

Immigration Policy in an Independent Scotland: Opportunities and Constraints

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What sort of immigration policy might Scotland pursue in the event of independence?

My first premise is that Scotland would be keen to pursue a rather different approach to that currently followed by the Home Office. For a number of demographic and economic reasons, Scottish demand for labour migration shows a pattern distinct from that of the rest of the UK. And for a number of years, both Labour and SNP governments have expressed frustration that their margin of manoeuvre is constrained – they would ideally like to attract more migrants than UK policy allows. This is both to fill gaps in particular sectors; and to boost human capital more generally, by admitting migrants on the basis of qualifications or skills.

This impulse to a more liberal policy appears to be supported by evidence on public opinion. A number of polls suggest a relatively higher tolerance for immigration and ethnic minority groups than the rUK (though the gap is small – more on this below).

I'm not going to talk about the technical modalities of such a policy. There are plenty of good examples from across the OECD. Instead, I'll focus on the question of the potential constraints to pursuing a more liberal path. What, if any, constraints might the government face in adopting a more liberal approach?

1. Scottish immigration policy within the UK

A typical concern raised in debates on this is the idea that Scotland would not have autonomy over its immigration policy because it would be part of Schengen. I think it is reasonable to assume that in the event of independence, the EU would accept that Scotland would have a similar relation to rUK to that of Ireland – namely, it would be permitted remain outside of Schengen, but be part of a Common Travel Area. As part of the CTA, Scotland would enter into arrangements with rUK and Ireland regarding the abolition of, or at least the introduction of far laxer, border controls – and possible moves towards a common visa policy (as currently being considered within the CTA).

This does not mean that Scotland would need to dovetail its immigration policy with that of the UK. The abolition of internal borders would simply mean that there was free circulation between countries. It would not imply that third country nationals had the right to reside or work in another country within the CTA.

What it would imply, though, is that there may well be a concern about irregular labour or stay. In other words, a concern that either: (a) those who were legally present in Scotland (and who may have had authorisation to work) might travel on to England and reside or work on an unauthorised basis; and (b) those who were illegally present in Scotland might travel on to England and likely reside or work on an unauthorised basis.

The first scenario is unlikely for most types of immigrant – those with authorisation to live and work in Scotland are unlikely to be motivated to move to a place where their stay is not authorised. But the second category is potentially more of a concern. E.g. that those who have overstayed visas or had their asylum applications rejected might travel down to England, for example to look for irregular employment, or to join family or kin in other cities. This has indeed been a headache within the Schengen system: concerns about “country shopping” of asylum seekers or irregular migrants between EU countries. This concern might imply some pressure on Scotland to ensure its asylum system and its control of irregular migration are robust.

2. The EU

A second issue frequently raised is that the EU will impose constraints, through its various Directives on immigration and asylum. The short answer is that these constraints will be negligible. Assuming Scotland is part of the CTA, then it will be signed up to a similar set of measures to the UK. In other words, it will not be part of Schengen, so will not have a free travel area in common with continental Europe; it will have opted out of many of the provisions on immigration adopted by other EU countries (e.g. the Blue Card directive – although in fact, none of these pose any significant constraint on national EU policy). It will be signed up to a number of Directives on asylum – but these primarily set out a number of minimum standards, all of which the UK already meets (and a future Scottish asylum policy would doubtless want to meet and exceed).

3. Public opinion and immigration

More concerning for those keen to pursue a more liberal policy is the potential constraint imposed by populist mobilisation of anti-immigrant sentiment. Recent research has found that there is a lower level of hostility to immigrants and ethnic minority residents in Scotland, compared to the rest of the UK (ESRC research and British Social Attitudes survey). But I'd caution against relying on this being sustained in the event of increased immigration.

First, no European government – with the possible exception of Spain – has been able to sustain a more explicitly liberal approach to labour migration since the 1970s. Both the UK and Germany were thwarted in efforts to do this; other governments have adopted a more cautious approach, instead admitting immigrants through the back door (e.g. irregular immigration to Italy), or through complex and opaque exemptions for certain types of sectors or skills or employers.

Second, this is likely to be even more challenging in a context where a Scottish Government has new responsibility for immigration policy, and will for the first time be held accountable in this area. There are likely to be strong incentives for both opposition parties and the populist media to highlight adverse effects of more liberal policies – this has been the experience of almost all immigration receiving countries in Europe since the 1980s/1990s. And European publics have proved highly susceptible to political mobilisation around immigration. Immigration offers a channel for articulating broader concerns about unemployment, inequality and declining social cohesion.

The lesson is that these dynamics can fluctuate – a future government keen to pursue a more liberal policy would need to think carefully about how it phased in reform, justified it, and – most importantly – how it got the media and opposition parties on board.

4. Unintended consequences of policy change

The fourth type of constraint concerns the risks of creating unanticipated consequences through liberalising certain immigration routes. One prime example is that of asylum policy. Recent Scottish Government documents have suggested that asylum seekers/rejected asylum seekers might be able to help address labour shortages. Experience across Europe shows that where the asylum route becomes a mode of entry for so-called “mixed” flows – i.e. those seeking economic opportunities as well as those fleeing persecution or violence – then it can seriously undermine the credibility and functioning of the asylum system. It sends a signal to potential labour migrants that they can bypass the “normal” routes for entry, and instead apply for asylum. This can lead to a rise in asylum applications from those who are not genuinely in need of protection; and that in turn creates administrative costs and often media and public hostility – and risks undermining the credibility of *bona fide* refugees applying for asylum.

So the lesson is, by all means explore ways of supporting the transition from asylum seeking to longer term integration. But avoid sending out a clear signal about employment opportunities via the asylum route.

Conclusion

There is plenty of scope for developing a policy more suited to Scotland's demographic and economic context, and Scotland would have a large degree of autonomy in doing so. Contrary to some recent claims, neither membership of CTA or EU would significantly constrain Scottish policy.

The main constraint, in my view, would be the potential for populist mobilisation of anti-immigrant sentiment by sections of the media and party politics. Policy would also need to be designed in a way that takes into account/reduces scope for undesired consequences of liberalising particular routes, e.g. in the area of asylum.