

# **Submission from UNISON Scotland to the Scottish Parliament European and External Relations Committee.**

## **Scotland's relationship with the European Union**

### **Introduction**

UNISON is Scotland's largest trade union, representing over 150,000 members, primarily delivering public services. UNISON Scotland welcomes the opportunity to respond to the European and External Relations Committee inquiry into the implications for Scotland's relationship with the EU of the referendum result.

UNISON argued in the referendum that it's in the best interests of our members and the public services they provide for Britain to stay in the EU. We welcome the fact that in Scotland, 62% voted to remain, with a majority to remain in all 32 local authorities. However, we recognise that a majority in the UK took a different view and we agree that the Scottish and UK Parliaments now need to address the consequences of that result.

In the absence of any clear strategy from the UK government on Brexit, it is difficult to respond to the call for evidence with the clarity we would wish. The UK Government has not even been clear as to when Article 50 will be invoked. Speculation on a wide range of potential implications isn't always helpful and therefore, as the committee recognises, it will be necessary to refine our analysis as the debate develops.

In this response we identify a number of immediate steps governments need to take in response to the referendum and then consider the short to medium term implications.

### **Immediate Steps**

#### **Economy and public services**

Our immediate concern is the economic impact of the uncertainty that Brexit has generated. Our members are primarily concerned about insecure jobs, falling incomes, unaffordable housing and the challenges facing our public services as a consequence of austerity cuts. In a recent poll 55.5% of Scottish households were worried about how leaving the EU will affect their financial wellbeing.

Analysis by the CEP and NIESR suggests that the cost to the UK economy of leaving the EU would be between 1% and 3% smaller by 2020 and between 2% and 8% smaller by 2030 than if we stay in. A 1% drop in GDP is a fall of £19 billion, equivalent to £720 for each household currently in the UK. The Scottish Government's analysis is that the Scottish economy could lose between £1.7bn and £11.2bn a year by 2030 and tax revenue is projected to be between £1.7 billion and £3.7 billion lower. While the latest economic metrics have not been dramatically worse, they have been supported by substantial interventions from the Bank of England. In the longer term the £5.7bn outflow of investment capital may be a cause for concern.

A weaker economy may lead to calls for further cuts in public spending – a risk we cannot afford as our public services, particularly in local government, are already under increasing pressure.

We would therefore urge the abandonment of austerity to allow investment in public services to boost demand. Social housing should be an immediate priority. This is a more effective way of generating demand than the, at best, indirect impact of tax cuts. We are particularly opposed to proposals to cut Corporation Tax and business rates. There should also be immediate action to establish investment plans, in discussion with unions and employers, for the sectors most likely to be affected by Brexit.

## Immigration and EU workers

The referendum did enable a genuine debate about the future of our economy and the kind of country we want to live in. However, at its worst the campaign was typified by hatred and vitriol, together with misinformation, particularly over immigration. UNISON Scotland has always been clear about the positive role immigration has played in the Scottish economy and in the delivery of our public services. The fact is you're more likely to be treated by a migrant than you are to be behind one in an NHS Scotland waiting list.

Migrants have a higher employment rate than people born in the UK, are less likely to claim benefits or use the NHS. Migrant employment neither deprives British workers of jobs nor depresses local wages, as a study by the London School of Economics' Centre for Economic Performance (CEP) shows. There aren't a fixed number of jobs to go around. EU migrants don't just fill jobs, they also create them: when they spend their wages and in complementary lines of work. While EU migration has risen in recent years, so has the employment rate of people who were born in the UK.

Nowhere in the UK is the economic and social case for immigration stronger than in Scotland. Our working age population is not projected to increase at the same rate as the rest of the UK. The biggest increase in demand for new jobs is in health and care – 65,000 extra jobs will be needed by 2020. The numbers of working age Scots to support our ageing population is not going to be there without immigration.

Public opinion polls in Scotland and the UK shows strong support for letting EU migrants stay. We do not believe that our colleagues from EU countries should be used as some form of bargaining counter in Brexit negotiations. The referendum result has inevitably triggered uncertainty amongst overseas workers and students. The Scottish and UK governments must therefore do all they can to reassure them. The public statements of 'Welcome Here' have been helpful and the UK government should be pressed to make a firm commitment on the right to stay. A guidance note from the Scottish Government on the minimal implementation of the Prevent legislation, with regard to the HRA provisions in the Scotland Act, would also be helpful.

UNISON is launching a dedicated network to support the more than 67,000 members and their families who are EU citizens from outside the UK. We will shortly be publishing an advice booklet and a UNISON EU network roadshow will be touring the UK in the autumn.

We are also asking MPs to back Melanie Onn's Workers' Rights (Maintenance of EU Standards) Bill on 7 September. The bill addresses the collective rights and protections of UK workers that are currently enshrined in EU legislation – and the fear that those will be lost if the UK leaves the single market as well as the EU. It calls on the UK government to underpin those rights by "fully and properly" establishing them in UK legislation.

The Scottish Government should also be calculating the costs to public services and the wider economy of different post-Brexit immigration options. For example, if the UK government decides that free movement is too great a political price to pay for EEA membership, then there would be significant additional employment costs. The current rules for non-EEA nationals include sponsorship and immigration skills charges. If the supply of labour was restricted there will also be workforce planning issues, particularly in health and care, and associated training costs.

For existing EU nationals there is some uncertainty over their legal status post-Brexit and the impact on their families. We should also not forget Scottish workers who are employed in other EU states. Employment data on the number of EU nationals working in Scotland is also poor, even in the public sector.

## **Short to Medium Term Actions**

### **Human Rights**

We believe the erosion of important rights is one of the major risks of Brexit. The UK government should be pressed to remain a signatory to the European Convention on Human Rights and to retain the Human Rights Act.

In addition, as we argued during the passage of the Trade Union Bill, we believe that the Scottish Parliament can use existing powers to take a pro-active stance on defending rights. The Scottish Government has the power and the obligation to adopt measures, including primary legislation to preserve the significant human rights gains derived from EU law. Such an approach would include stronger and clearer links to UN treaties and would have a wider impact on workers across the UK.

### **Employment Rights**

Scotland's employment law is a mixture of UK law and law enacted to fulfil the requirements of EU directives. There are also some differences both in the law itself and its interpretation between Scotland and the rest of the UK. Workers in Scotland gain a great deal in terms of living standards from EU membership. Maternity leave, paternity leave, guaranteed paid holidays, a limit on working hours, and proper breaks at work all either originate in Europe, or are strengthened by, our membership of the EU.

The future of these important rights may well depend on the type of relationship that is negotiated with the EU. A 'hard' Brexit could result in the repeal of regulations while a 'soft' exit will require the UK to maintain EU employment provisions on the Swiss model. In addition, many EU rights have become contractual - UNISON and other trade unions will of course use every avenue open to us to defend our members contractual rights.

As Michael Ford QC observed in his advice on the impact of Brexit on employment rights; the nature of post-Brexit employment laws is 'ultimately a political question'. In this context we believe the Scottish Government should use its existing powers to strengthen fair employment. The work of the Fair Work Convention is an important start in this regard. Practical measures such as creating sectoral collective bargaining arrangements, starting with the care sector, and using public sector procurement, would minimise any potential undermining of reserved employment rights post-Brexit.

### **Constitutional Options**

There are a number of initiatives that are considering if Scotland could somehow stay within the EU. UNISON Scotland believes it is right to explore all options in relation to Brexit and we welcome the work being undertaken by the Scottish Government and others to examine these.

Issues include:

- How the Scottish Parliament responds to any Westminster legislation to take the UK out of the EU. While it would require a legislative consent motion, the 'normally' caveat would probably allow Westminster to prevail, albeit at a political price.
- A 'reverse Greenland' that would allow Scotland to remain in the EU while the UK exited.
- Independence for Scotland before Brexit and how the EU would treat Scotland – either as the continuing member or as a new accession state. This has wider consequences for the border with England, which would become the EU border, as well as the wider considerations of independence.

- Post-Brexit EU competencies in areas like environment, agriculture and fisheries would revert to Holyrood because they are devolved under the Scotland Act. Scotland could develop partnerships with regions and cities in Europe and cooperate with them. However, this would not include the big issues of trade and free movement of people and they would not give Scotland a role in EU policy making.
- The impact and negotiating position Scotland should take on the Brexit options as part of the UK negotiating strategy. The impact on Scotland of a 'hard' exit, falling back on WTO rules, to 'soft' exit options such as the Norway model. All of these options impacts on devolved competencies and Scotland should be fully engaged in the process. The First Minister's Brexit Tests and Scottish Labour's post-Brexit action plan are a reasonable starting point for Scotland.
- These considerations will also spark further consideration of the need for further devolution and there have already been calls for a more federal UK. UNISON Scotland has set out its views on further devolution previously and employment law is an obvious area for re-consideration post-Brexit.

The complexities of dealing with Brexit is challenging for officials in the civil service and the wider public sector. There is a need to ensure that there is sufficient resource and expertise developed to respond to these demands.

## **Conclusion**

UNISON Scotland supported Scotland's continued membership of the EU, despite our reservations over aspects of the EU. Post-referendum, there is considerable uncertainty and with that comes significant risks to our economy, public services and social cohesion.

We therefore argue that Governments should take immediate actions to support the economy and address the concerns of EU citizens living in Scotland. After that we believe that the Scottish Government should use all its powers to protect public services and human rights. This also means considering all the constitutional options to minimise the impact Brexit could have on Scotland.

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## **For further information:**

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