Home Office

Lord Bates
Lords Minister
2 Marsham Street
London
SW1P 4DF
www.gov.uk/home-office

Lord Rosser
House of Lords
London
SW1A 0PW

8th January 2016

Immigration Bill – issues raised at Second Reading

At the end of our debate on the Immigration Bill on 22 December I committed to write to follow up on a number of points raised. We had a comprehensive debate and I am grateful to you and others for all the thoughtful contributions. Many colleagues have concerns but I am sure that over the coming few weeks I will be able to further persuade you and others of the need to legislate for these measures.

Part 1 - Labour Market Enforcement and illegal working

A number of questions have been raised about the role of the Director of Labour Market Enforcement. In particular Baroness Hamwee, asked about the future of the Gangmasters Licensing Authority (GLA). The government has consulted on proposals to widen the enforcement remit of the GLA beyond the sectors where it currently operates a licensing regime, and giving it police-like powers to investigate labour market offences. The consultation included a range of options to reform the GLA, extending its reach and building on work done to date to drive out criminality. The government is considering its response to the consultation and will publish that response before Committee stage.

Baroness Sheehan asked for further reassurance that the new Director's role does not cover immigration control. I want to reassure colleagues that is not part of the role of the Director of Labour Market Enforcement. Nowhere in this Bill is the Director given the power or purpose to do that, so were they to do so they would be acting outside of their statutory powers.

Lord Balfe specifically raised the question of the relationship between the Director and the Low Pay Commission (LPC) in respect of National Minimum Wage (NMW) enforcement. The LPC is responsible for recommending the NMW rates to Government annually. As an expert body with deep knowledge of the labour market, particularly in low paying sectors, the Government also values their suggestions and advice on how we can increase compliance with NMW legislation. Once the new Director is in place, we will expect them to draw on the expertise of the LPC as part

of the evidence base for preparing the annual labour market enforcement strategy. We do not consider this needs specifying in legislation; rather that Ministers will not be minded to approve a strategy that does not use all available evidence sources to build the most complete picture possible.

Baroness Hamwee, Lord Hylton and Lord Alton asked when the government will say more on implementing James Ewins' recommendations in respect of overseas domestic workers. The report on that review was published on 17 December 2015. We are considering carefully his recommendations. I am aware that amendments have been tabled concerning the visa tie and acknowledge the considerable degree of interest among colleagues in ensuring that arrangements for the admission of overseas domestic workers protect them from abuse. The Government shares that objective. We expect to confirm our position on James Ewins' key recommendations by Report stage.

Lord Rosser, Lord Teverson and Baroness Ludford, amongst others, asked about the purpose of the new illegal working offence. Individuals who have an unlawful status in the UK are already committing a criminal offence. The new offence is intended to deter illegal working – a key driver of illegal migration. This is because it is important to address economic motivations where these exist and to discourage people from risking their lives and those of their families in a bid to get to the UK.

The Government is also clear that this offence is not aimed at those who are forced to work as the victims of modern slavery; individuals in this position will have legal protection against conviction under the existing defence provided in section 45 of the Modern Slavery Act 2015 for victims of slavery or trafficking who are compelled to commit an offence. Instead, it is aimed at those who deliberately come to the UK or overstay to make money where they have no right to do so. There is a current gap in legislation which means that we can prosecute those who have permission to be in the UK but who are working in breach of their conditions, but not those who have entered illegally or overstayed their visas when they are working but should not be in the UK. The creation of the offence closes this gap.

The normal practice will continue to be to seek to remove illegal migrants from the UK when they are encountered, including assisting them to depart voluntarily, rather than to prosecute them. However the new offence will provide us with a firmer basis for using Proceeds of Crime Act cash seizure powers –which apply only in cases where the cash involved exceeds £1,000. To be clear, the government already uses Proceeds of Crime Act powers in relation to those committing immigration offences under existing provisions in the UK Borders Act 2007. In 2014/15, the courts approved the forfeiture of cash totalling £542,668 seized by immigration officers. Following criminal convictions for immigration-related offences courts ordered the confiscation of assets totalling £966,024. We expect that in-country seizure could double with the use of the extended powers enabled by the new illegal working offence.

Baroness Lister asked whether the new offence would deter employees from revealing near slavery conditions if they feared prosecution or loss of their meagre earnings. It is important to stress that cash seizure powers are for only significant cash – over £1,000. The fear of prosecution is not a new one as all illegal migrants

are already liable for prosecution under existing laws. This Bill is primarily focussed on tackling rogue employers – with better enforcement managed by the new Director, tougher criminal sanctions for employers and powers to close rogue businesses, but we also need to deter those who remain in the UK illegally for economic reasons.

Lord Balfe asked whether the 48 hour closure period for the new business closure orders was too short. The 48 hour period is the maximum that an immigration officer can apply but a magistrate can keep the business closed for longer. We believe that ensures that abuses are immediately tackled but also provides scrutiny and redress in a proportionate manner.

Part 2 - Access to services

I would like to thank Lord Best for his very thoughtful speech and all the hard work he has done to try and improve the Right to Rent scheme and to help make the implementation of this important measure a success.

Lord Rosser, Baroness Kennedy of the Shaws, Baroness Lister, Baroness Sheehan and Baroness Janke all asked about the risks of discrimination in the private rented sector caused by immigration legislation. The Government gave careful consideration to concerns about the potential for race discrimination when establishing the Right to Rent scheme. These concerns are understandable and right to rent checks were carefully crafted in consultation with bodies representing landlords, agents, local authorities and housing charities before the scheme was rolled out. A wide range of documents can be provided to give evidence of right to rent, as the Government recognised the need to be flexible so as not to disadvantage, for example, the minority of British citizens who do not hold a passport. And as Lord Best remarked, the list of acceptable documents has been revised following further consultation with the bodies set out above.

The Government has published an extensive and detailed evaluation of the first six months of implementation of the Right to Rent scheme, including mystery shopping research carried out by independent contractors. This found no hard evidence of discrimination in terms of outcomes for prospective tenants, with no major differences in their access to accommodation between the area where the scheme was in force and comparator areas. The scheme is underpinned by codes of practice which make clear to landlords the need to conduct checks in a consistent manner to avoid discriminatory behaviour.

The offences in this Bill will tackle those rogue landlords who do so much damage in the private rented sector. I can assure colleagues that we are primarily concerned with serial offenders and the most egregious rogue landlords, not those who accidently fall foul of the law.

Lord Best, Baroness Ludford and Baroness Sheehan asked about the plans for future evaluation of the Right to Rent scheme. As we roll out the Right to Rent scheme in 2016 we will continue to monitor its effects particularly in relation to discrimination.

Baroness Ludford and Lord Paddick asked about safeguards in the eviction process. We have built safeguards into the process. The landlord may only evict using these new powers where the Home Office has given notice that the tenant is disqualified from renting. The decision on who is disqualified from renting is not one that landlords can make themselves. These notices will only be given after full consideration has been given to the illegal migrant's circumstances. Genuine obstacles to leaving the UK, not of their own making, will be taken into account. Where families with children are involved, the Secretary of State will consider the circumstances of each family member, the duty of wellbeing owed to children, and whether the family is co-operating with the family returns process. Before eviction, a tenant can challenge the Home Office's decision to give notice in three ways. Firstly, they can administratively challenge any error. Secondly, they can apply to the Home Office for "permission to rent", even where they do not have a "right to rent". Thirdly, they can apply to the High Court for judicial review. Moreover, legal protections against harassment and illegal eviction remain in force.

In respect of measures in the Bill on driving, the Bishop of Southwark and Baroness Sheehan asked what would constitute "reasonable grounds" for suspicion to search for driving licences and the risks of discrimination this might create. Many areas of immigration law relating to use of powers of arrest and search make reference to acting where there are "reasonable grounds" to do so. Reasonable in law means fair and proper having regard for the circumstances, in this case including knowledge and training as an immigration officer. It applies an objective test when used with 'suspicion' or 'belief' so that decisions must be based on facts that other people (such as a court of law) could evaluate. The reasonable grounds that form the basis of the action must be recorded in the search and arrest notes. Guidance for immigration officers on this issue is currently being updated and will be re-published shortly. The updated instructions will also provide guidance on cultural and gender awareness.

Part 3 - Enforcement

Several understandable concerns were raised about whether the Bill affords immigration officers powers akin to the police, particularly with regard to the collection of evidence, and the consequences of this. I can assure colleagues that the powers in the Bill ease evidence collection for the police. At the moment, immigration officers cannot seize evidence of non-immigration crime. This can lead to a perverse situation where an immigration officer conducts a lawful enforcement visit and seizes evidence of immigration crime, but cannot seize obvious evidence of drug dealing for example, and must send for a police officer allowing time for the evidence to be tampered with or destroyed by those on the premises that were not arrested by the immigration officer. The new powers close this gap and allow immigration officers to seize evidence of non-immigration crime and pass it to the police.

The Bishop of Southwark asked whether the immigration officers are trained to use such powers. Immigration officers are indeed trained in searches and evidence collection. Only officers who are trained and authorised to do so may use these powers and officers have to pass annual refresher training to maintain this authorisation. The power to seize evidence of other crimes is not intended to

replace the role of the police but to assist, so that evidence is not concealed, damaged or destroyed whilst awaiting the arrival of police officers.

Baroness Hamwee asked whether the IPCC would have jurisdiction to investigate the conduct of immigration officers. I am happy to confirm that the IPCC has a remit to investigate complaints and serious conduct matters relating to the exercise of immigration enforcement powers by section 41 of the Police and Justice Act 2006 and the UK Border Agency (Complaints and Misconduct) Regulations 2010. In Scotland the Police Investigations & Review Commissioner has a remit to investigate complaints and serious conduct matters involving officials undertaking immigration enforcement functions in Scotland and in Northern Ireland the Police Ombudsman of Northern Ireland has a similar role. In addition, the Independent Chief Inspector of Borders and Immigration inspects and monitors immigration and customs functions in relation to the exercise of enforcement powers, including powers of arrest, entry, search and seizure.

Detention

There was an important and wide-ranging debate on immigration detention that I listened to with interest. Lord Rosser asked whether there would be an independent review of immigration detention. As colleagues are no doubt aware, the Home Secretary has recently received an independent report on detainee welfare in immigration detention by Stephen Shaw CBE, the former Prisons and Probation Ombudsman for England and Wales. I am happy to confirm that we will publish the Shaw Report and our response before the matter is debated in Committee.

A number of colleagues asked an important question about whether there should be a time limit on immigration detention. I am grateful to Lord Hylton, Lord Dubs, Baroness Lister, and Lord Roberts of Llandudno for their thought-provoking comments on this issue. Whilst there is no fixed upper time limit to immigration detention, it is not possible to detain under immigration powers indefinitely. As Lord Brown of Eaton-under-Heywood correctly pointed out, 30 years of case law have established that the power to detain under immigration powers is not unlimited. Detention must be used sparingly, and for the shortest period necessary. The power to detain exists only so long as there is a reasonable prospect of removal within a reasonable time. Those questions are kept under review and are subject, ultimately, to judicial scrutiny.

I share Lord Brown's deep concerned that an arbitrary time limit would potentially allow criminals and non-compliant individuals to play the system knowing that if they refuse to cooperate with removal for long enough they will be released.

Lord Hylton asked when the UK would sign the EU Returns Directive. I can confirm that the UK does not participate in the EU Returns Directive which came in to force on 13 January 2009. We prefer to formulate our own policy, retaining control over conditions of entry and stay, including the returns procedure. However, our current practices on the return of illegal third country nationals are broadly in line with the prescriptions of the directive.

On the measures in the Bill regarding immigration bail and tagging, Baroness Kennedy of the Shaws and Lord Ramsbotham expressed concern about the Secretary of State being able to direct the Tribunal to require a foreign national offender to be tagged. I would like to clarify that it is not correct to say that the Secretary of State will direct the Tribunal on this issue. The Secretary of State will have a separate power to impose a tag or specific residence condition where the Tribunal has not done so. We are taking such a power to fully deliver our manifesto commitment to GPS tag foreign criminals whom we are seeking to deport.

We recognise that the Tribunal is, and should remain, the primary body to consider and set conditions when it is releasing on bail, and that is why we have not sought to remove the question of tagging and residence from the Tribunal and pass it to the Home Office. Instead, we are taking a limited and proportionate approach where, in practice, we will first request the imposition of the tag by the Tribunal in cases where we consider it appropriate, and we anticipate that the Tribunal will frequently impose a tag.

Only if the Tribunal declines would we consider whether the Secretary of State should impose such a condition using the new power. There will be a presumption in policy that a foreign criminal released on bail should be tagged, but each decision to impose a tag where the Tribunal has not imposed one as a condition of bail will be made on a case by case basis.

Part 4 - Appeals

Part 4 of the Bill delivers our manifesto commitment to expand the use of the 'deport first appeal later' principle. Lord Dubs, Baroness Ludford, Baroness Kennedy of the Shaws, Baroness Lister and Lord Roberts of Llandudno asked whether it was fair or practical to expect people to appeal from overseas. Appealing from outside the UK does not mean appeals are less likely to succeed. I hope noble colleagues will draw some comfort from internal Home Office statistics for the last five years (to July 2015), which show that 38% of entry clearance appeals succeed. 42% of appeals succeeded in 2015 in the comparable in-country category of managed migration appeals. Both of these categories of appeal could involve human rights claims.

Colleagues will also be aware that the Court of Appeal has held in the case of *R (on the application of Kiarie) v Secretary of State for the Home Department; R (on the application of Byndloss) v Secretary of State for the Home Department* [2015] EWCA Civ 1020, that the requirement in an Article 8 appeal is not for the 'most advantageous procedure available' but is 'a procedure that meets the essential requirements of effectiveness and fairness'. The Court confirmed that the Secretary of State is generally entitled to rely on the independent specialist judiciary in the Tribunal to ensure that an appeal from overseas is fair and that this process is in line with our legal obligations under the European Convention on Human Rights (ECHR).

Baroness Lister raised understandable concerns about the impact of these measures on children and families. I am happy to reassure colleagues that the effect on the family will be considered in every case and the best interests of children in the UK are a primary consideration in any immigration decision, including in deciding whether to certify a claim under the new power.

Part 5 - Support

There was considerable interest in the detail of the measures on asylum support. I was interested to hear the thoughtful contributions from colleagues on this topic. I respond below to each of the points raised. We will continue to meet all of our international obligations towards asylum seekers and refugees, but equally we expect migrants who have failed to establish any lawful basis on which to remain here to leave the UK rather than providing them with access to support.

The Bill will therefore restrict the support we give to people whose claims for asylum have been found to be unsubstantiated, and their dependants, to those who are destitute and face a genuine obstacle to leaving the UK.

Lord Rosser asked about the circumstances in which a genuine obstacle to departure will be considered to exist and why the onus should be on the applicant to show that an obstacle exists. The circumstances in which a genuine obstacle will exist will be set out in regulations subject to Parliamentary approval. Common examples will be where medical evidence shows the person is unfit to travel or there is evidence that an application for the necessary travel document has been submitted and is still outstanding. Under the current system failed asylum seeker families continue to receive Home Office support as though their asylum claim and any appeal had not failed, with the onus on the Home Office to demonstrate they are not complying with return arrangements for support to be ceased. This needs to change. Our focus should be on supporting those who have not yet had a decision on their asylum claim and who may need our protection – not on those the courts have agreed do not need our protection and should leave the UK. Under the Bill, the onus will be on the family to show there is a genuine obstacle to their departure at the point their appeal rights against the refusal of their asylum claim are exhausted, in order to qualify for support under the new section 95A of the 1999 Act. This change is an appropriate one.

Lord Rosser and Lord Harries of Pentregarth also asked why there will be no right of appeal against the refusal of support under section 95A. This is because the assessment of whether there is a practical obstacle to departure from the UK generally involves straightforward matters of fact and we do not consider that a right of appeal is necessary. The statistics quoted in the debate generally relate to appeals against the refusal of asylum support made for different reasons and many of these cases were allowed because the individuals only supplied the necessary evidence to establish their eligibility for support after the Home Office decision had been made. Relatively few related to the issue of whether there was a practical obstacle to departure from the UK.

I understand the concerns raised by several colleagues, including Lord Hylton, Baroness Ludford and Lord Alton regarding destitution. Lord Alton mentioned that the British Red Cross had supported more than 10,000 asylum seekers and their dependants in the past year. I look forward to seeing their forthcoming report on these issues, but I also note that in 2014-15 the Home Office spent an estimated £100 million on support for asylum seekers and their dependants who would otherwise have been destitute, pending the outcome of their asylum claim and any appeal. That support took the form of free, furnished accommodation and a cash allowance from the Home Office to cover other essential living needs. The Bill does not alter these arrangements. We are simply making it clear that failed asylum seeker families and other migrants who the courts have agreed have failed to establish any lawful basis on which to remain here cannot expect to automatically receive Home Office or local authority support in circumstances where they could and should leave the UK.

I accept the points made by Lord Dubs and Baroness Janke that some failed asylum seekers may fear returning to their own country, notwithstanding that the courts have agreed with the Home Office that this fear is not well founded, but I do not believe this factor justifies providing unlimited support from public funds. Rather, we need a better basis on which, together with local authorities, we can engage with these individuals and families in a process that explains the options realistically open to them, including of assisted voluntary return, and secures their departure from the UK. This process of engagement is also the key to mitigating the risk, mentioned by Baroness Ludford in the debate, that some families will abscond if they lose their support or that charities may need to provide assistance.

In respect to a question asked by Lord Dubs, we have consulted the Devolved Administrations, as well as other key partners across the UK, about the new support arrangements for failed asylum seekers and others set out in the Bill and we will continue to engage with them on how the new scheme will operate in practice.

Turning to current support arrangements, the Bishop of Southwark and Lord Harries both raised questions about the sufficiency of the weekly asylum support rate provided by the Home Office. Colleagues are aware that a new weekly rate of £36.95 per person was introduced in August 2015. We are satisfied that the methodology for assessing the level of support ensures that it is sufficient to meet essential living needs and prevent destitution. It reflects our assessment, based on data from the Office for National Statistics, of the money required to meet essential living needs, such as food, clothing and toiletries. It is provided in addition to free, furnished accommodation. Like the systems in place in France, Germany and Sweden, it takes into account the economies of scale available to multi-person households. We will continue to keep the support rate under review and we have written to partner organisations inviting them to submit relevant evidence.

Baroness Ludford suggested that asylum seekers should be allowed permission to work. This is a matter that has been debated on a number of occasions recently and we have made our position clear. In general, we do not believe it is sensible to allow asylum seekers to work because this creates a risk of incentivising more unfounded asylum applications from people whose motive for coming to the UK is to take advantage of economic opportunities, rather than because they are fleeing

persecution. An exception is made to allow employment in shortage occupations identified by the Migration Advisory Committee if the asylum claim has been outstanding for more than 12 months for reasons outside the person's control. We think this policy strikes the right balance and have no plans to change it.

Lord Harries suggested that the new arrangements, in place of those under the Children Act, which the Bill makes for local authority support for failed asylum seekers leaving their care as adults creates an unclear patchwork of various forms of support. I can reassure colleagues that the measures will apply to adults whose asylum claim and any subsequent appeal has failed and who should be leaving the UK. As such, it is not appropriate that local authorities should have to support them under Children Act provisions geared to the needs of those leaving local authority care whose long-term future is in the UK. The Bill makes alternative arrangements for their accommodation, subsistence and other support prior to their departure from the UK.

We want to discourage unaccompanied children from seeking to come to the UK to claim asylum for the wrong reasons, especially where this involves dangerous travel routes controlled by people smugglers and traffickers. For example, according to Eurostat, in 2014 the UK received almost 80% of all asylum claims lodged by unaccompanied asylum seeking Albanians in the EU. Most of these were 16 and 17 year olds and very few will qualify to be granted asylum. Part of the reason for this figure is a perception that the UK provides generous long-term support for all those who arrive in the UK as children. The Bill will help to correct this.

Finally, Baroness Lister of Burtersett asked about the drafting of the regulations under the Bill which will set out the detail of the new arrangements for the provision of support to failed asylum seeker families and to adult migrant care leavers. I can confirm that the government will have more to say about the proposed content of the regulations ahead of the Committee stage consideration of those measures.

Part 6 - Border Security

Part 6 of the Bill makes it harder to facilitate illegal entry to the UK. Lord Wallace of Saltaire asked whether the powers to fine carriers who fail to direct passengers at airports through immigration control will apply to private airstrips and helipads where the rich arrive and depart. The civil penalty for misdirected passengers will only apply where passengers arrive at ports with designated control areas; currently it is not planned to designate control areas at general aviation sites. However the Government is committed to delivering a safe, secure and effective border across the UK at all relevant locations, and the Counter-Terrorism and Security Act 2015 includes enabling provisions for a stronger legislative framework for advance notification for arrivals at private airstrips. Regulations will bring greater clarity to what is needed from the sector; but will also provide for appropriate sanctions to enforce compliance by the small minority that do not provide advance notification under the current arrangements.

Baroness Hamwee asked what will be done to assist passengers when a vessel is detained under new maritime powers. Under the power in the Bill, vessels may be diverted only to a port in the UK. Upon arrival in the UK an individual wishing to claim asylum may do so and will be processed in the ordinary way. They will arrive in a more controlled and safe manner.

Part 7 - English Language duty on the public sector

This part of the Bill delivers our manifesto commitment to ensure those working in public facing roles providing key services can engage with their customers fluently in English. Baroness Lister asked for reassurance that the English language duty won't apply to those who communicate using British Sign Language and that there will be a clear statement of this in the Code of Practice. I can provide immediate reassurance that that the policy intention is that the English language requirement should not be applied in respect of those staff who communicate using British Sign Language.

The duty to ensure a standard of spoken English (or Welsh, in Wales) lies with the public authority, rather than with an individual. If a public authority has made sure there is an interpreter in place to translate British Sign Language into fluent spoken English, they will have met this duty (whilst, at the same time, providing reasonable adjustments and meeting their obligations to the worker under the Equality Act).

Part 8 - Skills charge

Part 8 of the Bill introduces an immigration skills charge, which is intended to help address current and projected skills needs in the UK economy and contribute to reducing net migration. Lord Wallace of Saltaire asked whether public sector employees (doctors etc) will be included in the skills charge. The details of how the skills charge will operate are still to be decided, following consideration of the Migration Advisory Committee's report, but the Prime Minister has been clear that all sectors should be reducing their reliance on migrant labour. We will work with stakeholders to consider specific concerns and set the charge at an appropriate level.

Family reunion

During the debate, Baroness Hamwee, Lord Hylton and Lord Dubs asked whether the current refugee family reunion rules are too restrictive and divide families. Lord Dubs asked specifically whether children should be allowed to bring their parents to UK.

We recognise that families may become fragmented because of the nature of conflict and persecution and the speed and manner in which those seeking asylum often flee their country of origin. Our policy allows the immediate family members of a person granted refugee leave or humanitarian protection in the UK – their spouse or partner and children under the age of 18, who formed part of the family unit before the sponsor fled their country – to reunite with them here. This is in line with our international obligations. We have granted over 21,000 family reunion visas over the

past five years (2010 to 2014). Numbers are likely to increase over the next five years in line with the numbers of recognised refugees in the UK.

We do not consider that it would be appropriate to allow children granted refugee status in the UK to sponsor their parents to join them. To do so could result in children being encouraged, or even forced, to leave existing family units in their country and risk hazardous journeys to the UK in order to act as sponsors. This would play right into the hands of traffickers and criminal gangs and run counter to our safeguarding responsibilities. We believe that our current rules strike the right overall balance on this important issue.

Lord Teverson asked whether the current rules governing when British people can bring their non-British spouse to the UK are too restrictive. We welcome those who wish to make a life in the UK with their family, work hard and make a contribution. But family life must not be established here at the taxpayer's expense, and family migrants must be able to integrate. That means they must be able to speak our language and pay their way. This is fair to applicants and to the public.

That is why the family Immigration Rules were strengthened in the last Parliament, including by a minimum income threshold based on advice from the Migration Advisory Committee. The courts have upheld the lawfulness of the new financial and English language requirements. These strike a fair balance between the interests of those wishing to sponsor a non-EEA national partner to settle in the UK and of the community in general.

Other matters

Lord Rosser and Lord Alton of Liverpool both asked sensible questions about the evaluation we have undertaken of both the impact of the Bill and the impact of the Immigration Act 2014. As I said during the debate, we have published six separate financial impact assessments on various parts of the Bill as well as a range of equality assessments.

The aim of the Immigration Act 2014 was to increase voluntary departures of illegal migrants. In his report published last week, the Independent Chief Inspector of Borders and Immigration commented on the government's success in this aim, with year-on-year increases of confirmed voluntary departures every year since 2012/2013. That is the best measure of that Act's success.

Lord Rosser and Lord Teverson asked about the volume of illegal migration, and Lord Hamilton asked whether the high rate of issue of national insurance numbers might indicate that net migration might be higher than reported. National insurance numbers (NINOs) are issued by the Department for Work and Pensions following thorough identity and right to work checks. They are not a good indicator of net migration for several reasons. First, they include short-term migrants (who may stay for very short periods) as well as long term migrants. Second, the difference between when a person is issued a NINO and when they arrived in the UK can also lead to inaccuracy in the figures. For example, there was a sharp rise in registration of EU2 nationals in 2014, but this reflected migration over an extended period with over a third of those registering in 2014 reporting that they had arrived in the UK

before transitional controls were lifted on 1 January 2014. Third, NINOs do not record departures from the UK and there is no requirement to re-register following a first registration. Finally, NINOs may not be applied for by migrants not intending to find employment in the UK.

It is difficult to estimate the volume of illegal migration because by its nature it remains under the radar and outside official statistics. Information about those leaving the UK has been collected from passengers on all scheduled commercial international air, sea and rail routes from 8 April 2015. Over time exit checks will begin to provide significant new insights into those departing the UK, giving us a more complete picture of those leaving the country. Exit checks are not designed to provide direct estimates of net migration but the Office for National Statistics will start to use exit check data to improve their International Passenger Survey by further enhancing the weighting and design of the survey.

I hope this letter provides colleagues with the reassurances they were seeking. I look forward to further debate on these important matters as the Bill progresses, and I hope to see many noble Lords at the meeting for all interested Peers on Tuesday 12 January at 5pm.

I am placing a copy of this letter in the House library.

With best wishes,

Rt Hon Lord Bates