

LIBERTY

PROTECTING CIVIL LIBERTIES
PROMOTING HUMAN RIGHTS

**Liberty's response to the Integrated
Communities Strategy green paper**

June 2018

About Liberty

Liberty (The National Council for Civil Liberties) is one of the UK's leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at

<http://www.liberty-human-rights.org.uk/policy/>

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Introduction: integration in a hostile environment

1. Liberty recognises the importance of social integration for everyone in society, and welcomes the Department for Communities and Local Government's (DCLG) commitment to promoting it. Liberty also agrees that it is unacceptable that "*in some places and at particular times, recent migrants have not been made welcome and have been subject to prejudice, discrimination and hate crime.*"¹ While hate crime committed by private citizens is important, it is vital to consider the Government's role in facilitating the prejudice and discrimination that recent migrants face, and in undermining social integration.

2. Our submission to this consultation will therefore focus on the impact of the "hostile environment".² The hostile environment is a set of policies designed and implemented since 2010, aimed at forcing undocumented migrants to leave the UK by making life unbearable for them through denial of access to essential goods and services; and deterring others from coming to the UK. Its different strands function in broadly similar ways:
 - a) to deny undocumented migrants access to essential goods and public services, including housing, bank accounts, and free healthcare;
 - b) to outsource immigration enforcement to public servants and private citizens, such as bank clerks, healthcare workers, teachers, university staff, homelessness outreach workers, employers and landlords;
 - c) to institutionalise the sharing of personal data between essential public services, private citizens and the Home Office, specifically for immigration enforcement purposes; and
 - d) to criminalise or otherwise penalise undocumented migrants and people who interact with them for carrying out everyday activities such as driving, working, letting a property, or employing someone.

3. It should be noted that the hostile environment has been introduced at a time when far from intentionally trying to evade the rules, people often become undocumented because they're unable to scrape together ever-increasing application fees,³

¹ Ibid., pg 21

² For more detailed information about the hostile environment, please see *The Border Controls Dividing Our Communities: A Guide to the Hostile Environment*, published by Liberty and eight other human rights groups in April 2018. Available here: <https://www.libertyhumanrights.org.uk/sites/default/files/HE%20web.pdf>

³ For an explanation of the impact of one kind of fee on applicants, please see *Briefing on Fees for the Registration of Children as British Citizens*, Project for the Registration of Children as British Citizens

challenge poor Home Office decision making,⁴ or pay a solicitor to help them keep up with rapidly changing immigration rules.

4. Liberty has fought hard against this toxic regime of in-country immigration enforcement measures since its inception. These measures are cruel and inhumane insofar as they force undocumented migrants into hardship and destitution, and leave people with no choice but to avoid essential public and community services that might otherwise support them.
5. Confidential personal data collected by trusted public services including schools, NHS services, employers and even police information on victims and witnesses of crime has in the last two years been routinely handed over to the Home Office for immigration enforcement purposes.⁵ The majority of these data-sharing schemes have been implemented without any parliamentary scrutiny or public debate. Their effect is to deter undocumented migrants from interacting with public services; warping carefully cultivated relationships of trust between public servants and the people they are supposed to support.
6. The effects of the hostile environment are also felt by people beyond its stated target group. By turning unqualified administrators, landlords, doctors and teachers into border guards, the Government has created fertile ground for discrimination, with lawfully resident migrants and BAME British citizens viewed with suspicion simply because they are perceived to be foreign.⁶ More broadly, the hostile environment leads to a society in which we are all conditioned to show ID and have our interactions with the State logged, as the Government's insistence on monitoring and policing people who've moved to the UK demands surveillance of every one of us.
7. Immigration control is only one priority for Government among many others, including child safeguarding and education; the protection of public health, the prevention of crime, and, crucially, social integration. Immigration control priorities are not to be

and Amnesty International UK, September 2016. Available here:

https://prcbc.files.wordpress.com/2015/10/fees_briefing_2016.pdf

⁴ 'Serious flaws' in UK immigration system, *Law Society warns*, BBC News, April 2018. Available here: <https://www.bbc.com/news/uk-politics-43737542>

⁵ For more information please see *Liberty's briefing on the Data Protection Bill 2017 for Second Reading in the House of Commons*, February 2018 pg 15-17. Available here:

<https://www.libertyhumanrights.org.uk/sites/default/files/Liberty%27s%20Briefing%20on%20the%20Data%20Protection%20Bill%202017%20for%20Second%20Reading%20in%20the%20House%20of%20Commons.pdf>

⁶ See our discussion of landlord immigration checks at paragraphs 12-19 of this submission.

pursued at all costs; they must be pursued in a manner that is proportionate and does not jeopardise other important public policy aims. Moreover, whatever a person's immigration status, there are essential goods and services that they must be able to access in order to live a dignified life and avoid breaches of their human rights.

8. **DCLG should lobby central Government to end the hostile environment, if its ambition to “*challeng[e] segregation and promot[e] integration [...] at the heart of all policy and public service delivery*”⁷ is to become a reality. Moreover, any end to the hostile environment must include an end to measures that curtail migrants' access to essential public services, including health, education, and welfare benefits. It should also include a firewall between immigration enforcement and essential public services, ending the sharing of a person's data between Government departments without their knowledge or consent, unless the sharing relates to serious crime or significant harm to an individual, in a specific case.**

Education and young people: using pupil data for immigration enforcement

9. The Government's attempts to implement a hostile environment in schools are undermining the full participation of all children in education. In December 2016 it emerged⁸ that for over a year the Department for Education had been party to a secret agreement⁹ to share data from the National Pupil Database, collected through the School Census, with the Home Office for immigration enforcement purposes; specifically children's addresses. The agreement envisages that the personal information of up to 1500 children will be shared each month in cases where the Home Office has lost contact with them or a family member, suspects that an immigration offence has been committed, and believes the child and/or family member is still in the UK. This data sharing programme has been widely condemned by parents, teachers and migrants' rights groups,¹⁰ who recognise that it is deeply

⁷ *Integrated Communities Strategy Green Paper*, pg 17

⁸ Damien Gayle, *Pupil data shared with Home Office to 'create hostile environment' for illegal migrants*, 15 December 2016 <https://www.theguardian.com/uk-news/2016/dec/15/pupil-data-shared-with-home-office-to-identify-illegal-migrants>

⁹ *Memorandum of Understanding Between The Home Office And Department for Education In Respect of the Exchange of Information Assets*, published December 2016 https://www.whatdotheyknow.com/request/377285/response/941438/attach/5/20161016%20DfE%20HO%20MoU%20redacted.pdf?cookie_passthrough=1

¹⁰ Damien Gayle, op. cit.

inappropriate for teachers to carry out or support the functions of immigration officers, especially without their knowledge.

10. The use of pupil data for immigration enforcement can only undermine any attempt by DCLG to create inclusive educational environments. At best the scheme undermines trust between children, parents and teachers, encouraging teachers to view migrant pupils as objects of suspicion. At worst, the scheme has the potential to lead to the children of undocumented migrants being removed from school due to fear of immigration enforcement, exacerbating the already significant barriers to health and development that they and their families already face.
11. **Liberty urges DCLG to lobby the Department for Education to implement a firewall between pupil data and Home Office immigration enforcement functions, so that every child can go to school without fear that their school records will be used to target them or their family members.**

Places and community: landlord immigration checks

12. Liberty agrees that *“it is a fundamental right that people are free to choose which neighbourhoods they live in.”*¹¹ However, it is difficult to endorse the suggestion that *“the law protects them from being discriminated against in relation to buying and renting a home and in the allocation of social housing.”*¹²
13. Since February last year, landlords have been compelled to demand proof of prospective tenants’ immigration status under the Government scheme known, ironically, as ‘right to rent’. Non-compliance is punishable by large fines and since December 2016, the threat of a five-year prison sentence.¹³ The Government carried out an evaluation of the right to rent scheme, introduced as part of the Immigration Act 2014, following a pilot which took place in the West Midlands between December 2014 and May 2015. The pilot was carried out over a short period and at a quiet time in the rental market. The rental market in the pilot area is further less competitive than that in other areas of the country, most notably London. Notwithstanding these limitations and a range of failures in research methodology liable to obscure

¹¹ *Integrated Communities Strategy Green Paper*, pg 43

¹² *Ibid.*, pg 43

¹³ Immigration Act 2014, s33A-33C as inserted by the Immigration Act 2016.

discrimination,¹⁴ evidence of discrimination was gleaned. The evaluation accepts that risks of discrimination were identified in focus group discussions which spanned:

attitudes towards potential tenants with time-limited leave to remain, with one apparent instance of a tenancy being refused for this reason; a preference for tenants whose right to rent was easy to check...a preference for 'lower risk' tenants (for example people with local accents) for whom landlords felt they need not carry a Right to Rent check.¹⁵

14. One landlord expressed the view that *"if the applicants were White and had a 'Brummie' accent, they didn't need to put them through the [Right to Rent] process"*¹⁶ and focus groups of landlords found *"a lack of understanding among some landlords (but not letting agents) around the right to rent of prospective tenants with limited leave to remain in the UK"*.¹⁷ Some of the landlords included in the focus groups suggested that they would not rent to potential tenants with limited as opposed to permanent leave to remain in the UK, including one who gave an example of turning down a tenant because he had eight months' leave to remain left on his visa.¹⁸ A focus group of letting agents produced evidence that some landlords had instructed them not to let to non-EEA nationals or to any 'foreigners'.¹⁹
15. BAME participants in the mystery shopper exercise conducted as part of the evaluation were found to be less likely to receive a prompt response to an initial email inquiry in the pilot area (a discrepancy not repeated in the comparator area, where BAME groups were marginally more likely to receive a prompt response) and higher proportions of the BAME group were asked about a guarantor, a referee and their employment than was the case for the White British groups. Across the comparator and pilot areas, BAME groups were disproportionately questioned about nationality and residency status. In the pilot area BAME enquirers were less likely to be told that suitable rental property would become available in future in instances

¹⁴ See Liberty's Committee Stage Briefing on the Immigration Bill for the House of Lords, p. 3-6, which identifies those features of the research methodology liable to obscure the reality of discrimination. Available at: https://www.liberty-human-rights.org.uk/sites/default/files/Liberty%27s%20Committee%20Stage%20Briefing%20on%20the%20Immigration%20Bill_0.pdf.

¹⁵ Home Office, *Evaluation of the Right to Rent scheme*, October 2015, p. 24. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468934/horr83.pdf

¹⁶ Research with landlords, letting agents and tenants, p. 22.

¹⁷ Research with landlords, letting agents and tenants, p. 22.

¹⁸ Research with landlords, letting agents and tenants, p. 23.

¹⁹ Research with landlords, letting agents and tenants, p. 22.

where they were not given the opportunity to view a property, and were more likely to be told about additional fees linked to renting than their White British counterparts. The scheme of landlord immigration checks was only specifically mentioned to 6 'shoppers,' all BAME and all in the pilot area. There were also clear reports of discrimination, including an incident where a shopper was told that if he was "*under the scheme*" the landlord was "*not going to bother because he had a local person who wanted the property and it was much easier to rent to them*".²⁰

16. The data from the Government's evaluation should be read together with the work of the Joint Committee on the Welfare of Immigrants (JCWI). As part of its evaluation of the scheme, JCWI worked together with a number of organisations, including Shelter and the Chartered Institute of Housing to draft surveys for landlords, agents, tenants and lodgers. They held meetings with local organisations in the pilot area and had discussions with local residents and local government representatives. They received evidence from student organisations, housing charities, local authorities, legal organisations and local and national charities working with migrants and BAME groups. Their report, *No Passport Equals No Home*, found that 42% of landlords they surveyed said they were less likely to consider renting to somebody without a British passport. 50% of tenants felt discrimination was a factor in the refusal of a tenancy. One person was told "no passport equals no home".²¹ This report was introduced before the 'right to rent' scheme was made significantly more draconian in the Immigration Act 2016 through the introduction of lengthy criminal sentences for landlords and summary eviction powers.²²

17. A second report published by JCWI in February 2017 found that certain British people are among the groups worst-affected by landlord immigration checks. Compared with UK citizens with passports, BAME UK citizens without them were 26% more likely to be rejected or ignored by landlords, 25% less likely to be offered a viewing, and 20% less likely to be told the property is available.²³ White British people without passports were 11% more likely to receive a negative response than those with passports.²⁴ Significantly, JCWI found no evidence of racial discrimination between BAME citizens and White citizens who did have passports. This suggests

²⁰ Evaluation of the Right to Rent scheme, p. 24.

²¹ JCWI, "*No Passport Equals No Home*": *An independent evaluation of the 'Right to Rent' scheme*, 3 September 2015.

²² See Liberty's briefings on the Immigration Act 2016, available at: <https://www.liberty-human-rights.org.uk/policy/policy-reports-briefings>.

²³ JCWI, *Passport Please: The impact of the Right to Rent checks on migrants and ethnic minorities in England*, February 2017, p. 7-8 (Key findings).

²⁴ *Ibid.*

that discrimination is a direct result of the scheme, rather than background personal prejudice harboured by landlords. Even foreign nationals with indefinite leave to remain in the UK were 20 per cent more likely to be ignored or rejected than British people with passports. Almost half of landlords surveyed by JCWI said landlord immigration checks made them less likely to let a home to anyone without a British passport.²⁵

18. A legal challenge to the policy brought by JCWI will be heard this month, with JCWI arguing that landlord immigration checks are incompatible with the European Convention on Human Rights, and that they should not be rolled out to any further areas of the UK.²⁶

19. **Liberty urges DCLG to play a direct role in reducing discrimination caused by landlord immigration checks by publishing or promoting and distributing guidance from reputable sources explaining the rights of people seeking to rent a home.²⁷ Liberty also urges DCLG to lobby central Government to end landlord immigration checks.**

Increasing economic opportunity: a right to work for asylum seekers

20. Liberty is pleased to see that increasing economic opportunity is a priority objective for the DCLG.²⁸ Central Government has long refused to allow asylum seekers to work, apart from in the narrowest of circumstances. We hope that in the implementation of its Integration Strategy, DCLG will play a role in challenging the cruel and pointless policy which denies asylum seekers the right to work while their asylum applications are considered - even if this takes longer than the Home Office target time of 6 months. Currently, asylum seekers are only permitted to work in jobs on a highly restrictive list of 'shortage occupations'. They can only apply if the Home Office takes longer than 12 months to make a decision on their asylum claim. In practice, these restrictions mean that very few asylum-seekers are ever allowed to work.

²⁵ Ibid.

²⁶ <https://www.theguardian.com/uk-news/2018/jun/02/legal-challenge-rent-rules-discriminate-non-uk-nationals>

²⁷ See, e.g., JCWI's Guide, *Right to Rent Guides for Tenants & Advisors*, November 2016. Available at: https://www.jcwi.org.uk/sites/jcwi/files/2016-11/2016_11_22_INT%20JCWI%20RTR%20tenant%20full%20guide%20UPDATE_0.pdf.

²⁸ *Integrated Communities Strategy Green Paper*, pg 22

21. Allowing asylum-seekers to work prepares them for participation in the life of the UK.

Forcing people to remain idle and lose their skills creates alienation and hampers integration for those ultimately granted leave to remain in the UK. By contrast, refusing to permit asylum-seekers to work reinforces the discriminatory stereotype that they contribute nothing to society. As has been found time and time again:

...skilled and educated people are left destitute and forced to rely on handouts, despite being from professions where there are shortages in the UK, including health care and teaching.²⁹

22. The evidence suggests that the prospect of extreme poverty does not deter people from seeking refuge in this country. The former Secretary of State for Work and Pensions, Iain Duncan Smith, condemned this approach in a 2008 report, arguing that the use of forced destitution as a means of encouraging individuals to leave the UK is “a failed policy”.³⁰ The Joint Committee on Human Rights came to the same conclusion in 2007, when it stated that the Government was operating a “deliberate policy of destitution”.³¹ Asylum seekers are largely unaware of the legal and welfare systems of the countries in which they seek refuge, and come to the UK chiefly as a result of ‘push-factors’ such as violent conflict.³² Indeed, in 2014, a Conservative-led Government accepted that “there is little hard evidence” of any alleged ‘pull-factor’.³³ A 2011 review of the 19 main OECD recipient countries for asylum applications

²⁹ Refugee Council and Zimbabwe Association, ‘I hate being idle: Wasted skills and enforced dependence among Zimbabwean asylum seekers in the UK’, July 2009, available here: <http://www.refugeecouncil.org.uk/assets/0002/8759/i-hate-being-idle.pdf>, p. 4.

³⁰ Centre for Social Justice, ‘Asylum Matters: Restoring Trust in the UK Asylum System’, December 2008, pp. 4-5, available here: <http://www.centreforsocialjustice.org.uk/publications/asylum-matters-restoring-trust-in-the-uk-asylum-system>.

³¹ See Joint Committee on Human Rights, ‘The Treatment of Asylum Seekers’, HL 81-I/HC 60-I of 2006/07, 30 March 2007, available here: <http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/81i.pdf>, paragraphs 120-22.

³² See, for example, Refugee Council, ‘Chance or Choice? Understanding why asylum seekers come to the UK’.

³³ See Letter from Earl Attlee to Lord Roberts, 31 March 2014, cited by the Immigration Law Practitioners’ Association in its submissions to the Public Bill Committee for the 2014 Immigration Act, available here: <http://www.publications.parliament.uk/pa/cm201516/cmpublic/immigration/memo/ib35.htm>. Similarly, the Home Office itself has found that asylum-seekers often do not ‘choose’ where to claim asylum:...it is important to note that agents were critical determinants of the destination eventually reached by asylum seekers...if individual asylum seekers wanted to leave their home country they had to give over control of migration decision-making to these paid facilitators (Robinson, ‘Understanding the decision-making of asylum seekers’, p. 19.)

carried out by the Centre for Economic Policy Research³⁴ concluded that tightening of welfare provision did not have any deterrent effect.³⁵

23. The ban on asylum seekers working plays no discernible role in reducing the numbers of those seeking protection in this country, but it does stop people from participating in the UK economy through working hard and paying taxes. It punishes those who seek asylum and eventually receive it by causing them to lose their skills and become destitute while their claims are decided. Asylum seekers already face poverty and exclusion from society. Indeed, most asylum seekers – and thousands of children in asylum-seeking families - live in severe poverty.³⁶

24. Liberty urges the DCLG to monitor and publish evidence on the exclusion and vulnerability asylum seekers face as a result of being banned from working lawfully. We urge the DCLG to lobby central Government to end this cruel and misguided policy by allowing asylum seekers to work, and by repealing the criminal offence of illegal working introduced by the Immigration Act 2016.³⁷

Conclusion

25. Meaningful social integration is not possible in the context of a hostile environment. The Home Office is currently committed to a set of policies which by design aim to exclude people from accessing essential services when they are in need of support, and which facilitate discrimination by public servants against BAME people and migrants – regardless of their immigration status. For integration to be embedded at the heart of public service delivery, immigration control must be removed from it. Liberty acknowledges the Home Office's interest in enforcing immigration law. We also recognise the interest of specific departments, and Government and the public more generally, in child safeguarding and education, the protection of public health, the prevention of crime, and social integration. DCLG should be a strong and principled voice in ensuring that those important public policy objectives are not disproportionately subordinated to in-country immigration control.

Gracie Bradley

³⁴ Hatton, T., J., 'Seeking Asylum: Trends and Policies in the OECD', University of Essex, Australian National University, and CEPR, July 2011, available here: <http://www.voxeu.org/sites/default/files/file/Hatton%20Seeking%20Asylum.pdf>.

³⁵ Hatton, 'Seeking Asylum: Trends and Policies in the OECD', for example, sections 8.2 and 9.3.

³⁶ See The Children's Society, 'UK asylum system forces thousands of children to live in severe poverty', 9 April 2012, available here: <http://www.childrenssociety.org.uk/news-and-blogs/press-release/uk-asylum-system-forces-thousands-children-live-severe-poverty>.

³⁷ Immigration Act 1971, Section 24b as inserted by Section 34 of the Immigration Act 2016