

**LIBERTY**

PROTECTING CIVIL LIBERTIES  
PROMOTING HUMAN RIGHTS

**Liberty's response to the Mayor of  
London's vision for a diverse and  
inclusive city**

**August 2017**

## 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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## **Creating a diverse and inclusive London**

1. For over 80 years Liberty has worked to promote basic rights and freedoms. We believe that equality lies at the very heart of our universal human rights framework and over the decades have empowered and protected some of the most marginalised and disadvantaged groups in society. We were at the forefront of campaigns against anti-Semitism and fascism in the 30s; we helped to secure desperately needed mental health reform in the 1950s; and in the 1960s we lobbied successfully for the Race Relations Act. Our campaigning work in the 80s saw the abolition of the Highways Act and the restrictions it placed on traveller communities and contributed to the repeal of the ~~usqlaw~~. In the 2000s we brought successful legal challenges to remove the ban on gay soldiers serving in the military and to curtail discriminatory stop and search powers. In the last decade we have worked to expose the impact of ~~%hostile environment+~~in-country immigration enforcement measures which risk tearing communities apart.
2. Liberty welcomes the opportunity to respond to the Mayor's vision for a diverse and inclusive London. We strongly support the Mayor in his efforts to ensure that London is an inclusive city and its inhabitants live genuinely interconnected lives. We hope that, as part of this work, City Hall will play its part in tackling the real life implications of the hostile environment and hold central Government to account for policies which threaten community cohesion at the most basic level. The Government claims it is creating a ~~hostile environment~~for undocumented migrants, but in building a border on every street, it is dividing whole communities and significantly undermining the efforts of the Mayor and the Deputy Mayor for Social Integration to facilitate integration and accessible housing.
3. We are particularly pleased to see priority status accorded to addressing homelessness and making housing accessible; increasing inclusiveness in employment and education; and to making the Greater London Authority (GLA) an open and engaged organisation. Our response will focus on further steps the Mayor can take in these areas. Our headline recommendations to the Mayor are summarised below.

### **Addressing homelessness**

To address the root causes of homelessness and reduce rough sleeping in London, the Mayor should:

- (i) end all data sharing with the Home Office for immigration enforcement purposes, including sharing of aggregate data collected via the CHAIN database
- (ii) implement effective monitoring processes to ensure that all GLA-commissioned outreach services act compatibly with the human rights of the people they are funded to serve
- (iii) implement effective, accessible procedures to address allegations about the conduct of GLA-commissioned outreach services in a timely and transparent manner
- (iv) lobby central Government to provide in-country support for all Londoners who are experiencing or at risk of homelessness, regardless of nationality.

### **Inclusive housing**

To ensure that all Londoners can access safe and suitable housing, regardless of immigration status, nationality or ethnicity, the Mayor should:

- (v) through his new Civil Society Strategy engage service providers, community organisations and housing associations in a project to monitor and publish evidence on the impact of landlord immigration checks, including discriminatory outcomes
- (vi) create a mechanism for Londoners to report incidents of discrimination in the rental sector to City Hall
- (vii) publish and/or promote and distribute guidance from reputable sources explaining the rights of Londoners seeking to rent a home.<sup>1</sup>

### **Inclusive education**

To ensure that all children in London are educated in an inclusive school environment regardless of immigration status, nationality or ethnicity, the Mayor should:

- (viii) publish, promote and/or distribute multilingual guidance on the School Census to ensure that children and families in London are aware of their rights to refuse to submit nationality and country-of-birth data and to retract data that has already been submitted

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<sup>1</sup> See, e.g., JCWI 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](https://www.jcwi.org.uk/sites/jcwi/files/2016-11/2016_11_22_INT%20JCWI%20RTR%20tenant%20full%20guide%20UPDATE_0.pdf).

- (ix) work with schools to disseminate accurate information to parents about how School Census data is used, to ensure that informed consent is sought and that schools meet their obligations under the Data Processing Act
- (x) lobby central Government to end discriminatory and divisive data collection and sharing measures that stigmatise migrant children and undermine community cohesion by bringing border controls into the classroom.

### **Inclusive employment**

To remedy the vulnerability and exclusion created by central Government policy to prevent asylum seekers from working, the Mayor should:

- (xi) monitor and publish evidence on the impact on asylum seekers, public services and London's economy arising from the Government's refusal to allow asylum seekers to work
- (xii) lobby central Government to end its cruel and misguided policy of excluding asylum seekers from work.

### **A safer city**

In order to keep Londoners safe in a way that protects individuals' rights to privacy and freedom from discrimination, and preserves police-community relations, the Mayor should:

- (xiii) demand transparency from the Metropolitan Police Service (MPS) in its use of the Gangs Matrix in relation to:
  - a) the grounds on which a person is included in the database
  - b) the grounds on which a person is removed from the database
  - c) how the MPS uses data to populate the database, including the data sources it uses
- (xiv) require the MPS to develop a mechanism by which an individual can challenge their inclusion on the database and if appropriate, be removed from it
- (xv) require the MPS to produce guidance setting out clear and targeted criteria for including a person in the database and appropriate safeguards against disproportionate and discriminatory use of Gangs Matrix data.

### **Addressing homelessness**

4. **Liberty urges the Mayor to adopt a rights-based approach at the heart of his strategy to reduce rough sleeping in London. He should end all data sharing by the GLA with the Home Office for immigration enforcement purposes, including aggregate data collected via CHAIN. Furthermore, the Mayor should implement effective monitoring processes to ensure that any GLA-commissioned outreach services act compatibly with the human rights of the people they are funded to serve. Accessible procedures should be put in place to address allegations about the conduct of GLA-commissioned outreach services in a timely and transparent manner. These procedures should be designed to receive complaints from third parties, in addition to complaints from directly affected individuals. Last, rather than assisting the Home Office in implementing policies that treat homeless migrants as problems to be displaced rather than individuals to be supported, the Mayor should lobby central Government to provide in-country support for all Londoners who are experiencing or at risk of homelessness, regardless of nationality.**
  
5. Liberty welcomes the Mayor's commitment to reduce homelessness and rough sleeping as a priority. We are encouraged to see that in contrast with the views of the Rough Sleeping Group convened by his predecessor,<sup>2</sup> the Mayor opposes<sup>3</sup> the Home Office's approach to non-UK rough sleepers. Liberty agrees that the Home Office's policy to designate rough sleeping as a 'misuse' of European Union treaty rights and to remove EU citizens on the assumption that they are homeless<sup>4</sup> is unlawful and inhumane.
  
6. Despite this, we are deeply concerned by reports<sup>5</sup> that GLA-commissioned outreach services have been supporting Home Office immigration enforcement against non-UK rough sleepers. In particular, we are concerned by accounts that outreach services have been carrying out their duties in a way that targets Eastern European

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<sup>2</sup> Mayor's Rough Sleeping Group, *The use of enforcement in tackling rough sleeping*, 19 August 2015 at 4.3

<https://www.whatdotheyknow.com/request/383943/response/940640/attach/5/Item%204%20Use%20of%20enforcement%20in%20tackling%20rough%20sleeping%20for%20MRSG.pdf>

<sup>3</sup> Sadiq Khan, *Record Rough Sleeping Is A Scar On Our City – As Mayor I'm Determined To End It*, 3 July 2017 [http://www.huffingtonpost.co.uk/sadiq-khan/london-rough-sleeping\\_b\\_17374466.html](http://www.huffingtonpost.co.uk/sadiq-khan/london-rough-sleeping_b_17374466.html)

<sup>4</sup> Home Office, *European Economic Area nationals: misuse of rights and verification of EEA rights of residence Version 2.0*, 1 February 2017

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/588682/Misuse-of-rights-and-verification-of-EEA-rights\\_v2\\_0EXT.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/588682/Misuse-of-rights-and-verification-of-EEA-rights_v2_0EXT.pdf)

<sup>5</sup> Diane Taylor, *Charities referring rough sleepers to immigration enforcement teams*, 7 March 2017 <https://www.theguardian.com/society/2017/mar/07/charities-giving-home-office-details-of-rough-sleepers-says-report>

migrants in a discriminatory way, ignores the fact that homeless migrants may still be residing lawfully in the UK, and prevents migrants from appealing inappropriate or unlawful enforcement action.<sup>6</sup> Reports from frontline services suggest that in some cases, enforcement action has been taken against migrants who are not street homeless and who are lawfully residing in the UK without them being offered an opportunity to demonstrate this. Administrative removals based on incomplete evidence and/or profiling on the grounds of ethnicity are discriminatory and constitute a significant breach of the rights to respect for home and private life. They do untold damage in ripping individuals away from their families, livelihoods, and established support networks, especially when implemented in partnership with organisations that homeless people should be able to trust. The GLA should implement effective monitoring processes to ensure that any services that it commissions respect the human rights of the people they are funded to serve. Adequate procedures must be in place to address claims that services are acting in a discriminatory way or violating individuals' human rights. In light of the fact that people whose human rights are violated by GLA-commissioned services may be removed from the country before they have a chance to complain or appeal, the GLA's oversight procedures should be capable of receiving complaints from third parties on their behalf.

7. Liberty is deeply concerned that the Mayor has been supporting Home Office enforcement activity against rough sleepers by sharing aggregate data collected via the CHAIN database with immigration officers.<sup>7</sup> The CHAIN database is managed by St Mungo's and commissioned by the GLA, and holds information on rough sleepers' characteristics such as nationality, gender, and mental health status. The database is populated by homelessness outreach workers, day centres and other groups working with homeless people. We note your plans to prepare a Memorandum of Understanding setting out how the GLA works with the Home Office, and clarifying the basis for information sharing between the two agencies.<sup>8</sup> But transparency around data sharing is not what is needed in this case. What is needed is an end to the sharing of rough sleepers' data for immigration enforcement purposes. Data sharing encourages rough sleepers to withdraw from services, even where personal information is not exchanged. It violates the trusting relationships with rough sleepers

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<sup>6</sup> Corporate Watch, *The Round-Up: rough sleeper immigration raids and charity collaboration*, March 2017 <https://corporatewatch.org/sites/default/files/CW%20rough%20sleepers%20investigation.pdf>

<sup>7</sup> Mark Townsend, *Home Office used charity data map to deport rough sleepers*, August 2017 <https://www.theguardian.com/uk-news/2017/aug/19/home-office-secret-emails-data-homeless-eu-nationals>

<sup>8</sup> Sadiq Khan, op. cit.

that many outreach workers strive to cultivate, and which are vital for sustainable solutions. As homelessness support workers themselves have argued, '[o]utreach workers must not be converted into immigration enforcement workers.'<sup>9</sup> Several organisations, professional bodies and public servants – including Liberty – have raised similar concerns about the harmful effect of data sharing for immigration enforcement purposes through trusted public services such as the NHS<sup>10</sup> and schools.

### **Inclusive housing: the impact of landlord immigration checks**

8. **Liberty urges the Mayor to monitor the impact of landlord immigration checks in London, including any discriminatory outcomes, and publish its findings. A monitoring project should include engagement with service providers, community organisations and associations likely to come into contact with those renting in the private sector. This could form part of the Mayor's new Civil Society Strategy<sup>11</sup>, and could be complemented by providing a means for Londoners to report incidents of discrimination in the rental sector to City Hall. We also encourage the Mayor 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 Londoners seeking to rent a home.<sup>12</sup>**
  
9. 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.<sup>13</sup> 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

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<sup>9</sup> Kershaw, P. 2017, 'Rough sleeper immigration raids and homelessness charities.' *Unite the Union, Housing Workers' Branch*. Available here:

[http://www.housingworkers.org.uk/readnews.html?con\\_id=394](http://www.housingworkers.org.uk/readnews.html?con_id=394)

<sup>10</sup> Doctors of the World and National Aids Trust, 'Briefing on the Memorandum of Understanding between Department of Health and the Home Office to share patient information.' Available at: <https://www.doctorsoftheworld.org.uk/Handlers/Download.ashx?IDMF=32f18a4f-e84f-4df5-ade5-fe84bf7c92ff>

<sup>11</sup> *The Mayor's Vision for a Diverse and Inclusive London*, p.42.

<sup>12</sup> 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](https://www.jcwi.org.uk/sites/jcwi/files/2016-11/2016_11_22_INT%20JCWI%20RTR%20tenant%20full%20guide%20UPDATE_0.pdf).

<sup>13</sup> Immigration Act 2014, s33A-33C as inserted by the Immigration Act 2016.

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 discrimination,<sup>14</sup> 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.<sup>15</sup>

10. 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”*<sup>16</sup> 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”*.<sup>17</sup> 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.<sup>18</sup> 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<sup>19</sup>
11. 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

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<sup>14</sup> 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](https://www.liberty-human-rights.org.uk/sites/default/files/Liberty%27s%20Committee%20Stage%20Briefing%20on%20the%20Immigration%20Bill_0.pdf).

<sup>15</sup> Evaluation of the Right to Rent scheme, p. 24.

<sup>16</sup> Research with landlords, letting agents and tenants, p. 22.

<sup>17</sup> Research with landlords, letting agents and tenants, p. 22.

<sup>18</sup> Research with landlords, letting agents and tenants, p. 23.

<sup>19</sup> Research with landlords, letting agents and tenants, p. 22.

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 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*”.<sup>20</sup>

12. 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”.<sup>21</sup> 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.<sup>22</sup>

13. 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.<sup>23</sup> White British people without passports were 11% more likely to receive a negative response than

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<sup>20</sup> Evaluation of the Right to Rent scheme, p. 24.

<sup>21</sup> JCWI, “*No Passport Equals No Home*”: *An independent evaluation of the ‘Right to Rent’ scheme*, 3 September 2015.

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

<sup>23</sup> 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).

those with passports.<sup>24</sup> Significantly, JCWI found no evidence of racial discrimination between BAME citizens and White citizens who did have passports. This suggests 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.<sup>25</sup>

14. Liberty understands that the Mayor has no direct power to change the right to rent scheme as it is set out in primary legislation. However, the GLA can and should use its leadership role in London to monitor the impact of landlord immigration checks.

#### **Inclusive education: no borders in our classrooms**

- 15. New data collection and sharing measures are stigmatising migrant children and undermining community cohesion by bringing border controls into the classroom. Liberty encourages the Mayor to publish, promote and/or distribute multilingual guidance on the School Census to ensure that children and families in London are aware of their rights to refuse to submit nationality and country-of-birth data and to retract data that has already been submitted. Moreover, Liberty encourages the Mayor to work with schools to disseminate accurate information to parents about how School Census data is used, to ensure that informed consent is sought and that schools meet their obligations under the Data Processing Act. Last, Liberty urges the Mayor to lobby central Government to end these discriminatory and divisive data collection and sharing measures.**
16. Since September 2016, the Department for Education (DfE) has required schools to collect children's nationality and country of birth through the School Census, which happens three times each year. Guidance to schools on how to collect this data was initially very poor, and led in some cases to clearly discriminatory and stigmatising practices, such as only BAME pupils being asked for the information.<sup>26</sup> Numerous schools also asked children to show their passports even though this was not

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Freddie Whittaker and Billy Camden, *Pupils who were not white British told to send in birthplace data*, 23 September 2016 <http://schoolsweek.co.uk/pupils-who-were-not-white-british-told-to-send-in-birthplace-data/>

required by the guidance,<sup>27</sup> and others asked children for their nationality directly, rather than requesting the information from their parents. There was a widespread and systemic failure to inform parents of their right to refuse to give nationality or country of birth information.<sup>28</sup> These data collection practices are the direct result of poor guidance from the DfE, and raise serious equality and privacy concerns. Although Liberty and Against Borders for Children (ABC) wrote in January 2017<sup>29</sup> to every school in England explaining parents' rights and schools' obligations, this can be no substitute for clear, accurate guidance from central Government and local authorities.

17. In addition to concerns about how the data has been collected to date, Liberty and other groups are not satisfied that it is being collected for educational purposes. Before the data collection began, Nick Gibb in July 2016 stated that its purpose was to measure the impact of pupil migration on the education sector.<sup>30</sup> However, letters between Nicky Morgan, Theresa May, then Home Secretary, and David Cameron, then Prime Minister, reveal that the nationality and country of birth data collection was introduced as a compromise on harsher measures that Theresa May had wanted to include in the 2015 Immigration Bill, which would have required schools to check a child's immigration status and allowed them to deprioritise the children of undocumented migrants for school places.<sup>31</sup> An early version of a data sharing agreement between the Home Office and the DfE showed that children's nationality data, once collected, was also to be shared for immigration enforcement purposes, until the agreement was amended following public outcry.<sup>32</sup> The DfE has consistently failed to produce any evidence to support its claim that the data is being collected for the benefit of migrant children. In light of the contents of the leaked letters outlined above, that claim is wholly discredited. Liberty therefore continues to support the boycott of the data collection called by ABC.

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<sup>27</sup> Ibid.

<sup>28</sup> Niamh McIntyre, *Human rights campaigners attack Government's 'foreign children list experiment'* 16 January 2017 <http://www.independent.co.uk/news/uk/home-news/human-rights-charity-liberty-oppose-school-census-government-foreign-children-list-a7529961.html>

<sup>29</sup> Ibid.

<sup>30</sup> Nick Gibb, *Written Answer 42942*, 25 July 2017 <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-15/42942/>

<sup>31</sup> Laura Kuenssberg, *Theresa May had plan to 'deprioritise illegal migrant pupils'*, 1 December 2016 <http://www.bbc.co.uk/news/uk-politics-38165395>

<sup>32</sup> Freddie Whittaker, *DfE had agreement to share pupil nationality data with Home Office*, 15 December 2016, <http://schoolsweek.co.uk/df-e-had-agreement-to-share-pupil-nationality-data-with-home-office/>

18. The collection of nationality and country-of-birth data has been widely condemned by parents, teachers and Parliamentarians, including by Sir Michael Wilshaw, outgoing head of Ofsted, who %schools shouldn't take the place of the borders agency+.<sup>33</sup> A motion regretting the data collection was agreed by the House of Lords in October 31 2016. As Lord Storey said at the time,

%Children are children, and to use their personal information for immigration enforcement is disingenuous, irresponsible, and not the hallmark of a tolerant, open and caring society.<sup>34</sup>

The National Union of Teachers (NUT) has also opposed the new measures, reminding the Home Office that %schools are not part of policing immigration+<sup>35</sup>, and passed a motion against the data collection at its annual conference in 2017.<sup>36</sup> A wide coalition of migrants'rights and anti-racism groups has lobbied for the data collection to end since it was first due to be collected in October 2016.<sup>37</sup>

19. Liberty recognises that the Mayor has no power to revoke the statutory instrument introducing this data collection. However, he is Mayor is well placed to ensure that parents and pupils in London understand how the Government uses data collected through the School Census, and that they have a right to refuse to answer nationality and country of birth questions and to retract data that they have already submitted.

20. In December 2016 it emerged<sup>38</sup> that for over a year the DfE has been party to a secret agreement<sup>39</sup> to share data from the National Pupil Database, collected through

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<sup>33</sup> Freddie Whittaker, *Wilshaw: I would have refused pupil immigration checks as head*, 1 December 2016, <http://schoolsworld.co.uk/wilshaw-i-would-have-refused-pupil-immigration-checks-as-head/>

<sup>34</sup> Lord Storey, *That this House regrets that information about pupils' nationality and country of birth collected under the Education (Pupil Information) (England) (Miscellaneous Amendments) Regulations 2016 (SI 2016/808) could be used to help determine a child's immigration status.*, 31 October 2016 [https://hansard.parliament.uk/lords/2016-10-31/debates/6D06F8D5-7709-43DF-87ED-33CBBC7324FF/Education\(PupilInformation\)\(England\)\(MiscellaneousAmendments\)Regulations2016](https://hansard.parliament.uk/lords/2016-10-31/debates/6D06F8D5-7709-43DF-87ED-33CBBC7324FF/Education(PupilInformation)(England)(MiscellaneousAmendments)Regulations2016)

<sup>35</sup> National Union of Teachers, *School Census Data*, 27 October 2016

<https://www.teachers.org.uk/news-events/press-releases-england/school-census-data>

<sup>36</sup> Richard Adams, *NUT urges parents not to give details of children's nationality and birthplace*, 17 April 2017 <https://www.theguardian.com/education/2017/apr/17/nut-to-tell-parents-not-to-give-details-of-childrens-nationality-and-birthplace>

<sup>37</sup> Damien Gayle, *Parents urged to boycott requests for children's country of birth information*, 26 September 2016 <https://www.theguardian.com/uk-news/2016/sep/26/parents-boycott-requests-childrens-country-of-birth-information>

<sup>38</sup> 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>

<sup>39</sup> *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](https://www.whatdotheyknow.com/request/377285/response/941438/attach/5/20161016%20DfE%20HO%20MoU%20redacted.pdf?cookie_passthrough=1)

the School Census, with the Home Office for immigration enforcement purposes. 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. Like the nationality and country-of-birth data collection, this data sharing programme has been widely condemned by parents, teachers and migrants rights groups, who recognise that it is deeply inappropriate for teachers to carry out or support the functions of immigration officers, especially without their knowledge. This can only undermine any attempt by the Mayor and Deputy Mayor for Social Integration to create inclusive educational environments for children living in London. 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.

#### **Inclusive employment: a right to work for asylum seekers**

**21. Central Government has long refused to allow asylum seekers to work, apart from in the narrowest of circumstances. Liberty urges the Mayor to monitor and publish evidence on the exclusion and vulnerability asylum seekers face as a result, as well as on the negative impact the policy has on London's economy and its public services. We urge the Mayor to lobby central Government to end this cruel and misguided policy by allowing asylum seekers to work.**

22. Liberty is pleased to see that inclusive employment is a priority objective for the Mayor. We hope that as part of this work the GLA 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.

23. 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:

ō 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.<sup>40</sup>

24. Victims of torture and human trafficking who carry the physical and mental scars of abuse are among those refused the right to work under this unfair and irrational policy. There is evidence to show that being left in limbo without any meaningful activity can exacerbate existing mental and physical health problems, and impedes asylum seekers' integration into UK society.<sup>41</sup> The economic case for allowing asylum seekers to work is clear. Asylum-seekers come from a variety of backgrounds, and have much to offer the UK. Many have training or are willing to work in areas in which the UK has shortages, such as teaching and nursing. Allowing asylum seekers to work also reduces the need for state support.

25. 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'.<sup>42</sup> 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'.<sup>43</sup> 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

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<sup>40</sup> 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.

<sup>41</sup> See, for example, Freedom from Torture, 'The Poverty Barrier: The Right to Rehabilitation for Survivors of Torture in the UK', July 2013, available here: <http://www.freedomfromtorture.org/sites/default/files/documents/Poverty%20report%20FINAL%20a4%20web.pdf>.

<sup>42</sup> 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>.

<sup>43</sup> 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.

result of push-factors such as violent conflict.<sup>44</sup> Indeed, in 2014, a Conservative-led Government accepted that there is little hard evidence of any alleged pull-factor.<sup>45</sup> A 2011 review of the 19 main OECD recipient countries for asylum applications carried out by the Centre for Economic Policy Research<sup>46</sup> concluded that tightening of welfare provision did not have any deterrent effect.<sup>47</sup>

26. 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.<sup>48</sup>

### **A safer city: The Metropolitan Police Service's (MPS) use of the Gangs Matrix**

**27. The MPS's Gangs Matrix is an untested and unaccountable system of data collection. Its use has serious and discriminatory consequences for individuals in London. Liberty therefore urges the Mayor to demand transparency from the Metropolitan Police Service in its use of the Gangs Matrix in relation to:**

- a) the grounds on which a person is included in the database**
- b) the grounds on which a person is removed from the database**

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<sup>44</sup> See, for example, Refugee Council, 'Chance or Choice? Understanding why asylum seekers come to the UK'

<sup>45</sup> 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.)

<sup>46</sup> 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>.

<sup>47</sup> Hatton, 'Seeking Asylum: Trends and Policies in the OECD' for example, sections 8.2 and 9.3.

<sup>48</sup> 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>.

- c) **how the MPS uses data to populate the database, including the data sources it uses.**

**We also encourage the Mayor to require the MPS to develop a mechanism by which an individual can challenge their inclusion on the database and if appropriate, be removed from it. Last, the Mayor should require the MPS to produce guidance setting out clear and targeted criteria for including a person in the database, and appropriate safeguards against disproportionate and discriminatory use of Gangs Matrix data.**

28. Liberty is concerned that the current Gangs Matrix disproportionately affects young people from black and other minority ethnic groups, feeds a popular narrative of gang violence which is inaccurate and discriminatory, and fails to properly address youth violence in the UK by which black and other minority ethnic individuals are disproportionately affected. Liberty agrees that more must be done to tackle serious violent crime in London, particularly among children and young people. However, the Gangs Matrix, as it stands, is so broad a tool that its effectiveness in reducing serious violent crime must be seriously questioned. Far from reducing violent crime, the database risks increasing discrimination and division among London's diverse communities.
29. A person's inclusion on the Gangs Matrix has serious repercussions. It may be used to inform decisions on stop-and-search. It is used in prosecutions of individuals to prove joint enterprise or to demonstrate that a person is more likely to have committed the crime charged, and to increase sentencing. It is also used to inform the MPS's recent initiative, Operation Shield, which seeks to enforce collective punishment against individuals who are thought to be members of or associated with gangs. Punishments reportedly include injunctions prohibiting individuals from certain areas, and can even lead to them being evicted from their homes.
30. The public remains in the dark as to crucial aspects of the Gangs Matrix. A Freedom of Information Act request in 2015 revealed some features of the system that are of serious concern, but other aspects remain unclear.<sup>49</sup> For example, the database is reportedly run by a dedicated analytical staff within [the] Met Intelligence department. Little is known about the procedure by which individuals are added to the Matrix, except that it involves meetings at which a variety of the MPS's partners

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<sup>49</sup> *WhatDoTheyKnow*, Patrick Kenner, 'Gang Matrix' 2015, available here: [https://www.whatdotheyknow.com/request/gang\\_matrix](https://www.whatdotheyknow.com/request/gang_matrix).

are said to highlight any individuals they think should be added to the matrix or has [sic] recently come to notice.

31. A 2017 report by Her Majesty's Inspectorate of Constabulary states:

For an entry on the local gangs matrix, two corroborated pieces of intelligence that the individual is in a gang are required; the level of propensity to violence is also taken into account. The matrix is used to inform the force's local and pan-London activities.<sup>50</sup>

The report includes no detail on the criteria by which a person's gang membership is determined, or even what the two corroborated pieces of intelligence might be. Nor is there any information about how a person's propensity to violence is assessed. Last, there is nothing to indicate that there are any checks or safeguards on the inclusion of individuals on the Matrix to ensure that relevant individuals are included, as opposed to individuals whose inclusion is inappropriate.

32. Even worse, there is no information available as to how individuals may be taken off the database, or how they might even apply to have their names removed. As David Lammy MP has stated as part of his review of the criminal justice system and race, %

Prisoners I have spoken to in both adult prisons and youth offending institutions have often been frank about their involvement in criminality. But the same people have often also been insistent that they were mislabelled as gang members by the police and then subsequently by the rest of the justice system.

One member of a youth offending team told me that her team would routinely make decisions based on the information they were given about gang membership. Decisions, she said, were being made without challenging where the information came from, or whether it was reliable and up to date.<sup>51</sup>

33. In addition, as *The Guardian* reported:

Lammy gave the example of a parent who adopted one black and one white child. Both got into trouble and enmeshed into the criminal justice system.

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<sup>50</sup> Her Majesty's Inspectorate of Constabulary, *PEEL: Police effectiveness 2016* (March 2017), p. 54, available here: <https://www.justiceinspectors.gov.uk/hmic/wp-content/uploads/peel-police-effectiveness-2016-metropolitan.pdf>.

<sup>51</sup> *The Guardian*, *Met may be overly targeting BAME youths as gang members*, 19 July 2016, available here: <https://www.theguardian.com/uk-news/2016/jul/19/metropolitan-police-may-be-overly-targeting-bame-youths-as-gang-members>.

But it was the black child who had wrongly been tagged with the label of gang member and the label had stuck, the MP said. The parent and his adopted son had no idea how to remove the label and his name from the gangs matrix.

34. According to academics working in the field, there is a worrying lack of solid research evidence on the existence and nature of gangs in the UK to justify the policy approaches currently taken by decision-makers especially those of the MPS.<sup>52</sup> Most importantly, experience shows that the Gang Matrix is a seriously flawed tool in the MPS's fight against violent crime. MOPAC's own figures demonstrated that only 6% of individuals [in the Gangs Matrix] are assessed as within the most harmful red category, half of whom are in custody, with the majority (57%) currently assessed as within the lowest (green) status.<sup>53</sup> In 2014, only a third were subject to any judicial restrictions, including gang injunctions, anti-social behaviour orders, electronic tagging, or management under licence by the Probation Service after release from prison.<sup>54</sup> The combined figure of those in custody and those subject to judicial restrictions is still only 44%.<sup>55</sup>
35. All of this raises real worries that the Gang Matrix's criteria for inclusion are over-broad and disproportionate and simply ineffective. Indeed, the data indicates that the use of tools that disproportionately target one group will fail to properly target violent crime. In Manchester, for example, 77% of serious youth violence is reportedly committed by white individuals, and yet BAME individuals allegedly make up 89% of the gangs found in the city. In London, the share of youth violence between white and black individuals is reportedly 50-50, and yet BAME individuals are alleged to comprise 80% of gangs there. Similarly starkly, black men account for 27% of the serious youth violence taking place in London, and yet allegedly make up 72% of reported gang membership.<sup>56</sup>

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<sup>52</sup> See, for example, see Williams, P., 'Criminalising the Other: challenging the race-gang nexus' in *Race & Class*, Institute of Race Relations, Vol. 56(3), 2015, pp. 18-35. See also Hallsworth, S., and Young, T., 'Gang talk and gang talkers: A critique' in *Crime, Media, Culture: An International Journal*, Vol. 4, Issue 2, 2008, available here: <http://journals.sagepub.com/doi/pdf/10.1177/1741659008092327>.

<sup>53</sup> Mayor of London, 'Strategic ambitions for London: Gangs and Serious Youth Violence, MOPAC, 2014, available here: [https://www.london.gov.uk/sites/default/files/gla\\_migrate\\_files\\_destination/Strategic%20Ambitions%20for%20London\\_%20Gangs%20and%20SYV%202014.pdf](https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/Strategic%20Ambitions%20for%20London_%20Gangs%20and%20SYV%202014.pdf).

<sup>54</sup> Mayor of London, 'Mayor launches tough new gang intervention programme' 22 January 2015, available here: <https://www.london.gov.uk/press-releases/mayoral/one-rule-for-all>.

<sup>55</sup> HMIC, 2017, p. 58.

<sup>56</sup> See Centre for Crime and Justice Studies, 2016, pp. 11-12.

36. The fact that the labelling as gang members appears to play such a significant role in those targeted by police and convicted within the criminal justice system raises doubts as to the fairness of the process. Discriminatory stereotyping is not only an attack on dignity and equality but is also dangerous. It criminalises people on the basis of their race and fails to tackle the real causes of violent crime.
37. Liberty is also concerned by that the way the Gangs Matrix is currently operated is incompatible with Article 8 of the European Convention on Human Rights, the right to private life, enshrined in UK law by the Human Rights Act 1998. In our opinion, the labelling of an individual as a gang member and the sharing of that label with other authorities, may infringe Article 8. Individuals face serious consequences as a result of their inclusion on the Gang Matrix. It includes a strikingly broad range of people, and those who are wrongly included are unable to challenge their inclusion, let alone access a mechanism by which they might be removed. On Liberty's view, these factors may in combination mean that in certain circumstances a person's inclusion in the Gangs Matrix may be disproportionate and a breach of their human rights.

## **Conclusion**

38. Liberty welcomes the Mayor's plans to make London a truly inclusive city for all through his Strategy on Diversity and Inclusion, and the work of the Deputy Mayor for Social Integration. However, it is clear that in order for those plans to become a reality, the GLA must play a significant role in combatting central Government's hostile environment policies - a charter for state-sanctioned discrimination against migrants and BAME people in almost every area of life. Further, Liberty believes that the Mayor should fight the cruel and counter-productive policy that bars asylum seekers from working as part of his work to promote inclusive employment. And last, he must take significant steps to target discriminatory policing, and specifically the MPS's use of the Gangs Matrix, if London is to be a safe city every one of its diverse inhabitants. Liberty's recommendations for achieving these aims are listed at paragraph three of this document and we urge the Mayor to implement them.

**Rachel Robinson**  
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**Sam Hawke**