



Housing rights

Your quarterly newsletter from the housing rights website

January 2022

Government says that all rough sleepers should receive "emergency support"

Just before Christmas the government told local authorities to provide "safe and appropriate" accommodation "now", regardless of nationality. The newsletter has the latest on this and other issues:

Here are this month's topics:

- [All rough sleepers should receive emergency support](#)
- [More on tackling destitution](#)
- [The Nationality & Borders Bill](#)
- [A year of channel crossings and tragedies](#)
- [The struggle to house people evacuated from Afghanistan](#)
- [The EU Settlement Scheme - where do people stand now?](#)
- [Asylum accommodation - problems continue](#)
- [More problems with the asylum system](#)
- [Help for migrants suffering domestic abuse or gender-based violence](#)
- [Latest on the Windrush compensation scheme](#)
- [Other news](#)

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All rough sleepers should receive "emergency support"

Just before Christmas, in response to demands from housing and migration bodies, the government moved to end the uncertainty about accommodating rough sleepers of all nationalities. In a [letter to local authorities](#), minister Eddie Hughes told them to continue to offer "safe and appropriate" accommodation to anyone sleeping rough. It followed a [£316 million funding boost](#) to tackle rough sleeping, which will also prioritise people escaping domestic abuse. It followed an appeal by Crisis, supported by the Chartered Institute of Housing and others, for the government to take action.

Evidence of the growing problem of people sleeping rough despite the pandemic had been building up for several months:

- Back in October, the Public Interest Law Centre [highlighted](#) the plight of EU rough sleepers, especially Romanians.
- Crisis published [research](#) (by IPPR and Heriot-Watt University) showing that EU citizens were three times as likely to have slept rough in 2021.
- [End-of-year figures from NACCOM](#), the No Accommodation Network showed they had to assist 2,771 destitute people in 2021, 1,886 with "no recourse to public funds" (NRPF).

Bridget Young, NACCOM's director, [said](#): "... for thousands of people to struggle to access safe accommodation during the COVID-19 crisis, when there was emergency support in place, is truly shocking."

Problems in helping people who are sleeping rough during the pandemic were well documented.



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Inside Housing wrote about this multiple times over the second and third lockdowns, but the response from government was always the same: that "Everyone In" was ongoing and they still expected councils to find accommodation for all rough sleepers. In July, after *Inside Housing* revealed that councils had been told to close their "Everyone In" hotels, minister Eddie Hughes promised parliament that this was "categorically not the case."

Our April newsletter carried a report by Shelter's Jo Underwood about the case of Timon Ncube, refused accommodation by Brighton and Hove city council, where the court decided the council was lawfully able to help him during a public health emergency, removing the doubts that councils have the appropriate powers. Then on December 16, government policy was challenged in a court case brought by a former rough sleeper in Camden. His lawyer laid out the evidence of the ambiguities in guidance on the scheme that led to his client being denied help.

The government has, at last, responded. It confirmed to *The Guardian* that "Councils should exhaust all options within the law to support those unable to access statutory homelessness assistance as a result of their immigration status." However, Simon Hattenstone and Daniel Lavelle argue that "The risk is that it becomes another temporary fix, which falls off the priority list as soon as winter passes."

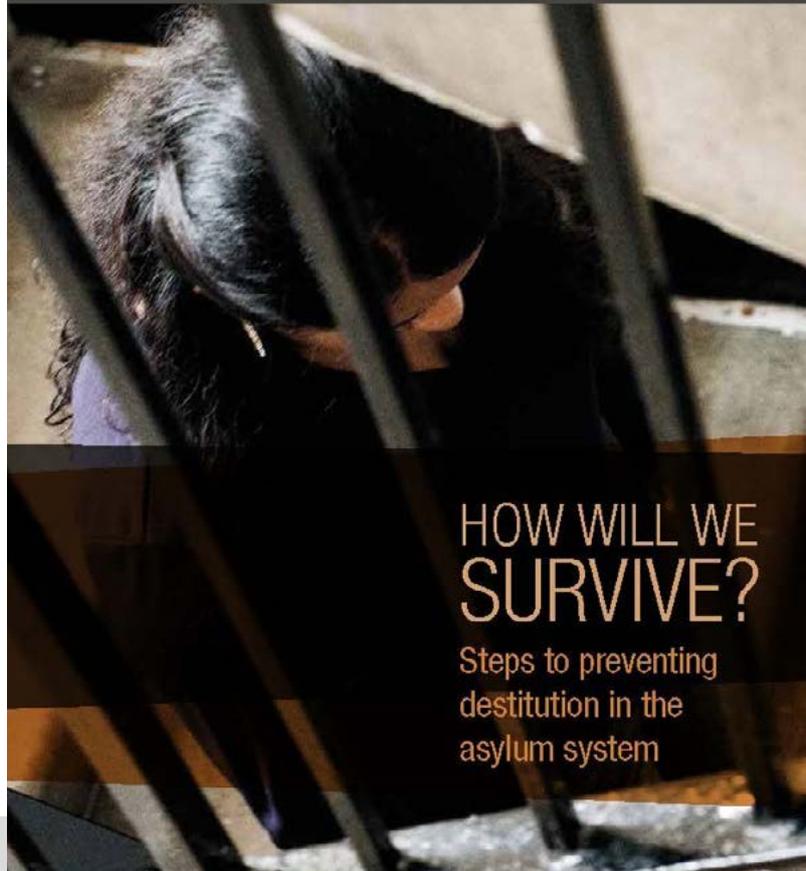
More on tackling destitution

Other moves to help tackle destitution include:

- The Home Office changing its policy on when [access to public funds must be granted](#) to people with leave on family or private life grounds, or on the Hong Kong BN(O) visa route, which may help some people at risk of destitution.
- allowing some young people to [apply for indefinite leave to remain](#) after five years rather than ten.
- [clarification](#) that continuing healthcare and funded nursing care remain out of scope of overseas visitors charging requirements.

The NRPF Network has published a new [template and practice guidance](#) to help councils with the complex process of undertaking a human rights assessment (to get social services' support for destitute people). If you need more guidance with undertaking a human rights assessment, book onto one of NRPF Network's [training courses](#).

Research on preventing destitution in Scotland and Northern Ireland



A new report, [How will we survive? steps to preventing destitution in the asylum system](#), from the British Red Cross and the Refugee Survival Trust explores what steps are needed to prevent destitution, focussing on Scotland. It calls on the Home Office to:

- establish the right to work for people waiting for a decision on their asylum claim
- provide an initial cash grant to people entering the asylum support system so they can buy clothing, phones and other essential items
- improve and speed up asylum decision-making so people aren't stuck in limbo facing destitution as they wait for months, or even years, for a decision.

[Guidance](#) from Law Centre Northern Ireland sets out a number of immigration options that advisers should consider as potential pathways out of destitution. It also outlines the interim accommodation options that might provide temporary relief.



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The Nationality & Borders Bill is debated in the Lords

The year began with the government's controversial immigration bill starting its passage through the House of Lords. The Lords debated the bill at its [second reading](#) stage on 5 January 2022. Several aspects of the bill are likely to be challenged in the coming weeks. Here we cover a few key ones.

The bill makes it easier to deprive people of British citizenship

The *New Statesman* [warns](#) that two in five people from an ethnic minority background could be at risk of losing their citizen status without warning: 41% of people from non-white ethnic minorities are likely to be eligible for deprivation of citizenship, compared with just one in 20 white people.

The Guardian [said](#) "cruel ministers have made citizenship a tool of dirty politics." Zoe Williams called the legislation "a brutal attack on people who move, with asylum seekers, migrants and even the children of migrants, treated as political cannon-fodder." *Aljazeera* [said](#) that "anger boils" as parliament approves the "obscene" nationality bill that could deprive nationality without notice and that targets minorities.

PRCBC (the Project for the Registration of Children as British Citizens) has produced a [briefing](#) for the House of Lords debate on the bill. A [petition](#) opposing the citizenship changes is still open for signature and over 300,000 people have signed it, but on January 5 the government rejected it, arguing that "The change is simply intended to ensure existing powers can be used effectively in all appropriate circumstances."

The bill will harm women

Women for Refugee Women published a [legal opinion](#) that the bill will "adversely disadvantage women and girls." Barristers state that a number of measures are incompatible with Home Office policy, UK case law and international standards on refugee protection and human rights, and are therefore open to legal challenge:

"It is clear that the Bill will have multiple adverse impacts and create additional obstacles to women and girls seeking international protection in the UK. These measures individually and cumulatively increase the risk of claims being wrongly rejected and the UK acting in breach of the Refugee and/or Human Rights Convention."

The bill does not comply with the Refugee Convention

The UNHCR (the United Nations Refugee Agency) published 72 pages of [Observations](#) on the bill, saying that it does not comply with legal obligations under the Refugee Convention, and that nothing in international law obliges anyone to make an asylum claim in the first safe country they come to, as the bill would require. It says the bill will create a "lower class of status" for refugees who arrive in the country spontaneously.

The Home Office published a [factsheet](#) explaining how the UK "will treat refugees differently according to whether they arrived by safe and legal routes or chose to travel to the UK when they could have made an asylum claim in the first safe country they arrived in." In [an opinion piece](#) in the *London Review of Books*, Sadakat Kadri says "The Nationality and Borders Bill doesn't meaningfully differentiate at all. Its purpose is simply to exclude."

The new bill won't fix Britain's "toxic" asylum system

The independent Chief Inspector of Borders and Immigration said in [a review](#) that the bill would not address the "toxic environment" in the Home Office arising from pressure to meet targets for deciding asylum claims. It added that department officials are "instructed to focus on numbers, and not people". One official told the inspector that staff were "under pressure to churn decisions out, irrespective of quality," and this was impacting their ability to empathise with the people they assess. Another claimed that senior staff usually refer to asylum seekers "in a desensitised way" and that no support is provided after sitting through traumatic interviews.

To counter such accusations against Home Office culture, in November the government published its [ethical decision-making model](#), aimed at helping staff grapple with the ethical dilemmas highlighted by the Windrush scandal. However, as *Free Movement* [points out](#), "chin-stroking huddles [among Home Office staff] pondering ethics and discretion is a long way from the day-to-day reality of the immigration system."

More on the hostile environment

Writing in [People, Place and Policy](#), Samuel Parker explains how the Home Office hostile environment conflicts with Welsh Government aims of integrating asylum seekers as soon as they arrive in Wales, even before they receive decisions on their asylum claims.



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Speaking for many involved in giving advice to migrants, Bethan Angharad [tweeted](#): "The killer question in my work is 'if not me, then who?' Pretty much all immigration organisations are at capacity. All of my colleagues are at capacity. Demand far outstrips need and the consequences of a person missing a deadline or messing up an application are huge."

JCWI has published a [toolkit](#) of ways to tackle the hostile environment.



A year of channel crossings and tragedies

According to the *Daily Mail*, a record 28,381 people [reached the UK](#) via the English Channel in 2021, three times more than in 2020. November's fatal incident, in which 27 migrants tragically died, brought the total of deaths during the year to 36. [Well over 300](#) people have died attempting to enter the United Kingdom since 1999. *The Times* [reported](#) that among the latest victims was an Afghan soldier who had worked with British forces. His family had decided to risk their lives to cross the channel after they "waited so long for help" from Britain. The UK's failure to create safe routes for vulnerable Afghans is forcing thousands to make the "gut-wrenching" decision to embark on "perilous, life-threatening journeys" to seek safety in Britain, the [Refugee Council warns](#).

A few days before, Sky News said the government was "brainstorming" ways to deter migrants: "As part of our response it is important we have a maritime deterrent in the channel," the Home Office said. Nevertheless, several reports confirmed that people would still attempt the crossing. A man called Jan, pointing to a sleeping bag and tent in a plastic bag, [told the New Statesman](#) "This is my life, I know things will be better when I get to England." Ali, a Kurdish LGBT+ teenager who has fled Iran [told The Independent](#), "We will all go to England, one hundred per cent. No one will apply for asylum in France." Calais smugglers [told The Guardian](#), "We thank your government for our full pockets."

New powers to pushback and criminalise Channel crossings breach UK's human rights obligations, JCHR finds

Government proposals to forcibly push back people in the Channel should be scrapped if the government cannot show they are compatible with the UK's human rights obligations, a [report](#) by the Joint Committee on Human Rights has found. Refugee Council [analysis](#) shows most people arriving by small boats are likely be fleeing persecution.

Human Rights Watch published a [79-page report](#) giving details of the degrading conditions that migrants live in around Calais. *The Guardian's* Alan Travis [said](#) that "down amongst the undergrowth" of a Sunday Times account of the channel crisis was "confirmation that Priti Patel wants to deport failed asylum seekers with strong UK family ties or to face torture or unfair trials."

Kent Refugee Action Network, which supports people arriving in small boats, [said](#) that the UK's treatment of refugees is the "worst ever." *The Mirror* [reported](#) that in Hastings volunteers bring Channel migrants "clothes, emergency supplies and fish and chips." Many places are welcoming refugees, including Swindon which is a City of Sanctuary and put up a [large billboard](#) to which hundreds of people added supportive messages. Ben & Jerry's ice cream launched the [Cone Project](#) in support of refugees.

The *New Statesman's* Stephen Bush [made this comment](#):

"The government response - in the United Kingdom and in France - continues to be that you can solve the problem with brutality: whether in the hostile environment, which brings border enforcement into every nook and cranny of British public life, or in the shutting down of safe routes to the United Kingdom, or more French patrols on beaches and at sea.



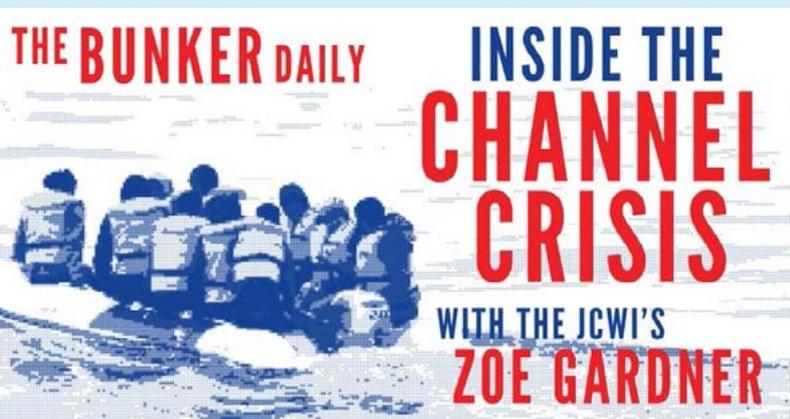


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"But there is no amount of brutality at our border that will change the reality that, across the world, people want to come and live in places where they and their families can be safe, prosperous and free. What you can do is seek to increase the number of safe routes, both here and worldwide, and the number of places that people can live and be safe, prosperous and free."

The Joint Council for the Welfare of Immigrants (JCWI) [called](#) the November deaths "an avoidable tragedy." On *The Bunker*, the JCWI's Zoe Gardner talked to Justin Quirk about why the crossings are likely to continue. Listen [here](#).



How the asylum application process works after refugees cross the Channel

The Independent has an [explainer](#) setting out how the process works for someone who crosses the channel and applies for asylum in Dover.

The struggle to house people evacuated from Afghanistan

About 12,000 Afghan refugees began 2022 in UK hotels as the government struggles to persuade enough councils to find permanent homes for the new arrivals, [according](#) to *The Guardian*.

Of the 16,500 people airlifted from Afghanistan to the UK since August, over 4,000 individuals have either moved into a settled home or are in the process of being moved or matched to a suitable home, as reported by the Department for Work and Pensions.

According to the [BBC](#), many Afghan refugees are declaring themselves homeless over resettlement issues. Councillor Peymana Assad from Harrow, himself an Afghan refugee, said that communication is poor: "We need the Home Office to communicate with

Afghan refugees to give them clarity as to how the process is actually going to work. The council needs this too."

The Local Government Association has [written to the home secretary](#) to ask for ways to widen dispersal, funding for councils to cover the real cost and options to tackle the shortage of appropriate accommodation. Chair of the LGA's asylum, refugee and migration taskforce, Cllr Nick Forbes, said in November that he was "seeking an urgent conversation with ministers" about pressures on the sector.

Councils have offered hundreds of properties to support the resettlement and relocation of Afghan citizens and their families but sector insiders have complained about the time taken to match available accommodation with asylum seekers due to "ropey data." A local government officer leading on resettlement [told Municipal Journal](#): "We've said to the Home Office don't do it like this. It's very frustrating. They're literally making it up as they go along."

Should local authorities help people currently stuck in hotels?

The newsletter asked a lawyer dealing with housing and homelessness law to comment on the issues about accommodating Afghan evacuees who are currently in hotels. In summary the advice received was:

- councils have clear duties under Part 7 of the Housing Act 1996 to help families who present as homeless because they are desperate to leave hotel accommodation.
- it provides a route – however imperfect – to more stable, long-term accommodation and, in the short-term, it means there is a strict legal limit of six weeks on the length of time they can stay in hotel or B&B accommodation.
- they could apply to any local authority in the country, and although it is possible that they might be placed out of area, there is a presumption that they should be accommodated within the area (section 208 of the 1996 Act).
- this is obviously much better than the presumption of dispersal that the Home Office would apply, if it were providing asylum support accommodation. That is beneficial where kids have already got into school in the area.



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If Afghan evacuees do apply for local authority assistance, they may come across:

- local authorities refusing to accept the application because “they are the responsibility of the Home Office.” This is basically “gatekeeping” and challengeable under threat of judicial review.
- local authorities insisting that applicants are not eligible for assistance. This is clearly wrong in law now the regulations have been amended. But it is worth setting out the client’s case for eligibility at the outset to avoid any errors. Because once a negative section 184 decision has been made it can take a long time to correct that on review and it can be very hard to get accommodation pending such a review.
- local authorities accepting the application but insisting the family remain in the hotel accommodation. This is potentially lawful in the short term, but almost certainly not in the longer term.
- local authorities saying that they will accept the application but that if they do so the client will lose out on all the benefits they are getting from the Home Office.

The last question needs a response from the Home Office, which should give clear guidance to Afghan evacuees and to local authorities so that they can make informed choices.

Response from the Department for Levelling Up, Housing and Communities

We asked DHULC to provide more guidance. They have referred us to a statement by minister Victoria Atkins [on January 6](#), where she repeats the point that 4,000 people “have moved, or are being moved, into their new homes since the first ARAP flights in June.” On the same day the government [opened](#) the long-promised Afghan citizens resettlement scheme.

The DLUHC spokesperson added:

“We want to thank all of the local authorities who have been working hard to support new arrivals from Afghanistan locally. We are particularly grateful to the LAs who are supporting us to provide long-term accommodation for Afghan families, and the work that they are doing to provide wrap-around support and to integrate new arrivals into local communities. Without the support of Local Authorities, it would simply not be possible to deliver on the generous offer of support we have made to resettle people

from Afghanistan through the ARAP and ACRS programmes”.

“We want to encourage them to come forward with further offers of housing where this is possible, and reaffirm the support we have available for Councils to facilitate this.

“We have set up a bespoke local engagement team within DLUHC, with named points of contact for each region and devolved government, to facilitate local authorities to come forward with offers of accommodation - including larger properties to support bigger families, and develop strong local integration initiatives.”

Where are the existing Afghan migrant communities in the UK?

The [Migration Observatory](#) says that in 2019, there were an estimated 79,000 Afghan-born migrants living in the UK, almost half (47%) of whom lived in London. This includes people who migrated for any reason, whether to seek protection or otherwise. The largest communities of Afghan-born people were in Brent (an estimated 7,000), Hillingdon (6,000), Hounslow (6,000), and Ealing (5,000). Outside London, the largest communities were in Birmingham (9,000) and Greater Manchester (7,000). Other cities with significant communities include Coventry, Wolverhampton, Leicester and Leeds.

The EU Settlement Scheme - where do people stand now?

Alec Herron, communications manager at the charity Settled, gives an update on the EU Settlement Scheme.

By 30 June 2021 all EU, EEA, Swiss citizens and their family members residing in the UK before the end of the transition period had to submit an application to the EU Settlement Scheme (EUSS) to secure their rights in the UK. Six months on, the EUSS is still a topical issue and is likely to remain so for years to come.

In October, there were still 400,270 outstanding EUSS applications, out of a total of 6.2 million received since the scheme opened. They included applications submitted on time, late applications, new applications for settled status from pre-settled status holders and applications for joining family members, including babies born to parents with pre-settled status in the UK.

Settled has been busy helping late applicants, especially those who did not realise they needed to apply, such as children and older people. Government



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published [case worker](#) guidance outlining what constitutes reasonable grounds for a late application. Anyone in this position must submit an application urgently.

Other problems include no Certificate of Application (COA) issued following an application, leaving citizens unable to prove their right to work, access the NHS and rent in the UK; refusals, which can be challenged via an administrative review or an appeal depending on the reasons for refusal; and lengthy processing times for joining family members' EU family permits.

Recent scheme changes include the [Covid absence guidelines](#) (page 164 onwards) which allow for longer absences where the pandemic has been a factor without compromising the continuity of residence for pre-settled status holders. The *Fratila* case (see next article) concluded with the Supreme Court siding with the European Court of Justice and allowing the DWP appeal. Pre-settled status holders [can access benefits](#) provided they meet the right to reside requirements.

The Independent Monitoring Authority (IMA), the body set up to protect the rights of EU citizens in the UK, submitted [a judicial review claim](#) against the Home Office over the loss of status of those citizens with pre-settled status who fail to apply before it expires. It considers their subsequent loss of rights as unlawful (see below).

Settled and its volunteers have done much to protect the rights and well-being of vulnerable and marginalised EU citizens over the last two years. We are now adapting our service to help those experiencing difficulties with:

- general immigration issues – including proof of identity, change of status etc.
- accessing healthcare
- welfare rights - including removing barriers to digital and financial inclusion
- discrimination in employment or elsewhere

[Settled](#) has a team of more than 120 multi-lingual OISC volunteer advisers who remain rooted in communities across the UK and are trusted by EU citizens - including those who are marginalised and impoverished, and speak limited English.

Court judgments on the rights of EU nationals with pre-settled status

After his article in the July newsletter (p.3), Mike Norman of Harrow Law Centre assesses the effects of recent judgments on EU nationals' benefits rights.

Judgments on the much-anticipated cases *CG v DCNI* (C-709/20, reference for preliminary ruling) in the European Court of Justice, and *Fratila v SSWP* [2021] UKSC 53 in the Supreme Court have been released (CG on 15 July 2021, and *Fratila* 1 December 2021).

The cases involved challenges to universal credit regulation changes for European nationals with pre-settled status (PSS), but they are also relevant to other [income-based welfare benefits](#). Since English and Welsh homeless and allocations regulations carry almost identical wording, the judgments are relevant to housing, too.

The first question before both courts, phrased slightly differently (*CG* at 63, *Fratila* at 7), was whether [article 18 TFEU](#) gave a route to PSS alone determining a right to welfare benefits. The regulations require PSS holders to satisfy extra requirements compared to British citizens (e.g. to be working) in order to qualify, and so nationality discrimination may arise. If such a route was not open, further questions about type of discrimination and state justification become redundant.

The ECJ and the Supreme Court both answered the question negatively: the route was not open.

Article 18 TFEU applied where EU law did not contain specific rules on non-discrimination (*CG*, at 65). The finding was that Directive 2004/38/EC did give 'specific expression' on social assistance, [article 24](#), so article 18 was not relevant. Article 24 does not refer to nationality, and a derogation setting the minimum carries only a limited list of people to whom social assistance must be offered.

The ECJ set out apparent safeguards. Member states must ensure respect for the [Charter of Fundamental Rights](#), specifically article 1 (human dignity), article 7 (respect for private and family life) and article 24(2) (rights of the child) (*CG*, 89-90). It is for the national authorities (including the referring court) to address how to interpret this on a domestic basis (*CG*, 92).

Following this, the respondents in *Fratila* argued that the Charter applied in their case. The Supreme Court, otherwise considering the *CG* decision on article 18 to be binding (*Fratila*, 8), declined to determine the point (*Fratila*, 13-15). It was not subject of appeal from the lower court, and new issues of fact are raised.



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What does this mean?

1. Regulations stay as they are. PSS does not determine the holder's eligible for social assistance. Their eligibility depends on their ability to satisfy pre-Brexit eligibility requirements.
2. Procedural safeguards exist in principle to ensure respect for the EU Charter of Fundamental Rights, but there is little further guidance at present.
3. Whilst not really giving guidance, referring to the Northern Irish tribunal in *CG* the ECJ did make repeated reference to the fact that the charter might be engaged in cases involving children, being clear the tribunal need to deal with this when the case comes back to them.
4. Frontline local authorities still have to make judgments, and these judgments will of course still be contested.

Practitioners in housing need to be alive to the issue of negative findings where the Charter isn't then considered. Because domestic legislation doesn't really tell authorities how it might do this, it seems very likely that this challenge will come back through the courts at some stage.

More on problems with the EUSS and destitution

- CPAG has a summary of the *Fratila* case [on its website](#) along with advice for claimants on potential remaining arguments. CPAG are happy to give one-off advice to advisers on individual cases. They do not have funding to represent people but, if the case is strong, then they might agree to represent claimants despite this.
- Catherine Barnard and Fiona Costello [report](#) on the situation in Great Yarmouth. Despite low numbers of homeless people, the 'Everyone In' figures indicate that street homelessness is the visible tip of an iceberg, they say. "It is those who are hidden and vulnerably housed, who are sofa-surfing or in inadequate or unsuitable housing who became most visible under the scheme. However, for those with only pre-settled status, who do not pass the additional eligibility test of having a 'qualifying right', this unsuitable and inadequate accommodation is likely to be their only option".
- *The Independent* [interviewed](#) a woman with British children who has lived in UK for years and was denied EU settled status. She is still waiting for the decision to be reviewed after several months. Latvian national Laura Randone applied to the EUSS in May 2021 and was told in August that her application had been denied. "I feel homeless," she said.

- The NRPF Network has updated its [factsheet](#) to include protections for people who are making late applications to the EU Settlement Scheme.

Home Office taken to judicial review by EU rights watchdog

The statutory body set up to protect the post-Brexit rights of EU citizens settled in the UK has taken the dramatic step of launching legal action against the Home Office, accusing it of breaching citizens' basic rights. [The Independent Monitoring Authority](#) has launched the proceedings because 2.5 million EU citizens who have been granted pre-settled status have been put at risk of losing rights to live, work or rent, or being deported.

The IMA notified the Home Office of its intentions in October, but failing to get a positive response it issued proceedings on December 14. *The Times* [reports](#) that "embarrassingly for ministers, under the withdrawal agreement, the UK courts could refer the case to the European Court of Justice for its interpretation. The matter could potentially also end up directly at the ECJ should the UK courts rule against the IMA."

Discriminatory digital-only proof of immigration status

An [academic article](#) by Joe Tomlinson, Jack Maxwell and Alice Welsh argues that government policy of granting digital-only proof of immigration status for certain groups of migrants is unlawful and threatens to grow into another Windrush scandal. There are around 4.5 million people reliant on digital-only proof of their entitlement to reside lawfully in the UK and that number is expected to grow.

The authors argue that digital-only status seriously disadvantages various groups including disabled, older people and Roma/Travellers - who are all more likely to suffer from digital exclusion (and lack internet connections, smartphones, etc).

Meg Hillier MP has tabled a [cross-party amendment](#) to the Nationality and Borders bill asking for physical proof of status for EU citizens.

Further funding for organisations supporting people applying for EU Settlement Scheme

The Home Office has [announced](#) a further £3 million funding to help vulnerable and at-risk EU citizens apply to the EUSS. The money will go to organisations supporting people who have vulnerabilities such as language barriers or limited access to IT.



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Don't Pass Go: Brexit, COVID-19 and the Rising Numbers of Romanians Stopped at the UK's Borders

Michaela Benson has [analysed](#) the sharp rise in the numbers of EU citizens stopped at the UK borders and asks the question, which EU citizens were being stopped? There was a clear answer: 2,118 Romanians stopped at the borders accounted for two-thirds of all Europeans affected. While the headlines focussed on a small handful of those from Italy, Greece and Spain stopped and detained, [looking further into the statistics](#) made visible the unevenness in the experiences of European citizens at Britain's borders.

Elections Bill - how does it affect EU migrants' voting rights?

Dr Alex Bulat, co-manager of the Young Europeans Network at [the3million](#) and county councillor for Abbey, Cambridgeshire, explains the effects of the Elections Bill on EU migrants' democratic rights.

Every week, I meet people I represent on Cambridgeshire County Council. One in six people in my division have EU citizenship and many are not registered to vote. In fact, EU migrants are [significantly less likely](#) to register than British citizens. The [Elections Bill](#), going through parliament, makes it even more difficult to explain who can vote, where and in which elections.

Who can currently vote? It depends where you are from and where you live in the UK. In 2020, both Scottish and Welsh governments passed legislation to open the franchise to all foreign residents, in local elections as well as for Holyrood and Senedd. But only British, Irish and [qualifying Commonwealth citizens](#) can vote in UK general elections.

For local elections in England and Northern Ireland, non-Commonwealth and non-Irish EU citizens can also vote. This includes elections for local councils, Police and Crime Commissioners and mayors.

	All qualifying foreign nationals	(Pre Elections Bill) EU Citizens	(Pre Elections Bill) EU Citizens arriving on or after 01/01/21 under the new Immigration System & those already in the UK without a bilateral voting rights agreement with the UK	(Pre Elections Bill) EU Citizens arriving on or after 01/01/21 under the new Immigration System & those already in the UK with a bilateral voting rights agreement with the UK	(Post Elections Bill) EU Citizens who arrived in the UK by 31/12/20 & hold pre-settled or settled status	Qualifying Commonwealth Citizens	Irish Citizens	British Citizens
LOCAL ELECTIONS IN ENGLAND	✗	✓	✗	✓	✓	✓	✓	✓
LOCAL ELECTIONS IN NORTHERN IRELAND	✗	✓	✗	✓	✓	✓	✓	✓
LOCAL ELECTIONS IN SCOTLAND & WALES	✓	✓	✓	✓	✓	✓	✓	✓
HOLYROOD & SENEDD ELECTIONS	✓	✓	✓	✓	✓	✓	✓	✓
UK PARLIAMENTARY ELECTIONS	✗	✗	✗	✗	✗	✓	✓	✓

1. All qualifying foreign national residing in Wales will be able to vote in local elections in 2022.
2. Countries with bilateral agreements: Poland, Luxembourg, Spain, & Portugal.

Who can vote in which elections? Image from the #OurHomeOurVote campaign: www.ourhomeourvote.co.uk

The Elections Bill proposes that only EU citizens who arrived in the UK before 1 January 2021 and have pre-settled or settled status will keep their local voting rights in England and Northern Ireland (there are exceptions for people from Cyprus, Malta and Ireland). For other EU citizens who arrived after 1 January 2021, only those from countries who secured a bilateral voting rights agreement with the UK will be able to vote. So far, agreements are in place with Poland, Spain, Portugal and Luxembourg.

This will create a more complicated and unfair system. Not all EU countries will end up with bilateral agreements with the UK. Also, the Cabinet Office has [stated](#) that it won't make agreements with non-EU countries.

For example, a Romanian citizen with pre-settled or settled status will be able to vote for their local councillor in Cambridge, but their Romanian neighbour on a work visa who has arrived more recently won't, despite both paying the same council tax.

The easiest solution would be to follow the rules applying in Scotland and Wales. The [#OurHomeOurVote](#) campaign calls for residence-based voting rights and has cross-party support. [A poll conducted by Number Cruncher](#) shows it has majority public support.

In the meantime, we can encourage eligible residents to [register to vote](#), remind them that they have to register again when moving home and update their details if they change their nationality (such as the EU citizens who became British and have full voting rights).



Alex Bulat in Northampton in April 2021 during a voter registration campaign for EU migrants.



Housing rights

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Asylum accommodation – problems continue

Asylum seekers in PM's constituency claim accommodation "not fit to live in"

Shortly before Christmas, dozens of asylum seekers begged Boris Johnson to help rehouse them, claiming the Home Office accommodation in his constituency is not fit to live in. *The Guardian* reported that 18 rundown flats in Uxbridge and South Ruislip have housed asylum seekers for years without any improvements being made – despite repeated complaints. Each apartment has five tiny bedrooms and no communal space, besides kitchens and bathrooms left filthy from a lack of maintenance.

Three-quarters of banks have clauses that ban landlords from renting to asylum seekers

Three-quarters of banks will not allow asylum seekers as tenants, worsening the wider issues this group faces finding proper housing, according to *The Mirror*. Of 72 mortgage lenders questioned, 75% would not allow asylum seekers to rent properties from landlords with a buy-to-let mortgage. They explicitly say they "will not consider applications where the property will be let to an asylum seeker."

The problem has worsened since 2018, when just two mortgage lenders said they would not allow asylum seekers as tenants. But even those lenders that will allow asylum seeker tenants have caveats. All say they will "potentially consider" allowing asylum seekers to rent, with some saying this group will need special permission from the Home Office first.

Home Office urged to stop housing asylum seekers in barracks

The all-party group on immigration detention has called on the government to end its use of controversial barracks accommodation. Its report also recommends the scrapping of government plans to expand barracks-style accommodation for up to 8,000 asylum seekers. It refers to such accommodation, including Napier barracks in Kent, as "quasi-detention" due to visible security measures, surveillance, shared living quarters and isolation from the wider community.

Alison Thewliss, MP for Glasgow Central and chair of the APPG, said that "The report makes for sober reading. It has highlighted the myriad ways in which the Home Office is comprehensively failing some of the most vulnerable people in society."

Asylum seekers denied essential living needs during pandemic, finds High Court

Free Movement reports the case of JM v Secretary of State for the Home Department [2021] EWHC 2514, where the High Court held that the government failed to cater for asylum seekers' essential living needs during the pandemic. The court found that JM, who was housed in a hotel during the pandemic with no cash support, was deprived of the means to communicate with friends and family. By not providing him with support "in cash or kind" under section 95 of the Immigration and Asylum Act 1999, the Home Office acted unlawfully.

Since the hearing, the Home Office has informed lawyers Duncan Lewis that they are going to conduct an audit of hotels to better understand the support being provided. It became apparent during proceedings that the Home Office do not have a comprehensive understanding of how different contractors are managing hotels and providing support and assistance.

The next stage is to await the outcome of this audit and identify individuals who are still not receiving adequate support. There may still be people who are not receiving additional payment for their communication needs or have not received backdated payments from the Home Office.

Men bring court claim against Home Office over Glasgow hotel stabbings

Two asylum seekers caught up in a stabbing attack at a Glasgow hotel have issued a high court claim against the Home Office, reports *The Guardian*. The men, one of whom said he reported concerns about the attacker to hotel management the night before the stabbings, are also calling for an independent investigation.

On 26 June 2020, Badreddin Abadlla Adam, a 28-year-old asylum seeker from Sudan, stabbed six people including a police officer at the Park Inn hotel before police shot him dead. One of the two asylum seekers now bringing a challenge lost his spleen in the attack and is on lifelong medication as a result. His asylum claim was refused in July this year and he is appealing against the decision. The other had supported Adam as he witnessed his mental health deteriorate after he was moved, along with 320 other asylum seekers, from self-contained accommodation into hotels at the start of the pandemic.



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Assistance for people being held in barracks or hotels

Bail for Immigration Detainees (BID) provides [help for immigration detainees](#). BID is now setting up to assist people held in either barracks or in hotels to:

- find out their bail conditions when they don't know them.
- understand their bail conditions when they are unsure of what they mean.
- apply to vary bail conditions (e.g. report less frequently, change of residence conditions because of medical needs, family circumstances etc.).
- apply to change accommodation if people are unhappy where they are.
- deal with miscellaneous concerns about bail conditions or accommodation.

The project is led by BID's Legal Manager Adam Spray. To make a referral please contact casework@biduk.org with the subject line "FAO Adam: barracks/hotel/acc. centre referral".

Meanwhile a new report from Asylum Matters, '[In a place like prison: voices from institutional asylum accommodation](#)', describes the plight of asylum seekers in barracks and hotels.

Update on evictions from asylum support accommodation

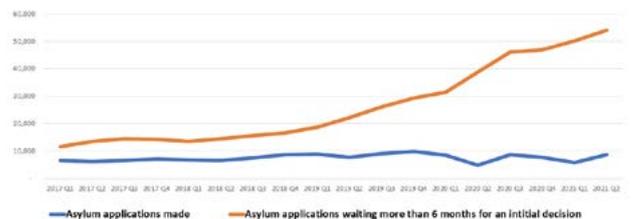
Marie-Anne Fishwick from ASAP (Asylum Support Appeals Project) gave the Housing and Immigration Group this update in early December.

Cessations (evicting people in Covid-only asylum support accommodation) have been completed in England. Cessations in the devolved nations, however, have not yet started. ASAP have no dates, or any information, as to when cessation in these parts of the UK might begin. There are currently about 800 cases between Northern Ireland, Wales, and Glasgow.

Asylum Support Tribunals are back to "business as usual" with a slow drip of cases coming through. ASAP have not seen high numbers of appeals; there were 173 when counted recently, which is very small given that the total number of people in Covid-only accommodation was about 4,000. The Home Office have informed ASAP that, when they reviewed people's entitlement, they found that most people were eligible for a variety of reasons.

More problems with the asylum system

There is a record backlog in the asylum system, even though application numbers are steady



Source: gov.uk Immigration stats Aug 2021 [Asy_D01 and Asy_D03](#)



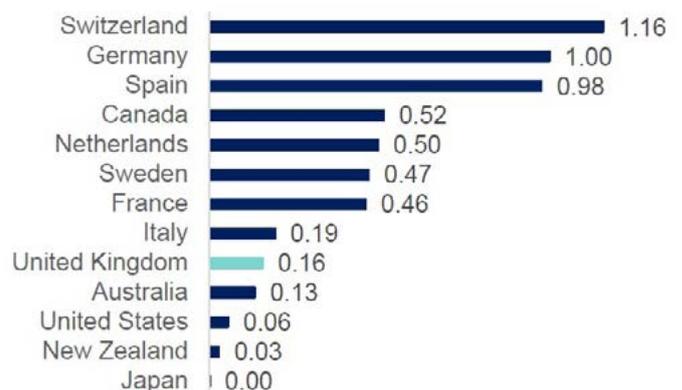
Slow processing and increasing asylum claims push UK asylum backlog towards 88,000

New data [released](#) by the Home Office show that almost 88,000 people are still waiting for decisions as fewer than 20% of asylum claims are processed within the government's abandoned six-month target, the [Migration Observatory](#) reports.

17,400 people claimed asylum in the third quarter of 2021, the highest quarterly count since 2003. However, the number of applicants over the year to September was only up 11% on the previous year, because of low numbers in early 2021. The previous peak was 103,000 in 2002.

The rise has been driven by sharp increases in applications from Eritreans (up 97%), Syrians (74%), Vietnamese (44%), Iranians, Albanians and Afghans (all 39%). Almost 1,100 Afghan nationals applied for asylum in the third quarter of 2021. [Two-thirds](#) of people who apply for asylum are now getting it at the first time of asking.

Numbers granted asylum in the UK are still far below levels in other countries, as a chart from the Migration Advisory Committee shows.



Estimated asylum grants per 1,000 population in 2020



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Government refuses to relax asylum seeker right to work rules

In its [annual report to the home secretary](#), the government's Migration Advisory Committee said there was clear evidence of the harm being caused by the ban on employment and that a change of policy was needed after the recent drownings in the Channel. The [Lift the Ban](#) coalition has regularly produced evidence showing that allowing destitute people to support themselves is good, not least for the Treasury. In October 2020 they presented the Home Office with a petition signed by more than 180,000 people calling on the government to lift the ban.

Just before the MAC report was published, the Home Office [knocked back campaigners](#) arguing for a relaxation of the [near-total ban](#) on asylum seekers work. After a three-year "comprehensive review" of earlier Lift the Ban demands, they concluded that "the assumptions underpinning the recommendations are highly optimistic."

Reuniting refugee families - the challenges faced by advice agencies

A new [report](#) from Families Together describes the many challenges faced by refugees who wish to be reunited with family members and the obstacles faced organisations that support them. The authors said:

"In the United Kingdom, the legal and policy framework regulating family reunification for refugees and beneficiaries of humanitarian protection has been the subject of extensive debate - and criticism - for some years. Common concerns raised by refugees, refugee support charities and independent observers include the restrictive rules on eligibility, the unnecessarily burdensome nature of the application process, the lack of free qualified legal support and the unpredictability of the decision-making process."

"It's like rubbing salt on the wound": impacts of COVID-19 and lockdown on asylum seekers and refugees

This [research](#) from Newcastle University includes a UK-wide survey of service providers working with refugees, and interviews with service providers, refugees and asylum seekers in Glasgow and Newcastle-Gateshead.

For asylum seekers and refugees, the impacts of COVID-19 overlap with a range of other challenges and inequalities, leaving many highly vulnerable in a time of crisis. Amma, an asylum seeker in Newcastle-Gateshead, said "It was difficult before Covid. With Covid, it's like rubbing salt on the wound."

Many of the refugees and asylum seekers spoken to felt that their lives were already in a state of lockdown as they were restricted in many aspects including housing, education, finance and employment. Covid made them far worse.

People with disabilities are invisible in asylum information

Maya Pritchard [tells Free Movement](#) that there is a critical need for better quality country of origin information on persons with disabilities, for use in asylum procedures in the UK and beyond. The article includes a case study on Nigeria.

Scottish Guardianship Service supports young asylum seekers

Scotland's [guardianship service](#) works jointly with the Scottish Refugee Council to support children and young people who are claiming asylum or have been trafficked. [The Guardian reports](#) that since 2010 it has supported more than 850 asylum-seeking and trafficked children and young people. With 405 cases active across Scotland, the guardians support young arrivals who are mostly male and aged between 15 to 17, although the youngest case at present is just ten years old.

Problems with the asylum system that come from the Home Office itself

[Free Movement summarises a report](#) by the Independent Chief Inspector of Borders and Immigration on asylum casework, which highlights basic problems such as rubbish decision letters, unaccountable delays and stereotyped approaches to LGBT+ people in the asylum decision-making process.

[The Guardian summarises](#) key defeats in the high court that the home secretary faced in 2021. They include having to make payments to trafficking victims who had financial support removed at the start of the pandemic; being required to provide a grant of leave to remain for trafficking victims; and having to give protections for people in immigration detention who have HIV.

Then just before Christmas, the convictions of four asylum seekers for driving small boats across the Channel were found unsafe by the court of appeal in a ruling that identified systemic failings in such prosecutions. The judges said the convictions "must be quashed in due course".



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Help for migrants suffering domestic abuse or gender-based violence

Migrant victims forced to stay with abusers or face destitution because they can't access public funds

Some of the most vulnerable domestic abuse victims are being forced to stay with their abusers or face homelessness and destitution because they can't access public funds, according to [a report](#) in October by the Domestic Abuse Commissioner. Nicole Jacobs called on the government to put victims' safety ahead of their immigration status, provide more public funds and put a "firewall" between police dealing with domestic abuse and officers enforcing immigration rules.

But in December, the government rejected the recommended "firewall." Jacobs [said](#) that the decision plays into hands of perpetrators who threaten victims with deportation if they report abuse to the police. Commitment to provide support to victims who come forward is a promising development, she added, but sufficient funding must be allocated and this doesn't go far enough to reassure victims.

Other news from the commissioner is that [a mapping survey](#) of LGBT+ domestic abuse service provision has been published, covering experiences of accessing emergency accommodation, practical housing advice and other needs.

New Domestic Abuse and Housing Forum

Do you work on housing issues faced by people experiencing domestic abuse? If so, you may like to join the Public Interest Law Centre's new Domestic Abuse and Housing Forum (DAHF). It's a new network of frontline DV workers, homelessness advice workers, housing / public lawyers and campaigners who work to tackle local-authority gatekeeping in cases of domestic abuse.

PILC says it has created the group in response to the increasing obstacles domestic abuse survivors face when seeking housing support from local authorities. "Housing officers routinely provide inaccurate information regarding survivors' rights and options. This deliberate (and often unlawful) gatekeeping is a systemic problem across local authorities and spans both homelessness and longer-term accommodation provision," PILC says.

DAHF will be a space for:

- sharing case referrals
- providing second-tier advice

- referrals for formal legal representation
- sharing updates and resources on housing law relevant to domestic abuse survivors
- discussing the systemic barriers faced by domestic abuse survivors in need of housing support.

DAHF members will communicate through a Google Group where referrals can be posted, second-tier advice offered, legal representation sought, and resources and updates shared. There will be quarterly meetings to discuss systemic issues faced by domestic abuse survivors seeking housing support.

To join, please email isabella.mulholland@pilc.org.uk. You can also email with any questions about DAHF.

Research on forced migration and sexual and gender-based violence across the UK

A research team, Sexual and Gender Based Violence against Refugees from Displacement to Arrival ([SEREDA](#)), led by Jenny Phillimore at Birmingham University has examined the nature and incidence of such violence experienced by refugees.

Forced migrants face different kinds of violence, including restriction of movement, physical and verbal abuse, humiliation, torture, starvation, human organ trafficking and slavery, sexual violence, labour exploitation, blackmailing, being thrown into the sea (or threat of), deprivation of possessions including medicines and official papers, or being abandoned.

Once in the UK, the [report](#) found that many survivors continued to experience violence and/or were placed at risk of further abuse or trauma by immigration and asylum policies.

Support For migrant victims with NRPF

Southall Black Sisters and partners have been awarded funds to operate the [Support For Migrant Victims Scheme](#), a one-year project to provide temporary support to survivors of abuse and to build a better understanding of their needs. This scheme is now open for referrals. It will provide support to up to 500 migrant victims of domestic and other forms of gender-related abuse (and their children) who are subject to NRPF.

The Home Office says they are trying to better understand the needs of migrant victims of domestic abuse with NRPF. They are asking organisations working in this space to complete a 10-minute survey conducted by The Behavioural Insights Team. Responses will be kept confidential and only aggregate findings will be shared. The research will inform the government's Support for Migrant Victims Scheme (see above).

To take the survey, click [here](#). For any questions, please email lucy.makinson@bi.team.



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communities who have not yet been reached. Email Windrusheventfunding@homeoffice.gov.uk for an application form and further information.

- find out more about the compensation scheme from a Home Office [slide pack](#)
- regulations [now make clear](#) that payments from the compensation scheme are disregarded in the calculation of income and capital for welfare benefits.

Latest on the Windrush compensation scheme

Home Office has compensated just 5% of victims in four years

In November, the Home Affairs Committee published [a new report on the Windrush Compensation Scheme](#). The inquiry found that the vast majority of people who have applied for compensation have yet to receive a penny: for some, the experience of applying has become a source of further trauma rather than redress, and others have been put off from applying for the scheme altogether.

The committee is "deeply concerned" that as of the end of September, only 20.1% of the initially estimated 15,000 eligible claimants had applied to the scheme and only 5.8% have received any compensation. It further compounds the Windrush scandal that 23 people have died without receiving compensation for the hardship they endured.

Various Windrush survivors [interviewed by the BBC](#) asked: "will we get government compensation before we die?"

High court rules claimants' human rights breached by Home Office

Members of the Windrush generation had their human rights breached when the Home Office refused to grant them citizenship, [the high court has ruled](#).

Eunice Tumi and Vernon Vanriel were refused citizenship after being told by the home secretary they did not fulfil the residence requirement of having been in the UK on the date five years before they made the application for citizenship. The only reason they could not fulfil this requirement was because the home secretary had unlawfully prevented them from coming back to the UK earlier, the court heard.

More on Windrush compensation

- The Home Office is holding online "engagement events," open to everyone of any nationality. Information is provided on who may be eligible for the Windrush Compensation Scheme, what kinds of losses and impacts it covers and how to apply. There is also an opportunity to ask questions. Upcoming events are listed [here](#).
- The Home Office has funding available for community events. Registered charities or recognised community groups can apply. They will prioritise funding for events in locations that have not previously held similar events, or with

Other news

Care workers should be prioritised for visas

The Guardian [reports](#) that the Migration Advisory Committee (MAC) has recommended putting those working in social care on the shortage occupation list which was introduced after EU free movement ended in January. This follows months of warnings from the social care sector that it faces severe shortages of staff after Brexit and demands for all workers to be vaccinated against COVID-19.

Migration intentions of British National (Overseas) status holders in Hong Kong

The Migration Observatory reports [the results of a survey](#) early in 2021: 6% of BN(O)s were planning to come to the UK via the BN(O) visa scheme and a further 32% were considering coming. This indicates that over a million people might seek visas, well beyond the numbers who have already applied. However, the study analyses people's intention to migrate, which might not correspond with actual behaviour.

High Court says that a trafficking victim who is also an asylum seeker must be granted permission to stay in the UK

In the case *R (KTT) v Secretary of State for the Home Department [2021] EWHC 2722 (Admin)*, the claimant argued that when a trafficking victim has claimed asylum, it is necessary for them to stay in the UK while the claim is considered. As a result, there is an obligation, as a matter of international law, to grant permission to trafficking victims who have also claimed asylum. The judge found that failure to comply with the requirements of Article 14(1)(a) was a breach of domestic law.



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Lord chancellor faces judicial review over immigration detainees' legal advice

The lord chancellor unlawfully failed to ensure immigration detainees have effective access to justice by allowing "incompetent" firms to provide legal advice, according to campaign group Detention Action. The group is bringing a judicial review over the detained duty advice surgery (DDAS) scheme, which provides a free 30-minute legal advice session to people held in immigration removal centres.

The lord chancellor is alleged to have "failed to utilise his powers ... to deal with serious failures in the DDAS," by not monitoring or investigating the competency of providers or imposing sanctions on those which do not meet contractual requirements under the scheme.

The UK's extortionate residency fees

Just having a piece of paper that allows you to live and work in the UK for a couple of years costs nearly £2,500, tweets [Nadia Iona](#). Comparable visa fees are around €225 in France and just over €100 in Germany.



Attitudes towards immigration: a meeting of minds?

The British Social Attitudes survey looks at the arguments that dominate people's reasoning about

immigration - whether moral considerations or perceptions of self-interest. A random sample of British adults were brought together online to consider Britain's immigration policy after Brexit. After deliberation, more people thought that immigration benefitted Britain - but there was also somewhat increased support for tighter control:

- The proportion saying that immigration is good for Britain's economy increased from 61% to 70%.
- Support for requiring EU migrants to apply to come to Britain increased from 60% to 73%
- Support for allowing migrants into Britain irrespective of their income fell from 36% to 31%.

Leave supporters became more likely to say that immigration is beneficial, while remainers moved in favour of tighter control.

- Among leavers, support for the view that immigration is good for the economy increased from 43% to 58%.
- After deliberating, 63% of remainers said EU migrants should have to apply to come to Britain, up from 38% beforehand.

However, when participants were interviewed again some months after the deliberation, typically only around a half had stuck with their revised point of view.



Contributors

The newsletter is produced at CIH by John Perry with help from Sam Lister. We are grateful to all the contributors to this issue, named in each of the articles. Anyone interested in contributing to future issues can contact john.perry@cih.org.

Do you have any comments on this newsletter?

Send them to policyandpractice@cih.org

Published by: Chartered Institute of Housing, Suites 5 and 6, First Floor, Rowan House, Westwood Way, Coventry, CV4 8HS

January 2022