

PEOPLE MOVE

12 STEPS WE CAN TAKE TOWARDS
A FAIRER IMMIGRATION SYSTEM



THE JOINT COUNCIL
for THE WELFARE
OF IMMIGRANTS

FOREWORD

People have always moved. Down the road. To the next town, to the nearest city. And yes, sometimes people move across a border, to another country. Sometimes we move because we choose to, and sometimes we move because we have no other choice.

As any of the millions of British citizens living abroad know, it takes hard work to build a home, learn the language and make friends in a new country. But here at home, politicians have built an immigration system that often makes it impossible for people to build and maintain a life and it frequently punishes them for even trying. Every day we see stories about people's lives, families and communities being torn apart by a tangled mess of complex rules, an overstretched Home Office and a hostile environment.

It's hard for anyone to trust that the system can work efficiently or fairly. We don't believe it has to be this way. We believe it's possible for Britain to be a place where people don't suffer just because they move. Where newcomers are safe and welcome and communities are strong and open. Where policy is grounded in evidence and humanity. A place where we tell each other the truth: building fences and walls cannot change the fact that people have always moved and always will. And that all our lives are better because of it.

This publication offers 12 simple but effective steps that we can and must take towards a fair and efficient immigration system that works for everyone.

Satbir Singh
Chief Executive, JCWI

If you are interested in learning more, please don't hesitate to get in touch with us at policy@jcwi.org.uk



KEEPING FAMILIES TOGETHER

All our families belong together. And we all deserve the chance to live and grow old with the people we love. This doesn't change if one of us happens to be from somewhere else. Many of us travel for work, for leisure or to study. Sometimes we fall in love across borders.

Under the current rules, British nationals have to demonstrate that they meet a high minimum income requirement before they can live in the UK with a partner from outside the European Economic Area. 40% of working people with non EEA partners would have to choose between living overseas with the person they love and coming home to the rest of their family in the UK. This figure rises to 80% for women in part-time work. Our immigration system has thus separated tens of thousands of families; thousands of children have now grown up without one of their parents.

Governments should seek to make it easier, not more difficult, to build a life with those we love.

"My daughter is getting to know me via Skype. She was crying yesterday, and I couldn't pick her up, and it just broke my heart."

Father, 6-month-old daughter

jcw.org.uk/FamilyFriendly_FullReport

OUR RECOMMENDATIONS:

- ✓ Abolish the 'Minimum Income Requirement' so that no family is forced to live apart or in permanent exile
- ✓ Allow families applying for partner visas to apply from within the UK and live here together while they wait for a decision
- ✓ Simplify the process of obtaining a family visa so that no family needs to use a lawyer simply to submit an application





WORKING & STUDYING IN THE UK

A vibrant economy depends on access to talent and skills from across the world. People who've made the UK their home play a crucial role in staffing our public services. Similarly, our higher education system is one of the UK's leading export industries, and it attracts talent from across the world to engage in cutting-edge research, development and innovation.

However, where migration creates opportunity and dynamism, our immigration system creates dysfunction and vulnerability. It hampers graduates' ability to use their skills in the UK once they've finished studying. It ties workers to their employers, putting them at risk of exploitation. Short-term visas create obstacles to integration by preventing workers from putting down roots. Entire families are driven into modern-day slavery because undocumented migrants do not have the right to work.

We can and must introduce safer, fairer and more sensible rules that encourage long-term integration and provide workers with flexibility and freedom from fear and exploitation. Strengthening workplace protections for migrant workers creates better, fairer conditions for all workers.

OUR RECOMMENDATIONS:

- ✓ Abolish employer-dependent visas, so that workers have the flexibility to change jobs or leave an exploitative employer
- ✓ Allow in-country visa applications so that switching visa doesn't have to mean leaving the country
- ✓ Decriminalise the offence of 'illegal working' so that workers can report exploitation and are not at risk of modern slavery
- ✓ Guarantee complete confidentiality when migrants report workplace abuse, so that they are confident their data will not be used to detain or remove them
- ✓ Allow migrant workers recourse to public support and housing so that no working family is forced to live in poverty
- ✓ Avoid the creation of any visa route which creates artificial barriers to long-term integration
- ✓ Enable overseas students to contribute to the economy by offering two years to find work after graduation

"A 2018 Freedom of Information Act request revealed that 278 migrants arrested [for illegal working] ... were identified as potential victims of modern slavery only after they had been placed in detention."

Independent Chief Inspector of Borders and Immigration, An inspection of the Home Office's approach to illegal working (2019)

<https://www.gov.uk/government/publications/an-inspection-of-the-home-offices-approach-to-illegal-working>



RESPONDING TO FORCED MIGRATION

Sometimes moving is not a choice. Sometimes people are forced to move just to stay alive, safe or free. As a global power and as the fifth richest country in the world, we benefit from international rules, promises and obligations. This includes our obligation to lead by example and to guarantee shelter and safe passage to those who seek asylum or refuge from conflict, persecution and crisis.

We can and should build a system where asylum decisions are made quickly and fairly, so that people can put down roots and rebuild their lives in the UK. We should also develop comprehensive support systems which help those who seek asylum to navigate life here and settle in as active members of their local communities.

£5.39 per day – that's how much asylum seekers, banned from working, are expected to live on while waiting for a decision.

OUR RECOMMENDATIONS:

- ✓ **Lift the ban:** allow asylum seekers to work so that they can support themselves and their families and become active members of their communities
- ✓ **Keep families together:** provide safe visa routes so that refugees, including children, can reunite in the UK with their families
- ✓ **Provide safe and adequate housing throughout the asylum process so that asylum seekers don't end up homeless**
- ✓ **Invest in ESOL teaching so that asylum seekers can learn or improve their English**
- ✓ **Make swift, fair and lawful decisions so people are not left in limbo for years or forced to navigate the complex appeals system**
- ✓ **Create a culture in the Home Office of welcome and protection rather than one of disbelief. This includes training decision-makers to deal with complex cases involving trauma and abuse**
- ✓ **Treat survivors of torture and abuse with care and respect the judgement of medical and psychological professionals when assessing these cases**
- ✓ **Support those denied asylum who are unable to return home and ensure that they're protected from destitution and exploitation**



KEEPING OUR PROMISES TO EUROPEAN NATIONALS

The reciprocal right of free movement within the European Union has been enjoyed by millions of British nationals who have been able to live or settle elsewhere in Europe and by all those who have chosen to make the UK their home. Workers have been protected because no worker has depended on their employer for their rights. And obstacles to integration and settlement have been removed altogether. The system has worked because it has removed red tape and is embedded in principles of trust and opportunity.

As Freedom of Movement comes to an end, the government has placed the burden on European nationals to register for Settled Status, rather than automatically guaranteeing it. This will almost certainly result in hundreds of thousands of them becoming undocumented and losing their right to work, to access medical treatment or to live with their families and being criminalised as overstayers.

We owe it to our nearly four million European friends, neighbours, partners and colleagues to ensure that their rights are protected, just as we would like to see the rights of British nationals in Europe guaranteed.

"I feel insulted, anxious. This is where my home is and now I have to apply to stay here. And nobody can give me a guarantee that it will all be ok."

Eleanor

jcw.org.uk/eea_settled_status

OUR RECOMMENDATIONS:

- ✓ Change the law so that no EEA citizen or family member is left undocumented and criminalised because they didn't apply for Settled Status
- ✓ Grant all EEA and Swiss nationals and their family members currently living in the UK automatic Settled Status
- ✓ Provide physical documentation to all EU citizens and non-EU family members as proof of settled status



PROTECTING & EMPOWERING WOMEN

In 2019, women are still disproportionately affected by exploitation, abuse and violence. And, across the world, people are urging their governments to take bold action to eliminate these risks. This urgency should not diminish when a woman crosses a border.

Yet our immigration system creates new risks for women, placing them at the mercy of partners who abuse the precarity of their immigration status or exploit their lack of familiarity with their new home country, to intimidate or manipulate them. And women without a clear pathway out of irregular immigration status are uniquely vulnerable to trafficking and slavery.

Governments must introduce robust, proactive, gender-specific protections for migrant women. When we create a safe and supportive environment for women who move, the positive effects ripple out into all our communities.

40% of migrant women who had been in an abusive relationship, stayed in the relationship for more than five years out of fear of deportation.

Imkaan, Vital Statistics 2 (2012)

https://drive.google.com/file/d/0B_MKSoEcCvQwWHA0eG81cFZxcOU/view

OUR RECOMMENDATIONS:

- ✓ Protect victims of abuse from detention or removal so that they cannot be threatened with either by their partners
- ✓ Decriminalise undocumented working and protect undocumented workplace whistleblowers so that migrant women are safe from abuse and exploitation in the informal economy
- ✓ Guarantee victims of gender-based violence and exploitation access to adequate support, regardless of their immigration status
- ✓ Proactively inform women within the asylum system of their rights, so that they can protect themselves, and if necessary separate their asylum application from their partner's
- ✓ Recruit and train female caseworkers and provide counselling to women who disclose sexual or gender-based violence





OPENING ROUTES TO STATUS

Most of the undocumented population in the UK is made up of people who came here legally, but subsequently lost their status, very often through no fault of their own. Some make the difficult decision to leave an abusive partner or an exploitative employer, even though it means they will lose their immigration status. Others grow up assuming they're British, only to be told that they aren't, even though they've never known any other country. And some fall out of regular status because they can't afford the skyrocketing fees to renew their visa or to challenge an incorrect decision made by the Home Office.

The minority who arrive here without documents are often those who are fleeing danger or who have a strong claim to be given status in Britain – for example because close family members are here – but no legal way of entering the country to make that claim.

In those circumstances, it's essential that there are safe and clear routes to regular status, so that people can get on with their lives, work safely, raise their families and pay their taxes. As a rich, developed nation we can afford to help people escape irregular status. Doing so will only contribute to our social and economic prosperity.

Applications cost well over £8,000 for migrants on the 10 year route to settlement.

OUR RECOMMENDATIONS:

- ✓ Create safe, robust and flexible routes to documentation so that people can quickly and easily regularise their immigration status
- ✓ Give legal status and the right to work to those who have been refused the right to remain but for whom it is impossible to return to their country of origin
- ✓ Reinstate birth-right citizenship (revoked only in the 1980s) to ensure that any child who has only ever known the UK as their home is not at risk of being treated as undocumented
- ✓ Re-establish equal and free access to the NHS for all so that no one suffers or dies in secrecy and silence
- ✓ Provide adequate support for statelessness determination procedures and for individuals' attempts at outreach with foreign governments



TREATING HUMANS WITH HUMANITY

Most people in this country see themselves as compassionate and fair. People are appalled to see cruelty to others, including to migrants.

Yet our immigration enforcement system treats people brutally: families are woken in the middle of the night by immigration raids, parents are taken away in front of their children. Others receive as little as 24 hours notice of removal from the UK. Immigration detainees are emotionally and physically abused and bullied, and told their lives are worthless.

Aside from its unacceptable human impact, research shows that such brutality is ineffective, costly and reduces levels of compliance with migration controls.

We urgently need to reform and de-escalate the way we approach immigration enforcement so that abuse and intimidation of migrants ceases. Enforcement should be conducted with humanity and dignity.

"I thought if I said anything they might put me on a plane and deport me straight away while I was having the miscarriage, so I kept quiet. I was very frightened of my traffickers but I was even more frightened of the Home Office."

A woman who had a miscarriage while she was unlawfully detained, quoted in the Guardian

<https://www.theguardian.com/politics/2019/aug/19/trafficked-woman-detained-at-heathrow-wins-50000-payout>

OUR RECOMMENDATIONS:

- ✓ End detention for immigration purposes except in truly exceptional circumstances in which no alternative is possible
- ✓ Any such detention should be limited to 28 days
- ✓ Detention should only be allowed to last beyond 72 hours with the approval of the courts
- ✓ Fund civil society organisations to pilot community-based alternatives to detention
- ✓ Abolish the use of secretive charter flights so that removals cannot take place away from public and judicial scrutiny
- ✓ End profiling in immigration enforcement in order to ensure that certain nationalities and ethnicities are not targeted in a discriminatory manner
- ✓ Cease immigration raids on workplaces, community centres and other public spaces and stop obliging employers and civil society organisations to facilitate such raids





ENDING THE HOSTILE ENVIRONMENT

Our communities, our public spaces, our public services and our workplaces should be places open to us all, where no one fears discrimination or persecution. Our sense of belonging should never be based on the colour of our skin. And the ability of a doctor to save lives or a police officer to keep us safe should never be put at risk or made to depend on whether the person in front of them can show their paperwork.

But the Hostile Environment builds a border through our hospitals, our schools, our police stations and our communities. Doctors, landlords, police officers and teachers have been tasked with verifying immigration status and often people who look or sound 'foreign' are asked to show their papers in order to see a doctor or go to school. Those who are suspected of being undocumented are made homeless because landlords are afraid to rent to them. They are left to die because doctors are unable to treat them. And they are left vulnerable to exploitation because they cannot open or access their bank accounts.

These policies don't just affect newcomers – even those who have lived here for years are targeted based on their skin colour, as the Windrush scandal tragically demonstrated.

When Britain is at its best, we are so much better than this. We can and must end the Hostile Environment so that discrimination is effectively challenged and communities can unite, build bridges and prosper.

OUR RECOMMENDATIONS:

- ✓ Dismantle the Hostile Environment in its entirety in order to prevent harassment or mistreatment based on ethnicity or nationality
- ✓ Repeal the Right to Rent scheme, which was found by the High Court to cause racial discrimination in the housing market
- ✓ Roll back the NHS Charging regime, which was found by the BMA to make it harder for doctors and nurses to do their jobs
- ✓ End restrictions on working, opening bank accounts and obtaining driving licenses, which render people vulnerable to exploitation and trafficking

"It is my view that the [Right to Rent scheme] does not merely provide the occasion or opportunity for private landlords to discriminate but causes them to do so where otherwise they would not."

Mr Justice Spencer, High Court judge in the Right to Rent case

R(Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department [2019] EWHC 452 (Admin)



SAFEGUARDING DATA

Everyone should be able to speak with a doctor in confidence. A parent should know that their children can attend school without sparking a visit from immigration enforcement. And somebody escaping trafficking or domestic violence should be able to trust a police officer or social worker.

Unfortunately, much of migrants' personal data is exempted from the protections the rest of us enjoy. Data-sharing agreements between the Home Office and other government departments, and agencies, mean that people with concerns about their status are often afraid to seek medical treatment, send their children to school or even report crime to the police. More than half of all UK police forces have handed over victims of crime to immigration enforcement.

We all lose out when doctors, nurses, teachers and police officers can't build the trust they need to do their jobs.

If we're committed to ensuring that everybody feels safe reporting a crime, that all children go to school and that a doctor's surgery remains a safe place for all of us, we must create proper safeguards for data and privacy.

OUR RECOMMENDATIONS:

- ✓ Introduce new data and privacy guarantees in order to ensure that personal information provided to medical practitioners, educational institutions or police officers is not used for the purposes of immigration enforcement
- ✓ Provide police forces with guidance and support so that anybody, regardless of their immigration status, feels safe reporting crime as a victim or a witness
- ✓ Support the establishment of 'safe surgeries', so that GP surgeries can build trust with their migrant patients and keep our communities healthy

"I feel so guilty that they used my medical evidence against my father," a teenage girl told the Sunday Times after immigration officials accessed medical reports on her suicide attempt and used evidence therein to reject her family's asylum claim.

<https://www.thetimes.co.uk/article/home-office-used-suicidal-girls-medical-records-to-reject-familys-asylum-claim-jqk5xrzh>



LEVELLING THE LEGAL PLAYING FIELD

The UK prides itself on its long commitment to justice and the rule of law. We should all be able to challenge a decision which removes our rights, and we should all be able to have our concerns heard by a judge. No individual should ever have to challenge a decision made by the government on their own, without legal advice. It's how we hold the powerful to account. This shouldn't change if you happen to be born somewhere else.

Yet even though we hear so many stories about the Home Office getting it wrong, making an incorrect decision, endangering somebody's life or splitting a family apart, many types of immigration decisions no longer give people the right to appeal. And even when there is a right to appeal, most migration cases are ineligible for legal aid, meaning individuals have to navigate a complex and difficult appeal process on their own, against an army of government lawyers.

Immigration decisions should always be open to appeal so that the Home Office is held accountable for wrongly upending people's lives and is compelled to swiftly and fairly reverse bad decisions.

OUR RECOMMENDATIONS:

- ✓ Independent appeal rights should be reinstated for all applications so that nobody is forced to accept a life-altering mistake made by government officials
- ✓ Legal aid should be reinstated for all immigration matters, so that nobody is forced to challenge the government on their own
- ✓ Processes for internal administrative review should be made easier and more accessible, so that fewer decisions end up having to go to a tribunal

"The legal aid system has been decimated... Many poor people are unable to effectively claim and enforce their rights, [and] have lost access to critical support."

United Nations Special Rapporteur on extreme poverty and human rights, Statement on visit to the UK (2018)

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E>





BUILDING A BETTER HOME OFFICE

The Home Office is one of the most important government departments, employing over 30,000 staff across the UK. Like every government department, it should work for all of us. It should make quick and correct decisions about people's status, supporting people to get on with their lives here and become active members of their community. And it should be transparent and accountable.

But over the years we've seen a culture of hostility, dysfunction and inefficiency set in, including at the very top. Policymaking is centralised and chaotic, driven by political agendas rather than evidence, and decisions are often not open to scrutiny and review. No other developed country gives as much power to ministers to interfere in decision making or to bypass parliament and make immigration law themselves. And no other department is so hostile to criticism or feedback.

Operationally, cuts to funding and a lack of investment in training and support mean that caseworkers are overstretched, and the department struggles to retain staff. Instead of being supported to make quick and fair decisions, they're under pressure to meet targets and to generate profits from skyrocketing application fees.

It's time to rebuild the Home Office from the ground up. Only a department that works efficiently, supports and values its staff, embraces transparency and accountability and uses evidence to make policy can deliver an immigration system that migrants and British people alike can trust.

OUR RECOMMENDATIONS:

- ✓ Commit to comprehensive reform of the Home Office's immigration and asylum systems, based on the outcomes of an independent and wide-ranging review
- ✓ Reduce fees to cost level so that the department can cover its costs without pricing people out of status or citizenship
- ✓ Invest in proper training and support for caseworkers so that they can make quick, correct decisions based on the merits of individual applications
- ✓ Ensure policy is properly scrutinised and decision-making is protected from political interference and subject to proper oversight

Excerpts leaked from the Wendy Williams led Windrush Lessons Learned Review found the Home Office had been "reckless" and "defensive" in its response to the Windrush scandal and that the department "defends, deflects and dismisses criticism".

<https://www.channel4.com/news/windrush-scandal-home-office-reckless-and-defensive-leaked-review-finds>



COOPERATING ACROSS BORDERS

Migration is not a problem to be solved. It is a reality to be managed so that those who migrate and the communities they join are both able to benefit from the inevitable movement of people. This requires cooperation across borders and the UK should seek to be a force for positive change in the global migration system. As people become more mobile and as the growing climate crisis forces more of humanity to move, UK foreign policy can help build a just and progressive global system for managing the movement of people.

Current arrangements, however, see the UK government providing training, finance and technology to some of the world's most brutal and repressive regimes so that they can prevent their own citizens from attempting to leave their shores. Those who flee and are caught are often subject to extreme violence and, in some cases, are sold by ruthless militia into slavery.

The UK can rebuild its role in the world by leading in the creation of a global system of cooperative refugee protection, strengthening regional mechanisms for free movement within the global south and ensuring that global arrangements are resilient in the face of the climate crisis.

OUR RECOMMENDATIONS:

- ✓ **Champion a new, Europe-wide system for collaboration and cooperation on asylum management**
- ✓ **Undertake to alleviate some of the pressure on states such as Greece and Italy through the relocation of up to 10,000 seekers of asylum**
- ✓ **Work with French authorities to establish a joint task force to process all asylum claimants currently homeless in northern France**
- ✓ **Guarantee safe passage for all children and those adults with a right to enter the UK currently living in northern France**
- ✓ **Commit to process, fairly and efficiently, all asylum claims made on UK soil**
- ✓ **Cease participation in the Khartoum and Rabat Processes and ensure that all bilateral or multilateral agreements include clear, robust safeguards for human rights**
- ✓ **Invest diplomatic resources in the development and ratification of a truly effective, progressive Global Compact for migration**
- ✓ **Introduce a Green New Deal so that climate emissions are radically reduced whilst ensuring that our economy is transformed and that those countries and communities on the front lines of the climate crisis are helped to mitigate its effects by the countries where wealth and emissions are concentrated**

"[The Global Compact] can guide us from a reactive to a proactive mode. It can help us to draw out the benefits of migration, and mitigate the risks. It can provide a new platform for cooperation."

Miroslav Lajcáček, President of the 72nd session of the UN General Assembly

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E>

ABOUT JCWI

JCWI is an independent national charity, founded in 1967 to defend the rights of Britain's migrant communities and fight for a fairer immigration system.

For more than half a century, we have challenged policies that lead to discrimination, destitution and the denial of rights. We have provided accessible, high-quality legal advice and support to tens of thousands of people, helping them to secure their immigration status, keep their families together and escape poverty. And we have consistently been one of the leading voices calling for a fairer, more just immigration system that works for everyone.

Support our work by becoming a member today, by visiting:

jcwi.org.uk/join

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Joint Council for the Welfare of Immigrants is a registered charity (number: 1117513).