

**Submission to the Special Rapporteur on the Human Rights of Migrants for his report to be presented to the 76th session of the UN General Assembly on the impact of COVID-19 on the human rights of migrants**

**by the International Observatory of Human Rights**

*‘COVID-19 response in relation to refugees and migrants in the United Kingdom’*

June 2021

**Q1: Healthcare responses taken by the UK Government to counter the pandemic providing migrants and their families’ access to adequate health care on the same basis as nationals**

The public National Health Service (NHS) does not generally charge UK residents for most medical treatment, but it does charge people with insecure immigration status seeking secondary healthcare. Nevertheless, COVID-19-related medical help is free for anyone living in the UK without regular immigration status. The UK Government confirmed that no immigration checks will be carried out for COVID-19 treatment, testing or vaccination.[[1]](#endnote-1) While no NHS number or General Practitioner (GP) registration is required to receive the COVID-19 vaccination, only those registered with a GP will be contacted and offered the vaccine. Furthermore, if the person is not registered with a GP practice, they will need an NHS number in order to use the online system to book their vaccination appointment. To receive a NHS number, registration with a GP practice is needed.[[2]](#endnote-2) However, some GP practices simply refuse to register people without proof of address or identity, and other migrants remain fearful of arrest or deportation when seeking registrations with GPs.[[3]](#endnote-3) According to a survey conducted by the *Joint Council for the Welfare of Immigrants* between December 2020 and January 2021, 43% of migrants are scared to access healthcare for fear of being charged or having their data shared with the Home Office.[[4]](#endnote-4) This number rises to 81% for undocumented migrants.[[5]](#endnote-5) This fear is mainly to blame on the fact that in the past the NHS was required to report undocumented migrants and people whose asylum application had been refused, and the Home Office was allowed to request patient’s non-clinical information to carry out immigration status checks.[[6]](#endnote-6) This policy of data-sharing is still in place, the current exemption only applies to the access of COVID-19 healthcare. Hence, although undocumented migrants are entitled to receive the vaccine without needing to proof their identity or immigration status according to government guidelines, many encounter difficulties when accessing the vaccine. This is a result of the hostile environment previously created to deter and control illegal immigration,[[7]](#endnote-7) and the current lack of awareness in both the healthcare system and the migrant communities of the exemptions around COVID-19 related health services.

The vaccination programme is being delivered according to priority groups based on their age and vulnerability to COVID-19, and prioritizes residents in care homes, frontline health and social care workers, and clinically vulnerable people. A government report reveals that Black and Asian ethnic groups had higher rates of death from COVID-19, and that stakeholders 'consistently identified vulnerable groups, including [...] migrants, [...] as being at increased risk throughout the COVID-19 outbreak and even more so in its aftermath.’[[8]](#endnote-8) This conclusion is in line with data from the OECD which verifies that migrants are at a higher risk of contracting COVID-19.[[9]](#endnote-9) Yet, asylum seekers, undocumented migrants or refugees have not been listed as a priority group for the vaccine.[[10]](#endnote-10)

**Q2: Solidarity measures and initiatives by the Government, the civil society and other relevant stakeholders to support migrants in the context of the pandemic**

Among many other UK government’s resources, the guidance on COVID-19 testing, treatment and vaccination for migrants has been translated into 40 different languages.[[11]](#endnote-11) Additionally, *Doctors of the World* have translated NHS guidance on COVID-19 in over 60 languages, in partnership with the British Red Cross and with the support of the Mayor of London.[[12]](#endnote-12)

Many organisations assisting refugees and asylum seekers have adapted to working from home and offering their services remotely. For example, the *Helen Bamber Foundation* offers online therapy service, regular welfare calls, and online creative arts and skill groups to combat social isolation.[[13]](#endnote-13) Similarly, the *Refugee Council* has continued most of its work online, by providing regular check-ins, online workshops, social activities, as well as phone counselling.[[14]](#endnote-14)

**Q3: Immigration detention: Measures to minimize health risks associated with the COVID-19 transmission by reducing migrants’ detention and opting for alternatives to detention**

During the lockdown, support within immigration detention stopped and legal and social visits were suspended. Organisations previously providing support were limited to telephone or online communication. Due to outside pressure on the lack of social distancing in detention facilities,[[15]](#endnote-15) and a legal challenge by *Detention Action*,[[16]](#endnote-16) hundreds of people were released during the pandemic, resulting in the lowest number of people in immigration detention in the past decade with only 368 people in May 2020.[[17]](#endnote-17) The cases of every person held in immigration detention were urgently reviewed and the Home Office halted the new detentions of persons liable to administrative removal to 49 countries.[[18]](#endnote-18) Nevertheless, with the end of the initial lockdown, the numbers of people in immigration detention rose to 698 on 30 June 2020.[[19]](#endnote-19) Immigration detention of children has also been practiced during the pandemic: According to the *Association of Visitors to Immigration Detainees* (AVID), between January and December 2020, 23 children entered detention in the UK, of which 11 were younger than 16 years of age.[[20]](#endnote-20)

**Q6: Legislation or policy adopted during the pandemic in relation to the regularization of migrants**

*Extension of Visas*

Due to the pandemic, people with visas or leaves to remain that were due to expire between 24 January 2020 and 31 August 2020 were allowed to stay lawfully within the UK until 31 August 2020 under the same conditions of their visas but were required to make arrangements to leave the UK by 31 August 2020. This extension is no longer available, but individuals can now request additional time to stay through requesting “exceptional assurance” if they intend to leave the UK but are unable to do so and their visa or leave to remain expires by 30 June 2021. No additional regularization pathways have been introduced in the UK due to COVID-19. [[21]](#endnote-21)

Moreover, healthcare workers and their dependents, whose visas expire between 1 April 2021 and 30 September 2021, may be eligible for a free visa extension for another year.[[22]](#endnote-22)

Migrants who left the UK with a valid leave to remain before 17 March 2020 and were unable to return due to coronavirus travel restrictions or are unable to return to the UK to make their applications because their current leave has expired abroad, can request “Leave to Remain” (LTR) or “Indefinite Leave to Remain” (ILR) online through the *Covid Visa Concession Scheme* until 21 June 2021. Additionally, absence from the UK as a result of the pandemic does not count as a break in continuous residence.[[23]](#endnote-23) Migrants with LTR or ILR who have been absent from the UK for over 2 years on or after 24 January 2020 and were unable to return to the UK due to the pandemic travel restrictions, can apply under the Returning Resident visa route to return to the UK.[[24]](#endnote-24)

Visas for Family Reunification were not issued at the beginning of the pandemic but resumed once VISA Application Centres reopened. In June 2020, the Home Office decided to replace 30-day visas that have lapsed or were about to expire with 90-day visas until the end of the year.[[25]](#endnote-25)

*Absences due to Coronavirus*

Migrants applying to enter or remain in the UK based on family or private life will have no adverse immigration consequences if they shortly break their continuous residence between 1 March 2020 and 30 June 2021.[[26]](#endnote-26)

Similarly, migrants under the EU Settlement Scheme can be absent for up to 12 months for an important reason, which includes reasons relating to coronavirus, without breaking their continuous qualifying period. If the absence period exceeds 12 months, the individual needs to provide evidence that this extended absence was because coronavirus prevented them from returning to the UK within 12 months to not break the continuous qualifying period, but the time spent abroad exceeding 12 months will not be counted towards the qualifying period. Furthermore, coronavirus also provides an exception for being abroad a second time after already being absent for 12 months.[[27]](#endnote-27)

*Asylum Process*

Due to the pandemic, changes have been introduced to the asylum process in the UK. Vulnerable cases, e.g. where applicants are at risk of destitution as a result of the decision, have been on hold, and decisions can now be served per email. The Home Office has suspended the requirement to attend the Further Submission Unit in Liverpool in person to lodge further submissions and fresh claims, which can now be made by post or online.[[28]](#endnote-28)

Since 18 March 2020, in-person substantive asylum interviews have been paused and since the end of June 2020, remote video-interviews have been in place. Similarly, appeals are determined remotely, either on the papers or by telephone. Immigration reporting has been suspended for many people during the initial lockdown period, but some reporting centres resumed their activities on 20 July 2020.[[29]](#endnote-29)

**Q7: COVID-19 socio-economic response and recovery plan**

The Basic Universal Credit Welfare payments increased by £20 per week in April 2020 - and this increase is due to be in place until September 2021,[[30]](#endnote-30) while Asylum Support increased only by £1.75 per week in June 2020, and then by an additional 3p per week in October 2020.[[31]](#endnote-31) People seeking asylum are not allowed to work and are dependent on the governmental support provided to them, which proved to be difficult during the pandemic since this financial support cannot be spent online and asylum seekers were forced to spend money in more expensive shops nearby, or to choose between food and access to the internet.[[32]](#endnote-32)

The majority of non-EEA national migrants with temporary permission to stay in the UK have no recourse to public funds (NRPF), since their visa condition prevents them from accessing benefits, tax credits and housing assistance. This also includes undocumented migrants and people whose asylum request was refused.[[33]](#endnote-33) However, these migrants are most likely to be affected by the pandemic: Firstly, they are less likely to safely isolate themselves in their homes, and secondly, they are more likely to be financially impacted as they work in frontline industries, such as hospitality, accommodation, retail and cleaning.[[34]](#endnote-34) According to a survey conducted by the *Joint Council for the Welfare of Immigrants*, 21% of migrants had lost their jobs in March 2020.[[35]](#endnote-35) Certain state-funded support is available to temporary migrants with NRPF,[[36]](#endnote-36) such as the *Coronavirus Job Retention Scheme* and the *Self-Employed Income Support Scheme* – but both of them are not inclusive of all migrants and people seeking asylum, since they do not cover undocumented migrants or people working in the informal ‘grey’ economy.[[37]](#endnote-37)

Despite evidence that landlords are less likely to rent to non-British passport holders and court rulings determining the right to rent scheme as racial discrimination against foreign nationals, the government did not suspend the current scheme, which allows landlords to check tenants’ immigration status. As a result, migrants, and in particular undocumented migrants, have been forced into irregular, overcrowded and dangerous living situations.[[38]](#endnote-38)

In March 2020, it was decided that evictions from asylum support accommodation would be suspended,[[39]](#endnote-39) which protected almost 50,000 asylum seekers from homelessness and destitution.[[40]](#endnote-40) After almost a year, at the end of April 2021, the Home Office started to review cases again and planned to resume cessations of support, including evictions from asylum accommodations.[[41]](#endnote-41) However, due to a court order in May 2021 following a legal challenge to the Home Office’s policy,[[42]](#endnote-42) no evictions will currently be carried out until step 4 in the pandemic roadmap, which has been postponed to at least July 2021.

Emergency accommodation was provided by the Councils to nearly 15,000 people who were rough sleeping or otherwise unable to comply with self-isolation requirements,[[43]](#endnote-43) many of whom were migrants without recourse to public funds or European nationals not eligible for support.[[44]](#endnote-44)

**Q8: Specific challenges experienced by the Government in protecting and fulfilling the human rights of migrants in the COVID-19 context - Right to Housing**

The British government has been widely criticised for the use of the Napier Barracks to house asylum seekers throughout the pandemic - risking migrants’ right to health, denying basic services and the right to adequate housing. The barracks saw up to 28 migrants sharing dormitories, despite Public Health England advising the government that they ‘don’t know how dormitories can be COVID compliant.’[[45]](#endnote-45)

Newly published letters to the Home Affairs Committee by Public Health England and Public Health Wales show health officials advised single rooms with single bathrooms was necessary to make the site COVID secure.[[46]](#endnote-46) In February 2021, Matthew Rycroft CBE, Permanent Secretary for the Home Office told the Home Affairs Committee:

*“Just to clarify, Public Health England did not say it would be completely inappropriate. In fact, they give us advice on how to make dormitory-style and other shared accommodation covid-safe. It is that advice which we have followed to the letter.”[[47]](#endnote-47)*

In January 2021 alone, there were 178 positive COVID-19 tests in the Napier Barracks,[[48]](#endnote-48) out of roughly 380 people.[[49]](#endnote-49)

In June 2021, a High Court ruling found the accommodation failed to meet minimum standards. The court also ruled that ‘the home secretary’s process for selecting people to be accommodated at the site was flawed and unlawful. It also found that residents of the barracks were unlawfully detained under purported Covid rules.’[[50]](#endnote-50)

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