we very much recognise the merits of all of them. In essence, they all plead with the Government fully to think through the implications of putting this hard stop on free movement in place without the systemic reforms to health and social care that would be required to address the workforce issues in those co-dependent sectors.

At the evidence session last week, we heard some pretty damning evidence from witnesses, even though, interestingly, none of them were there explicitly to represent the health or care sectors. Martin McTague of the Federation of Small Businesses told the Committee that the FSB felt that the £25,600 minimum income threshold

"should be lower, because there are quite a few jobs, especially in the care sector, that pay less than £25,600."

He went on:

"That is why we have called for a care sector visa, because we think the requirements of that sector will always be uniquely different from most of the rest of the economy."—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; c. 6, Q5.]

In response to a follow-up question from my hon. Friend the Member for Kingston upon Hull North, Martin McTague said:

"It is clear from the experience that we have had over the last few months that this sector is under massive pressure. Any major changes would be disastrous."—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; c. 11, Q16.]

We can all agree that this Bill represents a major change in immigration.

Brian Bell of the Migration Advisory Committee made a number of scathing points, which we should all reflect on. He said that

"immigration has historically been used as an excuse to not deal with the problems of the social care sector."—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; c. 21, Q44.]

He is right. The problem is, when we suddenly turn off freedom of movement at the end of December and the Government are not able to deliver the radical reforms required in that timeframe, what happens to social care?

I will answer that. Unless we have a significant breakthrough with a vaccine, care homes and the care sector will still be battling the coronavirus. If we do not do our due diligence on this, by adopting the new clause, the Bill will be set recklessly to undermine social care at a time when it can least afford it.

A MAC report is necessary, and would give the Government an opportunity to develop a coherent strategy by conducting the exercise annually for the health and care workforce. That could inform both the domestic skills agenda and our immigration policy, allowing us to create fast tracks within immigration based on our needs at the time. Without that, the NHS will struggle to function. According to the British Medical Association, 29% of doctors in the NHS are from overseas. Freedom of movement has greatly facilitated that, as for years EEA staff have benefited from the flexibility it grants, allowing them to work in the UK and EEA simultaneously.

We have discussed in earlier stages of the Committee the potential introduction of visas and the costs attached to the changes brought about by the Bill. That might act as a major disincentive against attracting the best talent to the NHS. As always, there should be a clear national commitment to training future healthcare workers. Nevertheless, it is hard to imagine that the domestic workforce alone will be able to deliver. For a long time, the workforce has been supplemented with EEA workers.

The NHS reported nearly 90,000 job vacancies between October and December 2019. That has already led to rota gaps across the medical profession, and to well-founded concerns about the ability to staff services adequately. It can take up to 10 years to train a doctor. It is unrealistic to believe that a domestic push will address that vacancy shortage or likely subsequent shortages due to the UK's decision to leave the EU and free movement.

Domestic recruitment drives also have barriers to overcome. The Royal College of Nursing has reported that the Government's much publicised increase of 50,000 nurses consists of 12,000 more international nurses, 15,000 student nurses and another 15,000 retained nurses who had previously left the profession. In reality, therefore, only about 27,000 nursing vacancies have been filled, and that fails to address adequately the 40,000 nursing vacancies reported in the NHS in November 2019.

In the evidence session, Brian Bell, interim chair of the MAC, stated that occupational shortages were

"a failure of the British education system".—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; c. 24, Q49.]

If the Government seek to prioritise domestic healthcare recruitment over immigration, some pretty urgent steps must be taken to address that.

The threat of ending free movement for the NHS is incredibly concerning. The threat of ending free movement for our social care sector is existential. The proposal to extend the tier 2 visa system to EEA nationals would sever recruitment and compound gaping occupational shortages.

The Institute for Public Policy Research modelled the impact on EEA nationals currently living in the UK and working in social care, and found that 79% of EEA employees—about four in five—working full-time in social care would have been ineligible to work in the UK under the skills and salary thresholds proposed by the MAC. Unison reports that there are currently 110,000 vacancies in social care, and while I suspect the Minister will tell me that his aspiration is to fill those solely through domestic recruitment, I wonder what assurances he can give us that that is possible in the timeframes required.

It was encouraging to hear the MAC report that senior care workers would be eligible to be included in future shortage occupation lists, yet we fear that deterring the recruitment of care assistants and more junior care workers from overseas may lead to a further increase in job vacancies in the care sector. We have all heard the warnings from Brian Bell that migrant workers cannot continue to act as a sticking plaster, working their socks off on low pay to mask the systemic problems in social care, but it is clear that we will be exacerbating the workforce issues impacting on the quality and availability of care unless the Government undertake a full and regular review. I urge the Government to adopt new clause 21 in order to fully understand the ways in which the new immigration system will affect patient care across all health and social care settings.

Brendan O'Hara (Argyll and Bute) (SNP): As always, it is a pleasure to serve under your chairmanship, Mr Stringer. I will speak to new clause 61, which seeks an independent evaluation of the specific impact of the Bill on the health and social care sectors across the United Kingdom. This independent evaluation would follow from consultation between the Secretary of State for Health and Social Care, the relevant Ministers in the Scottish and Welsh Governments, the relevant Northern Ireland Ministers, service providers, those requiring health and social care services, and others. The new clause would require the Secretary of State to lay a copy of that report before both Houses of Parliament

"no later than one year after this Act is passed",

and would require a Minister to make arrangements

"no later than six months after the report has been laid before Parliament"

for it to be debated and voted on in Parliament.

[Brendan O'Hara]

The new clause has gathered support from service users, third-sector organisations, trade unions and charities from every part of the UK, among them the Scottish and Northern Irish councils for voluntary organisations, Disability Wales, Unison, Camphill, Scottish Care, and the Welsh and Northern Irish branches of the British Association of Social Workers. I think the reason why they and many others have supported this independent assessment is that, as people who work on the frontline of health and social care every day, they are extremely worried that the Bill, which will end freedom of movement and introduce a points-based immigration system, will adversely affect hundreds of thousands of their clients: disabled people, children and young people, older people, unpaid carers and those with long-term health conditions—those who rely most on the health and social care services to look after them every day.

There is no doubt that the current coronavirus pandemic has given us all the opportunity to see just how precious our national health service and social care sector are. The NHS has risen to the challenge magnificently, as has everyone who works in it, and we are all hugely indebted to them. It has also reinforced just how lucky we are to have our national health service—should that have needed reinforcing—and we must do everything we can to protect it, so that future generations can have what we currently enjoy. We cannot afford to take chances with the future of our NHS or our social care services, and I believe that anyone who took chances with them would never be forgiven.

That is why so many in the health and social care sector are deeply concerned about what is contained in the Bill: they recognise that there is already a crisis in social care across the United Kingdom. On top of the seemingly relentless pressure on funding, we have an ageing population with increasingly complex care needs. The health and social care sector is battling every day to find and keep the workforce it requires, yet this Government have cut off a source of labour, with no clear plan as to what will replace it.

At the end of September 2019, NHS England reported having more than 120,000 unfilled posts—an increase of 22,000 on the previous year. Both the Care Inspectorate and the Scottish Social Services Council have found that 40% of social care organisations have unfilled vacancies going back over a year.

4.15 pm

Even with the access we have had to the pool of labour from the European Union, there are serious problems in the recruitment and retention of health and social care staff. Folk are not queueing to fill the existing vacancies. Are the Government arguing that miraculously post-Brexit, having cut ourselves off from our potential pool of labour, sufficient numbers of people will suddenly become available to work in the sector?

Skills for Care has calculated that a quarter of the health and social care workforce is aged over 55 and due to retire in the next 10 years. There will therefore be another 320,000 vacancies to be filled. This crisis in recruitment and retention will get deeper. Yet the Government would have us believe that the end of freedom of movement and the introduction of this system is the answer to finding hundreds of thousands of people. I cannot see how it is possible.

More importantly, healthcare professionals, service users and those representing the existing workforce cannot see how it is possible. According to the highly respected independent charity the King's Fund:

> "Widespread and growing nursing shortages now risk becoming a national emergency and are symptomatic of a long-term failure in workforce planning, which has been exacerbated by the impact of Brexit and short-sighted immigration policies."

That is a damning assessment, but it chimes with what much of the sector is saying.

By accepting new clause 61, the Government have a chance to prove us doubters and naysayers wrong, by allowing these huge changes to be held up to independent evaluation and scrutiny. More importantly, that would give the health and social care sector the confidence that this Government know what they are doing, that they have carefully considered the impact of ending free movement, and that they have a clear plan in place that will not harm the sector or service users.

If the Government are really confident about this new immigration Bill and what it proposes, they have nothing to fear from a comprehensive, independent evaluation, undertaken across the four nations of the United Kingdom, purely to assess and determine the full impact of the Bill on the sector. The Minister said that the Government have published an impact assessment examining what they believe will happen.

That is all well and good, but it does not go nearly far enough. It would be prudent and responsible for the Government to ensure that any changes to the immigration system do not, however inadvertently, adversely affect the health and social care of our most vulnerable citizens. This evaluation would not only ensure no harm is done to those who receive health and social care, but give any future Government a head start in planning and making decisions about the health and social care sector, particularly in terms of recruitment, retention and levels of investment.

Such far reaching changes should not happen on a wing and a prayer, without an appropriate mechanism to accurately and independently measure the effectiveness or otherwise of such radical change. Any responsible business making such fundamental changes would have put in place a means whereby it could measure precisely what the consequences of those changes would be. It is therefore inconceivable that this Government are not doing something similar, particularly with something as important as the health and social care needs of our most vulnerable citizens.

New clause 61 would not only accomplish all of that, but allow policy makers in the future to take a holistic and strategic approach to tackling the issues that will inevitably arise from the UK leaving the European Union and the introduction of a points-based system. It would further ensure that those issues are tackled from a foundation of accurate and independent research, thereby allowing Governments, local authorities, health boards, social care sectors and others to make strategic planning decisions while being fully informed by robust and independent evidence.

I do not intend to push new clause 61 to a vote, but I hope that between now and Report, the Government will reflect on the new clause and consult on it as widely as they can. I hope they accept that they have absolutely nothing to lose—and, indeed, lots to gain—from agreeing to an independent evaluation of the impact of this massive policy change.

Kevin Foster: I have great respect for the hon. Member for Argyll and Bute, but I think people outside the House listening to the debate will wonder whether he has looked at today's worrying figures on the employment market and the economic impact of covid-19. He asks where people might be found, but a significant number of people will be looking for new employment.

I welcome the opportunity to put on the record again the fact that the Government recognise the vital nature of the health and social care sector to the United Kingdom. I recognise that, in their view, hon. Members tabled the new clauses to protect a key sector. I assure members of the Committee that health and social care will be at the heart of the UK's new points-based immigration system. The new skilled worker route will be open to a broader range of roles than the current tier 2 general route, following expansion of the skills threshold.

Under the current immigration system, only those coming to do graduate-level jobs are able to come to the UK under tier 2. In the future, our points-based skilled worker route will encompass jobs requiring school leaver qualifications. That means that all migrants—not just those from within the EU or EEA—will be able to apply for jobs meeting the skills threshold, including, as has been mentioned, senior care workers, giving a global reach to recruitment in the sector.

The general salary threshold will be set at £25,600, or the appropriate rate for the job that the person is coming to the UK to undertake. For a number of roles in health and social care, the rate will reflect the current national pay scales. We are also removing the cap and resident labour market test to make it quicker and easier to recruit workers from overseas where necessary. That will benefit all migrant workers and their employers, including those in the health and social care sector.

As with all immigration routes, we will continue to keep the points-based system under review. These changes are the first phase, and we will continue to develop and refine the points-based system based on experience.

Brendan O'Hara: On a point of clarity, did the Minister say that there will be sufficient capacity in the labour market to move the people losing their jobs as a result of coronavirus into the health and social care sector? Was that his argument? Does he recognise that there are currently 122,000 vacancies in England alone, and that there are projected to be another 320,000 over the next 10 years due to retirement? Does he really think that that will be made up by people losing their jobs?

Kevin Foster: Many people will be surprised to hear the hon. Gentleman suggest that one of the issues that the UK is facing at the moment is a shortage of labour. Sadly, we are seeing the impact of covid, and we know that health and social care will play a key part in providing job opportunities for those who need new employment. I am seeing that in my constituency. Many people would be surprised if there were Members in this building who did not think we should prioritise getting people who have faced the impact of the economic change into new skills and employment. That should not be a controversial point. I suspect that many of his constituents would be rather surprised if that is the point that he wished to make.

Brendan O'Hara: I am trying to stick to the Bill, but is the Minister saying to the country and people who are losing their jobs that, contrary to what the Prime Minister and the Chancellor have been saying, those jobs are not coming back, and they had better go find something else? The message has been that this is a temporary blip, we will recover from it, and the jobs will be coming back.

Kevin Foster: Thankfully, we will see many jobs come back. The Chancellor himself said that it will be difficult to save every role, and we can see that some of the changes in our economy, particularly in the retail sector, have been sped up. I am sorry that the SNP is looking to put its political philosophy ahead of the practical situation. I do not think it is controversial to say that, in Scotland, where there are vacancies, we should be trying to make sure Scottish-based workers are going back to work. I think the SNP will find it very interesting when it meets the electorate next May and explains why that was not its priority.

Holly Lynch: Does the Minister not accept the example that we have just been through? The Government, having recognised the labour shortage in agriculture, made a co-ordinated attempt to redeploy people who are currently out of work into the agriculture sector, but it proved incredibly difficult and the numbers have not transpired in reality. If he is saying that we can do something similar for social care, we would be keen to see the plan. What is his plan if we cannot redirect those people into social care in the timeframe that we are talking about?

Kevin Foster: There is a slight difference between talking about temporary roles in seasonal agriculture and carers, which is not a seasonal job. I represent a constituency with plenty of seasonal roles. It would be odd to start describing care as a seasonal one; it is not, for obvious reasons. People's care needs do not vary by the season in the way the agricultural sector's needs do in terms of picking fruit and veg.

Certainly, there is a need to make sure that we have the appropriate structure. Again, I think that people outside this room would be stunned that Opposition Members do not think that, at the moment, we should prioritise getting UK workers back to work. That might explain why, in December, people did not feel that those were the parties they wished to trust with being in government.

Moving on, our new firmer, fairer and swifter immigration system will have benefits for all sectors of the economy, but we recognise the special role that the NHS and those connected with it have in our society, which the events of the last few months have demonstrated clearly. That is why, in line with our election manifesto, the Government are introducing a healthcare visa, which will provide eligible health and social care workers with fast-track entry, the support of a dedicated team in UK Visas and Immigration and reduced visa fees.

As I said earlier, we are looking to exempt all those working in health and social care from paying the immigration health surcharge. We are also investing in social care. For example, in response to the coronavirus crisis, we have announced £2.9 billion to help local authorities respond to pressures in key services, such as adult social care, and to enhance the NHS discharge service, which allows patients to return home safely. No one should doubt our support for that critical sector of our society.

[Kevin Foster]

The hon. Member for Halifax talked about damning evidence, so it is worth remembering the evidence that the chair of the Migration Advisory Committee, Professor Brian Bell, gave to the Committee on 9 June. He said:

"If people say that the response to the social care issue should be, 'Well, employers should be allowed to bring in as many migrants as they want at the minimum wage,' first, that does not sound like the low-wage problem of the social care sector is being dealt with, and secondly it suggests that one of the groups that will really suffer from that is the social care workers. You are saying that you are going to keep on allowing their wages to be held down by allowing employers to bring in workers at the minimum wage".—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; c. 22, Q44.]

On new clause 21, the MAC is an independent non-departmental public body that advises the Government on immigration matters. It has a UK-wide remit and works across Government to provide transparent, independent, evidence-based advice. It currently undertakes work based on commissions from the Government; the Government determine the matters that they believe require consideration and ask it to consider and advise. As we have touched on, the Government are committed to expanding that role. This will be the first year that the MAC has produced an annual report, which is an important development to increase transparency and provide more regular evidence on issues relating to immigration.

In future, in addition to specific commissions from the Government, the MAC will be able to undertake other work that it considers necessary, including regular reporting on migration matters. I therefore cannot support a clause that requires it to look annually at a specific sector. As hon. Members will be aware, its reviews are thorough, and it takes time to seek views and analyse a broad range of evidence from across the UK. That means that the reports often take many months to complete, and we must be mindful of its finite resource and time. Requiring it to undertake an annual review on health and social care may prevent it from undertaking reviews on other issues where there may be a more pressing need, or may duplicate work that it plans to do.

I am also unable to support new clause 49, which would require the Government to consider the impact of the Bill on EEA citizens, but which ignores the new points-based system that we will implement at the beginning of January 2021. The Government have already published an impact assessment of the points-based immigration system, which sets out the impacts on all those who will use the system, not just those from the EU or the EEA.

We understand fully that ending free movement and the proposals for the future immigration system will have an impact. However, with the dramatic changes that we have seen in the UK labour market over recent weeks, it is right that we focus on getting UK-based workers back into employment and ensuring that employers are investing in and retaining the existing workforce. Migration policies need to be considered alongside that work, not in isolation from it. The Migration Advisory Committee will have the opportunity to decide what it wishes to consider alongside its annual report.

4.30 pm

The hon. Member for Argyll and Bute said that he did not wish to push new clause 61 to a vote. I appreciate his comments. We will continue to engage and I would encourage stakeholders in Scotland to work together, particularly as the MAC draws up its advice for the shortage occupation list that will apply under the new migration system. With that, I emphasise that the Government will not be able to accept the two new clauses.

Holly Lynch: I heard the Minister's comments. I would stress, once again, that new clauses 21, 49 and 61 are genuine attempts to ask the Government to recognise our concern about health and social care when free movement comes to an end. We are not attempting to play politics; our concern is genuine. We would be very happy for the Government to go away and look at any one of those options. Without pushing this to a vote, we ask the Minister to consider these issues in all further deliberations on the future immigration system. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 22

TIER 2 IMMIGRATION SKILLS CHARGE

"No Tier 2 Immigration skills charge will be payable on an individual who is an EEA or Swiss national and is coming to the UK to work for the NHS."—*(Holly Lynch.)*

This new clause would exempt NHS employers from having to pay the immigration skills charge.

Brought up, and read the First time.

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

New clause 35—*Immigration skills charge—*

"No Immigration skills charge introduced under section 70A of the Immigration Act 2014, or by regulations thereunder, may be charged in respect of an individual who is an EEA or Swiss national coming to work in the UK."

This new clause ensures no skills charge can be levied in respect of EEA or Swiss nationals coming to work in the UK.

Holly Lynch: I beg to move, That the clause be read a Second time.

I rise to speak in support of new clause 22, tabled in the name of the shadow Home Secretary, myself and my Committee colleagues. The new clause would exempt NHS employers from having to pay the immigration skills charge.

As I have already stressed in my attempts to win support for other new clauses, the NHS workforce has historically 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 EEA countries.

As things stand, NHS trusts pay the skills charge for those coming to work in the NHS from countries outside the EU and will be expected to pay those costs for those coming from EU countries after free movement ends. The immigration skills charge is effectively a skills tax paid by employers who have recruited from overseas instead of from the domestic workforce, to act as a disincentive and to promote recruitment from a local

talent pool. That is fair enough, but in the context of the NHS, levelling the tax on NHS trusts is nothing short of an outrage.

If trusts cannot find clinical specialists here in the UK, they have no choice but to find them from overseas. The UK has a number of clinical skills shortages in many specialist areas and, in the absence of any Government strategy to respond to that domestically, the NHS has to hire from overseas.

We have already heard a lot about Brian Bell's contribution to the evidence session last week. He gave the example of the nurse shortage. He said:

"often the shortage occupation list identifies a failure of the British education system to provide the people who are needed. A classic example of that is nurses. Nurses have been on the shortage occupation list since I can remember ever hearing of it. Every time they are put on the list, we hear statements along the lines of, 'Yes, we know that they are in shortage, and we have a plan to increase the number of nurses who go through training so that we deal with the shortage in the long run.' They are still on the shortage occupation list. We should be using the shortage occupation list to signal both to Government and to employers that there are training needs that need to be fulfilled."—[*Official Report, Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee,* 9 June 2020; c. 24, Q49.]

An NHS trust cannot unilaterally decide to train more nurses from the domestic labour force if it is struggling to recruit; it needs Government intervention to deliver the uplift.

In the MAC's 2019 full review of the shortage occupation list, where all doctors were added to the list, under section 4B on health occupations, the review was keen to stress that

"the rise in vacancies and concern over lack of staff has occurred under freedom of movement and during a period when many health occupations have been on the SOL. Ultimately it will take more effective workforce planning and efforts to increase the flows into health professions (and decrease flows out) to meet growing demands."

That is a worrying thought.

We have clinical workforce shortages almost across the board in the NHS, and that has been while we have had free movement. Adopting new clause 22 would be just one small step towards protecting the NHS from the inevitable impact of free movement coming to an end with the Bill.

As constituency MPs, we all have casework relating to patients with rare medical conditions who have been on waiting lists for years to see a specialist, because there may be only one or two doctors specialising in that condition in the country. There may be only a handful in the world, so trusts are regularly looking to recruit from overseas because they seem to have no choice. The immigration skills charge punishes trusts for doing so, with the Government taking back much-needed cash from budgets in order to pay the fees. It seems grossly unfair and counterproductive, and it takes money out of frontline hospital services.

The Labour party has submitted freedom of information requests to 224 NHS hospital trusts in England, asking how much of the charges they are paying back to the Government. So far, only 45 have responded—around 21% of the trusts. To give an indication of what some hospitals are paying out, I should say that Lewisham and Greenwich NHS Trust had to pay the Government £961,000 in immigration skills charges over the past three financial years. Portsmouth Hospitals NHS Trust tells us that it paid out more than that in the 2019-20 financial year alone, with a bill for £972,000 in just 12 months; it has paid over £2 million in immigration skills charges since 2017. The Royal Free London NHS Foundation Trust has paid over £1 million in the same timeframe, and the University Hospital Southampton NHS Foundation Trust has paid £1,224,509 since 2017.

From the 21% of trusts that have responded to our FOI request, we know that nearly £13 million has been taken out of the NHS and handed back to the Government since 2017—nearly £13 million from just 21% of hospital trusts in England. That some hospitals can pay out nearly £1 million in immigration skills charges in a single year surely has to be a sign that the system is not working as intended. To repeat the point made by the MAC, this is all while people have been able to come under free movement, where fees would not have been applicable. That is about to come to an end. I urge the Minister to adopt new clause 22 to mitigate any further detrimental impact on the NHS workforce and to ensure that NHS funding stays in the NHS.

Stuart C. McDonald: In a sense, this debate echoes the one we had on the immigration health surcharge. I support everything that the shadow Minister has said, but I would push the Labour party to go a bit further and scrap the whole scheme.

I have nothing against the principle that employers should pay a contribution towards the cost of training and developing the skills on which businesses rely, but why should it apply only to those who recruit from abroad? That is not in any way a proxy for determining which businesses, companies and employers are not doing enough training in their own right. In fact, very often the opposite is the case: many of the businesses, companies and employers who recruit from overseas are also the ones who invest considerable sums of money in training and upskilling their workers.

However, skill shortages often arise at very short notice. For all the workforce planning that they do, and for all the training that they invest in, employers regularly have a need to recruit from abroad. As I say, it is a very poor proxy for trying to target companies that are not properly investing in training. The whole thing needs rethinking.

Kevin Foster: I thank the hon. Members for Halifax and for Cumbernauld, Kilsyth and Kirkintilloch East for tabling the new clauses. The objective of the immigration skills charge is to incentive UK-based employers to take a long-term view of investment and training, and it is designed to address the UK's historical underinvestment in training and upskilling. The income raised is allocated to the Department for Education and the devolved nations to address skills and training gaps in the resident workforce.

We can all agree that immigration must be considered alongside investment in, and development of, the UK's resident workforce, and it is only right that we provide those workers with opportunities to develop skills in order to further their careers and to contribute to the future economy. That is with particular reference to the situation we see at the moment in our country, where many people might need to find new employment opportunities due to the economic impact of covid-19.

[Kevin Foster]

The Committee may also wish to note that the introduction of the charge was supported by the independent Migration Advisory Committee as part of its December 2015 review of the tier 2 route.

The Migration Advisory Committee also recommended that the charge be extended and retained to cover employers of EEA citizens in the future immigration framework. In its September 2018 final report on the impact of EEA migration in the UK, the MAC said:

"We believe that extending the ISC to cover EEA citizens under any post-Brexit work-permit scheme would, on balance, be appropriate."

It would also make no sense, now that we have left the European Union, to apply exemptions based purely on being an EEA national, as this suggests.

On new clause 22, the Government recognise the vital nature of the health and social care sector to the United Kingdom. Health and social care will be at the very heart of the UK's new points-based immigration system, and we are doing all we can to ensure that the new system is fair, attractive and welcoming to the best and brightest overseas migrants. The new skilled worker route will be open to a broader range of roles in the sector—following the expansion of the current skills threshold—than the tier 2 general route.

As I mentioned earlier, the income for the immigration skills charge is used to address skills and training gaps in the resident workforce, including the healthcare sector. It is right, therefore, that we focus on providing UK resident workers with the opportunity to develop skills that will enable them to become the healthcare heroes of tomorrow—the revenue from the immigration skills charge does that. For those reasons, the Government are not prepared to accept the two new clauses.

Holly Lynch: We absolutely cannot wrap our heads around that, given how much money is being taken out of the NHS frontline, which seems to be an indication that the whole approach is not functioning as intended. However, with that in mind, I will not seek to divide the Committee. But the Labour party may return to this point at a later date. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Ordered, That further consideration be now adjourned. *—(Tom Pursglove.)*

4.42 pm

Adjourned till Thursday 18 June at half-past Eleven o'clock.

Written evidence reported to the House

IB08 Amnesty International UK
IB09 Law Society of England and Wales
IB10 UNISON
IB11 JUSTICE
IB12 London First
IB13 The Royal Society
IB14 Independent Age