

# **Debate on the impact of the Government's "hostile environment" approach towards illegal immigration on those with residency and employment rights**

**House of Commons**

**14 June 2018**

## **Introduction**

The Equality and Human Rights Commission (the Commission) has been given powers by Parliament to advise Government on the equality and human rights implications of laws and proposed laws and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.

This briefing provides an overview of the Commission's principal concerns related to the impact of the Government's various "hostile environment" policies in the health, housing, banking, education and other sectors, on vulnerable groups and those who share protected characteristics, including indirect impacts on refugees and asylum seekers.

## **Issue:**

- The UK's Government's "hostile environment" policies are an interdependent and combined package, intended to have a cumulative effect on people living in the UK unlawfully. The Commission has identified a number of current policies, including in the health, housing, banking and education sectors, which have equality and human rights implications and are having adverse

impacts both on those intended to be effected by those policies and those who should not be, including asylum seekers, refugees and British Citizens.

- Under the Public Sector Equality Duty (PSED) the UK Government has a duty to promote equality, eliminate discrimination and foster good relations between individuals with protected characteristics. The public response to the recently highlighted negative experiences of some members of the Windrush generation has demonstrated the value our society places on neighbours and colleagues who come to Britain to contribute to our economic, public and community life.
- The Home Secretary has recently committed to review some immigration policies with a view to building a fairer, more compassionate, more “compliant” immigration system. This review offers the UK Government the opportunity to provide strong and visible leadership on the values that guide the kind of country we want to be as we leave the European Union. It also provides an opportunity to develop a fuller understanding of the impacts of immigration policies and processes on those affected by them, avoid unintended consequences, and ensure compliance with equality and human rights law.

### **Evidence:**

- **Health and Social Care:** Health and social care services should be accessible to all and provided with respect and without discrimination, including to those from vulnerable groups. We welcome the recent suspension of the data sharing agreement between NHS Digital and the Home Office, as well as reviews into the impact of the data sharing arrangements on health outcomes and health seeking behaviours. We also welcome the formal review of the National Health Service (Charges to Oversea Visitors) (Amendment) Regulations 2017 (‘the Amendment Regulations’) though have outstanding concerns about the impact of these regulations on vulnerable groups and those who share protected characteristics. We wrote to the Department of Health and Social Care in February 2018 to outline these concerns and highlight areas for consideration in relation to discharging the PSED and asked for further information of how equality impact assessments had been undertaken. The

Department is yet to formally respond. The High Court has given permission for a judicial review of the charges, and the Commission application to intervene to set out our views on certain aspects of the PSED will be considered next month.

- **Housing:** The right to adequate housing is a right under UN human rights treaties that the UK has ratified. Everyone has a right to adequate housing, which ensures access to a safe, secure and affordable home with freedom from forced eviction. The UK Government's "Right to Rent" scheme in England requires landlords to check the immigration status of their tenants with the prospect of prosecution if they know or have "reasonable cause to believe" that the property they are letting is occupied by someone who does not have the right to rent in the UK. Recent research by the Joint Council for Welfare of Immigrants provided evidence that the scheme in England has a detrimental effect on migrants and ethnic minorities that were not its intended focus.<sup>1</sup> The Residential Landlords association has also found that as a result of the policy, 42% of landlords are now less likely to rent to someone without a British passport for fear of getting things wrong, which poses serious difficulties for the 17% of UK residents who do not have a passport, a group that is more likely to be in rented accommodation.<sup>2</sup> The Independent Chief Inspector of Borders and Immigration has also concluded that the policy has "yet to demonstrate its worth as a tool to encourage immigration compliance" and that the Home Office is: "failing to coordinate, maximise or even measure effectively its use, while at the same time doing little to address the concerns of stakeholders."<sup>3</sup> The High Court has given permission for a judicial review of the scheme, in which the Commission is intervening to express our concerns about the compliance of the policy with the PSED.
- **Banking:** We welcome the recent decision to suspend and review the requirement on banks to undertake immigration checks. Evidence from the Independent Inspector of Borders and Immigration dating

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<sup>1</sup> [http://www.jcwi.org.uk/sites/default/files/2017-02/2017\\_02\\_13\\_JCWI%20Report\\_Passport%20Please.pdf](http://www.jcwi.org.uk/sites/default/files/2017-02/2017_02_13_JCWI%20Report_Passport%20Please.pdf)

<sup>2</sup> <https://research.rla.org.uk/wp-content/uploads/state-intervention-into-renting-2017-report.pdf>

<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/695273/An\\_inspection\\_of\\_the\\_Right\\_to\\_Rent\\_scheme.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695273/An_inspection_of_the_Right_to_Rent_scheme.pdf)

back to 2016 found that almost 10% of applicants for current accounts had been wrongly refused due to a misapplication of the policy.<sup>4</sup> The original equality impact assessment of the policy misapplied the immigration exemption for the PSED and it will be important to ensure that this error is not repeated in the context of a fresh assessment. It will also be important for the review to examine the potential for discriminatory decision-making by banks and the unintended effect on individuals with different ethnic or national origins.

- **Education:** The Commission is also aware of concerns, including effects on good relations, about the Department for Education's pupil data-sharing agreement with the Home Office for immigration control purposes. While we note these policies are under review and new guidance has been issued, it is important that the equality impact of these policies are fully reviewed, including any indirect impacts on good relations, which the UK Government has a duty to foster under the PSED.

**Ask:** The Commission recommends a full review into the impact of the UK Government's hostile environment immigration policies on equality, discrimination and good relations between groups who share protected characteristics. This should include an impact assessment of individual policies, as well as an assessment of the cumulative impact of this package of policies on vulnerable groups and those who share protected characteristics, including indirect impacts on refugees and asylum seekers. Action should also be taken to mitigate any adverse impacts shown by this review.<sup>5</sup>

### **Further information**

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about the Commission's work at: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

For more information, please contact:

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<sup>4</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/567652/ICIBI-hostile-environment-driving-licences-and-bank-accounts-January-to-July-2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/567652/ICIBI-hostile-environment-driving-licences-and-bank-accounts-January-to-July-2016.pdf)

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