

Home Affairs Committee

Oral evidence: Home Office preparedness for Covid-19 (coronavirus), HC 232

Tuesday 21 April 2020

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Members present: Yvette Cooper (Chair); Janet Daby; Ruth Edwards; Laura Farris; Tim Loughton; Holly Lynch; Stuart C McDonald.

Questions 238 - 314

Witnesses

I: Adrian Berry, Chair, Immigration Law Practitioners' Association, and Colin Yeo, Founder, Free Movement.

II: Andy Hewett, Head of Advocacy, Refugee Council, Chai Patel, Legal Policy Director, Joint Council for the Welfare of Immigrants, and Bella Sankey, Director, Detention Action.

Written evidence from witnesses:

- Immigration Law Practitioners' Association, COR0040
- Joint Council for the Welfare of Immigrants, COR0011

[Written evidence submissions are available here](#)

Examination of Witnesses

Adrian Berry, Chair, Immigration Law Practitioners' Association, and Colin Yeo, Founder, Free Movement

[This evidence was taken by video conference]

Q238 **Chair:** Welcome to this evidence session for the Home Affairs Select Committee. I declare the meeting open. We have two panels of witnesses with us today to give evidence on the impact of the coronavirus crisis on the immigration system. Welcome to all of our witnesses, and once again thank you to the parliamentary staff who are enabling us to hold this evidence session remotely.

I want to begin by introducing our first witnesses. We have Adrian Berry, the Chair of the Immigration Law Practitioners' Association, and Colin Yeo, founder of the Free Movement blog. Welcome to both of you. Can I begin by asking you what impact you are currently seeing on the immigration system from the coronavirus crisis, and asking you to give your response as briefly as possible, please?

Adrian Berry: The impact is twofold. First, in terms of people who are in immigration detention and people who are asylum-seekers and people who are in need of international protection, there is an impact on people at risk in asylum detention as a result of being maintained in detention. Secondly, in respect of asylum-seekers, there is a risk to people who are currently still supported in asylum support accommodation in relation to overcrowding in that accommodation. Then in respect of migrants with leave to remain, with "no recourse to public funds" restrictions, there are impacts upon them because they are forced to choose between going out to work or staying at home and being destitute unless those restrictions are lifted.

In parallel to that, there are a huge range of problems faced by economic migrants and others with leave to remain in terms of extending leave to remain that is due to expire and in terms of the conditions that are imposed upon them as to the jobs that they can take; also whether or not they become overstayers or in default or in breach of immigration conditions as a result of not being able to extend their status or as a result of being forced to stay in the UK in breach of conditions because they are unable to travel or are self-isolating.

Colin Yeo: I absolutely second everything that Adrian has said. The task facing the Home Office is the same as for the rest of Government, which is to reduce the contagion risk to save lives, and then also to think about the wider impact on families and to mitigate the economic impact. So far we are seeing some helpful steps on reducing contagion risk perhaps, for example, in reducing the number of contacts that migrants have to have



HOUSE OF COMMONS

with the Home Office and therefore travelling in order to have those contacts as well, but so far we are not seeing much on some of the other steps that I think everybody in the sector would like to see taken.

Q239 Chair: We have a whole series of issues we want to cover, but may I just start by asking you particularly about the non-EU healthcare workers, both in the NHS and in social care? What kinds of visas are people most likely to be on at the moment?

Adrian Berry: There will be a mixture of visas: first, tier 2 general work permits, but also family reunion visas where people are authorised to work, where they are here because of their family relationship to a British citizen or to another settled person.

One of the problems that has emerged is that the Home Office policy on extending leave to remain for such persons that was announced initially appeared to include everybody who was working in the NHS, but then subsequently it looks as if it has been limited to those who may only be here on tier 2 visas and not the work permits visas, in other words, not family reunion visas or other things. It may also be restricted to certain types of work in the NHS—for example, doctors and nurses—and not those like hospital porters and other people that do essential jobs in the NHS.

Q240 Chair: Do you not have precision on that yet?

Adrian Berry: No, we do not have clarity, because we have announcements that are largely done by posting notices on the internet on a fairly ad hoc basis, so it is one notice replacing another without any suggestion there has been a change, and we are all forced to log online to try to find out. There is not a simple single source of information and clarity. Nor is there, in fact, what they could do, which is promulgate a statutory instrument simply to vary leave. We had one in 2016, the Immigration (Variation of Leave) Order for certain victims of modern slavery, where leave was extended automatically to a class of persons. It is easily done. We know what one looks like because we can see the 2016 order. Nothing like that has been done in this crisis—it would be easy to draft as well, it is very short—instead of which, ad hoc notices are posted on the internet.

Q241 Chair: If you have a nurse who is here on a family reunion visa and that visa is due to expire in two months' time, will they know whether or not they are covered by the extension at the moment?

Adrian Berry: It is not free from doubt. They will not know, and it appears that the emphasis is on tier 2 work permits and not on those, so it would appear not. That person could have a "no recourse to public funds" endorsement as well, so there is a double bind for such a person. They would be in a difficult situation, for example, if they had to self-isolate temporarily as well before going back to work.

Colin Yeo: The communications on these issues have been pretty terrible so far, as Adrian was saying. If we are struggling to understand what is going on and what these announcements cover, then the migrants who are



HOUSE OF COMMONS

personally affected will have no idea, basically, what is going on. These kinds of notices going up on an ad hoc basis just are not helpful at all.

We want to see a much more comprehensive, strategic communications policy that has some real clarity and also that we are certain is legally effective, because some of the announcements we have seen are for automatic grants of leave, and there is some doubt in the legal community over whether that works as a matter of law. The legislation seems to require personalised written notice to be given to people to extend their leave or for there to be a statutory instrument, and what we are seeing—the announcement on the extension of Chinese visa-holders earlier, and now the announcement that there is going to be an automatic extension for NHS workers of some sort, although we are not sure who—does not seem to achieve either of those things. It is not personal and it is not by statutory instrument, so it is hard to see that the Home Office is really, in law, doing what it is aiming to achieve.

Q242 Chair: Has anybody been through this process yet? Has anybody been granted, or been notified that they have been granted, an automatic extension whose visa might have been due last week, for example?

Colin Yeo: I am not aware of any yet myself, and I have been asking around.

Adrian Berry: I have not heard of any either. It appears that there is a form online for short-term extensions until the end of May, which people can fill in and expect a response within five days, allegedly, although it seems to be taking longer, but there is nothing for any automatic extension.

One key requirement that would help is simply to make a statutory instrument that extends leave for all such persons—not just NHS staff, but people whose leave is due to expire generally—until the end of September, just to give everyone legal certainty. We know that the rule would apply, there would be a statutory instrument, and we know how long leave would extend until.

Q243 Chair: Can you describe to me what a typical situation would be for somebody who is renewing their visa either in normal circumstances, so when the extension comes to an end—I am still thinking about the NHS and social care staff—or somebody who might not be covered by the extension, either a social care worker or someone who is on a family reunion visa, if it turns out that those are not covered? If you had a nurse who wanted to renew their visa, typically how long would that take and how much would it cost?

Adrian Berry: Application fees cost hundreds of pounds and they vary depending on what you are applying for, but you have to apply within time, within the currency of your leave, in order for your leave to extend while your application is under consideration. You would have to pay your fee. You will be on various different tracks, depending on whether you are on a



HOUSE OF COMMONS

family reunion visa, on a five or a 10-year route towards permanent residency.

Q244 **Chair:** Give me an example of what might be the typical experience for a common kind of visa that a nurse or a care worker might be on that they might have to extend. I am just trying to capture what a typical experience would be for somebody.

Adrian Berry: A typical experience is you are coming up towards the end of your visa. You are on a work permit visa, a tier 2 general work permit visa. You have to get the money together to pay for yourself and potentially for any dependants, each of you to renew your applications, spending hundreds and hundreds of pounds on each application. You have to pay an immigration health surcharge for the further period of time on top. There will be the process of making the application. You will probably need to pay a lawyer or an adviser to help you extend that as well, so there are additional fees on top because the rules are so complicated.

Then there are a series of prescribed evidential requirements and documents that you would have to gather together to make the application. It is extremely rigid, extremely prescriptive and extremely expensive. Then you will put your application in and then you are covered for the continuation of your existing leave during the time that you are applying by a statutory provision that extends leave while your application is under consideration. Then, potentially months later, you will get a decision on your application.

Q245 **Chair:** For a care worker, for example, who is not covered currently, typically, ballpark, what would be the normal number of months it might take? Suppose it is a family with kids, what would be—ballpark—the total cost of doing so?

Adrian Berry: It can be thousands, depending on the number of children. As far as the timeframe goes, decision-making times vary. It is hard to say, but it can be months.

Colin Yeo: I do not have the figures to hand on how much it costs, but absolutely, Adrian is right. It is literally thousands of pounds, particularly if you have family members with you. You could be looking at around £10,000, something like that. I can get back to the Committee with more precise figures, but we are talking about very substantial sums. Of course the amounts concerned will be going up in October because the immigration health surcharge is due to rise quite considerably in October.

Q246 **Ruth Edwards:** You have both mentioned a lot about ad hoc notices posted on the internet and a lack of information. Could you expand for us on what, if any, communication either you or your clients have had directly from the Home Office on the changes and how this is different from what happens normally?

Adrian Berry: What happens ordinarily is of course that clients are making individual applications, so the communication that they have with the



HOUSE OF COMMONS

Home Office is based on whether they are applying for entry clearance to come into the country—a visa—or they are applying on an in-country basis for leave to remain. The communication is directly between them or their advisers and the Home Office and it is very specific.

What has happened in this crisis is that a series of notices or pieces of guidance are being placed online to which there is, initially at least, no single source or place to go in order to find that information. It is there in theory to reassure you, but because it keeps changing—and when it is changing, the updates are not necessarily date-stamped to tell you when the change is to take effect and whether you can still rely on previous guidance—it is very difficult.

We have had a situation where initially the first notice was only for Chinese nationals who were unable to travel and said there was an automatic extension of leave. Then there was a procedure for all nationals to phone a helpline and now there is an online form for all nationals to notify the Home Office in order to obtain an extension of leave, but that process is not even described as an application. Some people can become overstayers because they are not able to apply in time because of the crisis because, say, they are self-isolating. They fill in the notice online, but it does not protect them. It is not backwards-looking, if they have become an overstayer already, to correct any periods of unlawful residence. It is not clear how that notification procedure online fits into the ordinary process of applying in time and being granted extensions of leave. Even that online process is only for those who are temporarily unable to travel before the end of May. It is not for those who are looking for longer-term or more enduring forms of status.

Q247 Ruth Edwards: Colin Yeo, how does that fit with your experience?

Colin Yeo: I absolutely reiterate what Adrian says. We are used to a system of laws, where there are various different legal instruments set out that record what you are supposed to do, what the minimum requirements are and so on. As lawyers, that is our reference point and we can advise our clients appropriately and they have been interpreted by the courts and so on.

At the moment we do not really know what is going on because we have these informal notices that change day by day on the Government website. It is a very complicated immigration system, so I would say there is perhaps an enhanced duty on the Home Office to be particularly clear about its communications. It is also a situation where people are aware that there are dire consequences if they get things wrong, so the slightest mistake in an immigration application can make you an overstayer and it is very difficult to recover your lawful status if you end up in that situation. People have clients very worried about their immediate status, and people are getting very nervous as well about what the implications will be in the future.



HOUSE OF COMMONS

One of the economic impacts of this is that people are losing their jobs left, right and centre; people are having their salaries reduced. Migrants are extremely nervous and their British family members are extremely nervous about what the consequences will be for them down the line. We have seen no recognition of those issues from the Home Office so far—no reassurance whatsoever. We are hoping that something is going to come out at some point, but we just do not know if or when.

Q248 Ruth Edwards: Am I correct in hearing that at the moment you are operating in a vacuum when it comes to knowing whether or not the Home Office will waive things like income requirements over a period when people of course will have had much less work than they normally would, perhaps?

Colin Yeo: Yes, that is absolutely right. I think the Home Office has been relatively good at acting to protect its own staff, although there are issues around the position of contractors, for example, at detention centres, but what we have not seen is a second stage of any strategic oversight or strategic thought. I am saying this as an external observer; maybe lots is going on behind the scenes. Certainly as an external observer we have not seen any strategy as to how to move things forward or how to deal with the longer-term implications of the crisis.

Q249 Ruth Edwards: What would be your top three recommendations to the Home Office on how it can improve communication and clarity both with people applying for visa extensions and also for people like yourselves who are working to help those who are migrants?

Adrian Berry: The issue of communication and clarity—it goes to one of substance as well—is, instead of putting notices online on an ad hoc basis, simply make that statutory instrument to extend leave for people whose leave is due to expire between now and the end of September. It is simple, it is straightforward, you can put it online, it is two or three articles in the statutory instrument and it is easy to do. Therefore you create legal certainty for everybody who is affected by the crisis. Everyone knows where they stand; they know that they have an extension of leave. Then if they have to extend leave further within time at the end of September, we reach the point where we think, “Is the crisis still ongoing or do we revert to normal?” and it disposes of all of this. That is my first recommendation. It can be done very, very quickly. There is no need for any of this.

The second communication issue is to stop disseminating things on an individual basis to stakeholders and to create a single, central focal point where all information is required, where all changes to policy are recorded.

The third thing is to be consistent in messaging. For example, with NHS workers, do not put out a notice saying leave will be extended for all NHS workers if what you mean is tier 2 work permit holders only and not those on family reunion. Ideally, of course, extend that leave to all NHS workers, regardless of what level they are in.



Ruth Edwards: Thank you; that is very helpful.

Colin Yeo: As lawyers, we have three sources of information for what is going on at the moment. One is the public notices that the Home Office is posting on the Government website, and those are themselves deficient, as Adrian said. We also have circulars that are being sent by the Home Office to key stakeholders, and those then get circulated around the legal community, but they are not public documents. They are not being posted to the Government website or anything like that, so it is only certain people who have access to those. That is just not good enough.

Secondly, we are getting ad hoc policy from emails and telephone calls from other lawyers who are contacting the Home Office, getting information, and then that is being circulated around the community. Again, that is confusing enough for lawyers, but that is another category of information that is not public-facing. We need some law and some clear rules on this, so that we can be clear with our clients and our clients can—at least in theory—access information about what their position is.

Q250 **Tim Loughton:** Can we just be clear, because they are quite important revelations here? The general understanding has been that the Government have granted a blanket extension to all NHS workers whose visas are due to come up before 1 October. What you are saying is, first, it is not clear that it is all NHS workers; it may just be limited to tier 2 visas. Secondly, even for those who apparently do qualify on that basis, there is no legal backing for those protections without a statutory instrument at the very least, so they could inadvertently find, in good faith, having accepted that extension, that in fact they have no legal basis to be here still after their visa expires. Thirdly, no formal instructions have been issued by the Home Office to professionals and others dealing in this field to say exactly what the situation is. Is that a good summary of what you have just told us?

Adrian Berry: It is a good summary, but I would just add the detail that the initial announcement online was that all NHS staff would be covered, and then the subsequent announcements were referring only to tier 2 work permit holders and not to those on family reunion visas. There is either a shift in policy or a lack of clarity, but on either basis it ought to extend to all NHS workers.

The second point, which is the new point, which I had not mentioned before, is that it does not necessarily extend to agency workers in the NHS or people who are what you might call bank staff who are employed by private hospitals, but who are now obviously providing NHS care because the private sector has been drawn into that. They need to be included as well.

The third point is of course extend it to doctors, nurses and paramedics, but also to hospital porters, healthcare assistants and cleaners working in the NHS as well, because those are the sorts of people without which—that is a statement of the obvious—a hospital would not be able to function. It



is not just a question of certain classes of NHS workers. Yes, do it by statutory instrument for NHS workers we would say, but generally as well to all people whose leave is due to expire.

Q251 Tim Loughton: That also includes ambulance workers, paramedics, people working in GP surgeries and everything else. One can use a statutory instrument basically to say anybody who is employed directly by the NHS or is temporarily employed by the NHS, effectively because a private hospital provision has been given over to them; that definition can be easily applied in a statutory instrument, can it?

Adrian Berry: Absolutely. If you want to extend leave for a class of persons, we have a precedent. We have the 2016 Immigration (Variation of Leave) Order, which extends leave to a class of persons who are overseas domestic workers for whom there are reasonable grounds to believe they are victims of modern slavery. We know what one looks like. It is short; it is simple. It provides substantive legal certainty and clarity.

Q252 Tim Loughton: Mr Yeo, this Committee has made a recommendation that not only should the waiver apply to NHS workers—indeed, we now find it may not apply to NHS workers—but it should be extended to people in the social care sector, of which there is a high non-British qualification there as well. Is it as easy to try to apply that definition—again presumably using an SI—to those working in the care industry, which is a slightly broader definition because they are not employed by the NHS as an employer directly or indirectly, for example?

Colin Yeo: I think it would, yes. It would not be that difficult to come up with some sort of drafting to reflect that. I would say, though, that at the moment it is very difficult for any migrants to leave the country. There is a theoretical choice sometimes between extending your visa and leaving the country, and that choice just does not exist for people at the moment. What we are seeing in some other countries is that visas are being extended automatically for anybody who is in the country because they are unable to leave. It would certainly be simpler and more straightforward and more reassuring if there was a similar policy here.

Q253 Tim Loughton: Technically, if somebody fell foul of these rules and they found themselves inadvertently still working in a health setting or hopefully a social care setting and that gets extended, their employer would be culpable for continuing to employ them on the basis they are not entitled to be here, or if they are in rented accommodation, the landlord will also be similarly liable because they are not supposed to be in the country technically?

Colin Yeo: Yes. There is a problem. We are not sure on what legal basis the Home Office is purporting to extend people's visas. It is not clear. Maybe there is some hidden mechanism that is being used that we are not aware of, but certainly other lawyers like me are not able to understand what the legal basis is for what the Home Office says it is doing, which causes us to wonder whether it is legally effective, and therefore whether



HOUSE OF COMMONS

people who think that their visas are being extended will find later that they were not, and the Home Office's true policy is that it is not going to penalise people.

That is all well and good. You could say, "We have not extended your visa, but we are not going to penalise you for it and we are not going to make you suffer for it. We will have some sets of policies that will overlook your accidental and involuntary overstaying in future". If that is what the Home Office means, it should say that, because it is not the same thing. Unlawful status is something that is quite difficult to resolve just by means of Home Office policies because, as you say, it also involves other public sector authorities—landlords, banks, employers and others as well.

Q254 Tim Loughton: Do we know what is happening to the people in the visa service who would normally be processing, renewing or whatever these visas, who presumably now do not have that job to do for a large chunk of people, supposedly? Have they been allocated somewhere else? Are they still there? Are they there to take calls? Presumably they are not going to be getting in fees that would cover part of the costs of those Departments. Do we know if that part of the Home Office is operating as normal or have they been redeployed elsewhere?

Adrian Berry: It is continuing to take medium-term applications, long-term applications. Of course there are procedures in place for trying to accept documents remotely or copies of documents and so on, but there is a service that is still being run for those that need to apply. I have not heard of any question of redeployment as such to other areas. Obviously, whatever procedures it is taking to secure the health of its own staff are a matter for it internally in terms of how people are physically working or whether they are working remotely. For people who are needing to make new applications to vary their leave on a more enduring basis, not just because they are temporarily unable to travel, those applications are still being made.

Q255 Chair: Just to follow up, I do not suppose you have any assessment of the proportion of non-EU NHS staff that would not be on a tier 2 visa and would be on another visa instead?

Adrian Berry: I do not at present, but we could try to look and get back to the Committee.

Q256 Chair: If you have those sorts of figures, that would be immensely helpful to us.

To clarify, if you have either a social care worker or an NHS worker who turns out not to be covered right now, who might be on the front line of fighting coronavirus and whose visa ran out in May, then right now, in theory, they would have to be getting together a lot of different documents, paying hundreds, potentially thousands of pounds in order to go through the application system that could take several months. Is that correct?



HOUSE OF COMMONS

Adrian Berry: That is correct. We will get you a schedule of the fees applicable there, including for a typical situation where you have dependants. We will follow that up in writing to you so that you have those figures. Yes, that is exactly the position.

Q257 **Chair:** What happens if you have the awful situation where an NHS or social care worker dies from coronavirus and they are here with their family, they are on the tier 2 visa maybe, for example? What happens in those circumstances? What are the immigration rules that apply to their family?

Adrian Berry: There is no specific provision that I have seen to take account of these current circumstances. In bereavement situations, there is provision for permanent residence to be given on a sympathetic basis, but there is nothing specifically designed for this current crisis. There probably needs to be, as regrettable and sad as it is, a specific policy to deal with that situation, because that is one more worry, of course, that people would have in the context of grief.

Q258 **Chair:** If we heard from NHS workers, for example, who say one of the things they might fear is what happens to their family if they got sick and either were not able to work or who tragically would die of it, then in those circumstances there is no guarantee that their family would be able to stay in their home?

Adrian Berry: There is no guarantee. Perhaps there ought to be, because it ought to be a clear commitment that permanent residence would be granted to such persons. Of course you cannot impose restrictions on permanent residence. That is one of the impacts of that. It immediately means you are able to access public funds, for example.

Q259 **Chair:** At the moment you would have to apply and you would have to go through an application process?

Adrian Berry: Yes. At the moment, if you were to lift the “no recourse to public funds” restriction, you have to apply for a change of conditions and then wait while that happens. That is another burden.

Colin Yeo: I would go a little bit further than Adrian. The rules do not allow for the family members of a tier 2 worker who dies to remain in the UK, and normally, as a lawyer, you would therefore advise somebody that they cannot do that. They could potentially make a compassionate application, but that is a very hypothetical situation. Compassionate applications under normal circumstances have a very low chance of succeeding with the Home Office and there is also a very substantial fee that would have to be paid for that as well.

Q260 **Chair:** You would have to pay for that as well?

Colin Yeo: Yes. It is a visa extension application. There is a fee that is attached to it. Yes, you would have to pay for it.

Chair: The information you have given us is very troubling. Thank you very



much.

Q261 **Janet Daby:** We have heard quite a lot of information already and some of it is quite troubling and quite disturbing. I represent a constituency that is very diverse. First, I am having a lot of housing issues coming to me. Secondly, there are a lot of immigration issues. This recent report has come out saying that many people who are workers in the NHS, I imagine directly or indirectly, are from BAME backgrounds and having coronavirus and hence passing away. There is a big concern there as to if they are immigrants, what their immigration status was and how that will go on to affect their families.

I am just asking, what are the other negative consequences that people could be experiencing where their visa and their immigration status is coming up for renewal and they may not be able to communicate with the Home Office as they would like? You have given a lot of the information on that already, but is there any further information in terms of those negative consequences?

Adrian Berry: In terms of in-work benefits, whether it is wrapped up in universal credit or under the old scheme for housing benefit and tax credits, the point is that a lot of people whose status is up for renewal may have difficulty in proving to the Department for Work and Pensions decision-makers what their immigration status is. Although it is extended by operation of statute, you have to have a qualifying immigration status and a right to reside in order to be eligible for universal credit, and also for those who are out of work and those who are in work. That was true for the previous benefits, which some people may still be on, including income support, jobseeker's allowance and so on.

There is a real problem for those who are reliant on in-work benefits and tax credits in terms of how they continue to show that they are eligible for these things, and particularly if someone becomes an overstayer because they are self-isolating or ill and are not able to renew their application in time. They then cease to have a qualifying immigration status and that can cause huge problems. The ordinary things of life that a migrant has are not just about their residence permits and their lawful residence, but they are able to access things that they are either entitled to and should continue to be entitled to, or to which a restriction prohibiting them from being entitled to, like a no recourse restriction, that should be lifted. That same point about universal credit extends to access to permanent social housing on the housing register and access for homelessness assistance, eligibility for homelessness assistance. It is the same sort of test that is applicable.

Colin Yeo: We are seeing people losing their jobs in the economy at the moment, very sadly, and substantial numbers of people are losing their jobs. If you are a migrant in that position, then it puts your security and your position in real danger, because our immigration system basically assigns economic value to migrants. When they lose that value because they are no longer working, there are various different harsh policies that



HOUSE OF COMMONS

kick in to try to force them out of the country. At the moment, that is through no fault of their own.

We have been concentrating so far on the NHS, but obviously all migrants are affected by this. For example, say you are a tier 2 worker and your employer has just made you redundant, rather than furloughing you. What are you going to do? You have no recourse to public funds; you have no employment. You have worries about how you are going to feed yourself and your family, your accommodation and so on. The Home Office is saying that some people can apply to lift the “no recourse to public funds”, but they will be penalised for doing that, if they qualify for immigration status in the future. They will be shifted from the five-year route of settlement to the 10-year route of settlement. The immigration fees that are attached to the 10-year route are very substantial. It is about a £5,000 difference over the course of the visa.

We are seeing not just tier 2 workers but family members in that position as well. For example, say you are a British citizen and you have sponsored a family member. You have to meet the £18,600 minimum income requirement. You have lost your job or you have been furloughed; your income has dropped below that key threshold. You have a visa extension coming up. What are you going to do? We have nothing from the Home Office making any allowance for these kinds of situations.

Q262 **Janet Daby:** This is an unprecedented time, therefore we need changes that change with people’s circumstances.

Another question. With the change of conditions, how long does that usually take—if we were not in the period that we are in at the moment—for people that have no recourse to public funds who want to do a change of conditions? What would be the normal timescale for that?

Colin Yeo: I do not know the answer to that myself; sorry.

Adrian Berry: It can take months. It depends. It is not a high priority for the Home Office decision-makers. You would have to make your case. One of the reasons it can take a while is they may not be satisfied with your evidence of your destitution in the first instance. You then have to push further and produce further evidence. Sometimes it is not just a question of there being a procedure but what the evidential threshold is in order to satisfy that. It is fair to say that it is not a liberal approach that is taken to a change of conditions.

Q263 **Janet Daby:** Yes. There is nothing in place for that to take place on a much quicker basis, given the current situation that people are in?

Adrian Berry: There should not be a need for individual applications. The restriction should just be lifted in the current circumstances for a class of persons.

Q264 **Janet Daby:** One last question. Is everything digital at the moment with the Home Office? Can you still contact the Home Office by telephone?



HOUSE OF COMMONS

Adrian Berry: There is a coronavirus helpline, but it often cannot answer specific enquiries. If you want any individual consideration, you have to approach them by email.

Janet Daby: There are obstructions. Thank you very much.

Q265 **Laura Farris:** I wanted to ask a question about immigration detention, which we have covered in earlier sessions. We have covered two issues. We have seen some evidence on the risk to the health of detainees, being in detention centres, then also on the issue of removal. Am I right in thinking those are the two primary concerns at the moment?

Adrian Berry: Yes. You are going to hear from Bella Sankey from Detention Action in the second session in detail on this. At the moment, if there is no prospect of removal within a reasonable period of time because the country of reception is not receiving people or because you are not able to travel, then the question of the lawfulness of a person's detention is there. Why should they be detained if there is no reasonable prospect of removal? That is the necessary test. Also conditions in detention, not just generally in terms of overcrowding and the health conditions, but also persons who are adults at risk and may have specific health reasons as to why they ought not to be detained.

Q266 **Laura Farris:** Adrian, I would like to pick this up because I had a look at the decision of the High Court, the Detention Action decision they challenged, and it was Dame Victoria Sharp and Mr Justice Swift. I had a look at what they said and there were two challenges. There were the article 2 and article 3 elements and then there was a challenge about the imminence of removal. I saw that both of those arguments were rejected as unarguable. First, I wondered if you knew whether that decision was being appealed, or secondly, whether you thought that there were issues that were not contained within that judgment that were still germane about immigration detention that have not yet been litigated. These are established principles of law in a normal situation that the court is being invited to consider. I would like to expand a bit. It looks as if the High Court has taken quite a clear view in favour of the Home Office. I would like to see what you would say on that.

Adrian Berry: Not to pass the buck, but the person who is absolutely in the centre of this and knows all the answers to this is Bella Sankey, whom you will be hearing from in the second session, because she can give you the up-to-date position on that. The reason I say that is because anything I would say to you would be effectively by way of hearsay, of what I am picking up from Detention Action, who are of course involved in the case. It is probably best to hear the detail of the current situation about whether there is an onward challenge to the Article 2 and Article 3 points from Ms Sankey.

Q267 **Laura Farris:** Colin, just one question for you. I think it is right to say that the fact that flights are not taking off at the moment does not in and of itself defeat Hardial Singh principles on the imminence of removal or the



lawfulness of detention. Is that right?

Colin Yeo: It is not an easy question to answer. On the face of it, I would say that it creates an argument—and perhaps a strong argument—for detainees to be able to say, “There is no realistic prospect of my being removed at the moment”. It does open the possibility of there being substantial claims for damages against the Home Office for unlawful detention in the future. I am not in a position to second-guess what the court is going to say about this. All I can say is that it certainly sets up an argument to be made.

Q268 **Holly Lynch:** If I could turn to specifically the EU settlement scheme, I am very mindful that there will be significant numbers of people who have a very time-limited window to go through that particular immigration process. We know that the helpline is closed and the Home Office is not accepting submissions by post. In addition, a number of the centres where people could scan their documents in have closed because of the coronavirus crisis. Government are saying that they are not minded to extend that deadline beyond June of next year. In your experience, how are people struggling with that process, and do you think Government will need to be in a position to consider extending that deadline?

Colin Yeo: Yes. I would add something to those issues as well, which is that the civil society organisations that were trying to help people with the EU settlement scheme have also had to stop their face-to-face meetings. A lot of us have been concerned for a long time that a substantial number of EU citizens are going to get left behind by this process, particularly people who are elderly, who do not speak English as a first language, people whom we are describing as vulnerable, although it is a difficult word in this context. Those are the people who are struggling with the application process most, who most need the help, and they just cannot get it at the moment.

It is very difficult to give numbers with this. It is impossible to give accurate numbers with this, but there is a fear that tens, maybe even hundreds of thousands of EU citizens may be left behind by this. These are things we will never necessarily know because there is no record of how many EU citizens there are in the UK, so we will never know exactly how many were left behind. There is a clear risk that this lost period of time when applications cannot be made, when people cannot be helped, will increase the numbers that get missed by the application date.

Q269 **Holly Lynch:** With that in mind, do you think Government do need to consider an extension beyond June of next year?

Colin Yeo: Yes, absolutely. We would like to see the Government doing what they are saying they are doing for NHS workers and for others, which is just automatically granting leave. I personally struggle to understand why the Government are forcing people to apply under the EU settlement scheme rather than granting leave to a class of persons and therefore making sure that they are all lawfully resident.



HOUSE OF COMMONS

Adrian Berry: The Withdrawal Agreement allows the minimum period, if you are going to have a registration scheme, to be six months after the end of the transition period, which is how we get June 2021 as the deadline. You can extend it easily if you are going to maintain a registration scheme and applying for that. Again, this is another example of where you could use a statutory instrument to grant leave to a class of persons or to vary leave for a class of persons, and they could do that, so there are two ways of approaching this.

In any event, even before the coronavirus pandemic, there ought to have been a longer period of time if you are going to have a registration scheme beyond June. Certainly now that time has been lost as a result of the coronavirus, it should be extended by at least the equivalent amounts of months, if not more, beyond the end of June 2021. Secondly, they should give consideration to granting leave to all persons within the scope of it as a class of persons by using the statutory instrument model that we were discussing in the context of NHS staff earlier.

Q270 **Holly Lynch:** Thank you for that. the3million have been in touch to say that in their experience, those with pre-settled status under the EU settlement scheme have found that they have been unable to claim universal credit over the course of the coronavirus crisis, and that that is in contravention of the UK's obligations under the Withdrawal Agreement. Has that been your experience and are you finding that that has been the case?

Adrian Berry: Yes. Pre-settled status does not give you an entitlement to universal credit. It is expressly excluded from the right to reside regulations that govern universal credit. What you have to do is demonstrate your underlying EU right to reside during the transition period, to show that, for example, you are economically active or self-sufficient in EU law terms, and so possession of that does not count under the Home Office scheme.

The argument is that once you have a residence permit in the form of pre-settled status, that qualifies you for all aspects of rights protected under the Withdrawal Agreement and therefore the Home Office conduct is unlawful. That is one that I would support, but it is not the Home Office's view at the moment. People who think they are sorted out because they have pre-settled status then turn around and have to be subdivided into whether or not they are exercising EU rights to reside in the old sense of the term of being a worker, self-employed, self-sufficient, a student and so on, and those who are not who have been granted pre-settled status by virtue of mere presence. In fact, it does not solve it. It only solves the residence permit issue. It does not solve the entitlement to universal credit, which of course is an in-work benefit as much as an out-of-work benefit for people who have settled lives in this country, so the3million are correct.

Holly Lynch: Colin, did you have anything to add to that?

Colin Yeo: Not really. It is another example of a policy that is not encouraging people to stay at home. It is almost potentially forcing people



to go out and work, which is the opposite of the central guidance that we are getting from the Government.

Q271 **Stuart C McDonald:** Colin, you have just said a policy forcing people to go out to work. Some of the financial thresholds that you referred to earlier, such as the minimum income requirement for spouse visas and maybe even the £35,000 for settlement for tier 2 visas, that sort of threshold may also create incentives for people to go out and work in case they miss that.

Colin Yeo: Yes, absolutely, and if they do not, then they are going to have to leave the country, if or when flights reopen. Therefore we would like to see some proper strategic thought and leadership from the Home Office on these issues and we are just not seeing anything at all like that at the moment.

Q272 **Stuart C McDonald:** You alluded earlier to the minimum income requirement for spouses, which I think is around £18,700. That will be relevant both to UK citizens and settled persons who were hoping that an overseas spouse would be able to join them in future. It would also have immediate relevance to spouses who are here and may have to make that application in the very near future.

Colin Yeo: Yes.

Q273 **Stuart C McDonald:** Do you have any idea about how the Home Office should try to fix that?

Colin Yeo: There are already people this will be affecting now who need to extend their visas, apply for settlement and they have to prove that they are earning that much money right now, so we would like to see some short-term measures to extend their leave for now. These are difficult issues, but we would like to see some evidence that the Home Office is thinking about this stuff and that it can reassure families that are in that situation.

We would also like to see some policies in place for families who have been forced abroad by these policies in the past. There are families who—if they cannot or do not earn that much money—either have to separate and the foreign spouse, and potentially British children, have to leave the UK, while the British citizen remains in the UK and tries to find work at the required level, or you have to leave as a family and go to live in another country.

With international flights having been shut down and the effects of coronavirus around the world unknown—this is still quite early days perhaps for this pandemic—it would be desirable, I would suggest, for British families, particularly with British children, to be able to relocate back to the UK. Again, we would like to see something from the Home Office that enabled that to happen even where people cannot obviously meet the £18,600 requirement in the short term.

Q274 **Stuart C McDonald:** Adrian Berry, any thoughts on the simplest way for the Home Office to address some of these issues? Is it simply by waiving



HOUSE OF COMMONS

the requirement or cutting down the period of time required to meet these thresholds, for example, or—

Adrian Berry: For anybody who needs to apply during the crisis they should simply scrap the minimum income requirement. There is no point in setting it at £15,000 or £14,000 or trying to do that, because you then just introduce another hard edge to it. The reality is that because everyone—people affected—have their incomes in flux so much and because of course they may be made temporarily unemployed or they may be on furlough or they may have a variety of other expenses to meet, there is no easy way of doing it other than simply to remove the requirement in its entirety.

There is nothing particularly exotic about not having a minimum income requirement. You could impose the previous requirement, that there was adequate maintenance and accommodation—you do not have to put a bright line figure into it—or you can just simply remove it as an element for the duration of the crisis, which would be my suggestion if you are not automatically extending leave by statutory instrument.

Q275 **Stuart C McDonald:** One final category of visa I will ask about is fiancé visas. If somebody here on a fiancé visa is not able to get married within the six months, is there provision to apply for an extension? Would that be something they are asking the Home Office to do that does not generally happen? Should a particular provision be made for these circumstances as well?

Adrian Berry: Yes, absolutely. That is a classic example of how your life might be disrupted, so there should be a clear statement in the immigration rules to cater for that.

Colin Yeo: Or alternatively, rather than try to cater for all of these strange situations that life throws up in lots of different visa categories, just extend visas generally, which is what a lot of countries are doing. It is a lot more straightforward and it makes sure that it covers all situations that arise.

Q276 **Stuart C McDonald:** That is very helpful. That covers people who are in the country. What about people who are currently outside the country and whose continuity of residence may be impacted? What has to happen to protect these people from losing the right they have to remain in the country?

Adrian Berry: There is the possibility of making a statutory instrument to provide for continuity of leave when you are outside of the country. You see it in certain other examples. There needs to either be a rule ideally made by statutory instrument or a clear Home Office statement within the immigration rules—which of course are Executive policy and not law—that those periods of time will not be considered to break continuity of residence.

Q277 **Chair:** Do you have any clear examples of what other countries are doing then that is different?



HOUSE OF COMMONS

Adrian Berry: I do not to hand, but we can supply some to you in writing.

Q278 **Chair:** That would also be helpful; thank you. Has the Home Office given you any indication of when any further announcements or any further details might emerge?

Adrian Berry: It is ad hoc. There has been some communication from the Home Office, which is good, in relation to notifying ILPA certainly of changes to policy in respect of addresses for service of judicial reviews and appeals and stuff like that, but overall what you have is a scattergun approach to these things. There is no clear, coherent communication and no timeframe within which outstanding issues will be resolved. As you will know from our written evidence, ILPA has made a series of recommendations, almost on a fortnightly basis since January, to the Home Office and some of those enquiries remain outstanding and unresolved.

Q279 **Chair:** One of the questions that Stuart McDonald raised there was about cases where people might fall below the spouse threshold. Are you aware of any live cases at the moment where that has already happened and what is happening in those cases?

Adrian Berry: Personally I have not heard of live cases at the moment, but it is very early days for people to have been making applications. There will be cases inevitably because of disruptions to people's income; that is absolutely certain. There may be cases in hand, but we can look at case studies and supply them to you as we get them.

Colin Yeo: I have been in touch with a campaign group called Reunite Families UK. Their members are extremely concerned about the situation and they are very worried about a range of different issues. Again, these are the sorts of issues that are not easy to foresee and a general visa extension would address this kind of thing, but it is impossible at the moment to undertake the English tests that are necessary to apply for settlement. You might meet all of the rules, the minimum income threshold might be met, but you are potentially unable to apply for a visa because you just physically cannot take the necessary English test that is required.

It is early days to be thinking ahead to what happens after this crisis, but if our worst fears are realised and there is a huge economic slump and unemployment is very high, people who have come to this country whose visa depends on them working will have to leave—people who have potentially been living here for a substantial period of time; their families may well include British citizens and British citizen children. As I say, it is early, but it would be nice to see some forethought as to how things are going to pan out in the future as well.

Q280 **Chair:** Are there any other final points that you would raise with us that we have not asked you about, which are concerns or where problems need to be resolved?

Colin Yeo: There is one further issue that has been troubling me, which is a difficult one, which is that there have been a couple of academic studies



in the last year on the size of the unauthorised migrant population. Some people call them “undocumented”; some people call them “illegal”. “Unauthorised” seems like a relatively neutral way of describing them. There have been two studies. The lower estimate for one was a population of around 600,000. The higher estimate for the other was a population of about 1.2 million. Nobody is ever going to know how many people there are in this situation, but it looks like there are a substantial number of people.

They are in a dire situation at the moment and there are two things to think about here. One is the human impact on them, but also there is the public health dimension as well, because we are talking about a large group of people who have no access to public services but they are human beings and, like other human beings, they can pass on the virus to others. That population has been allowed to develop over the last 15 or 20 years or so and it would be good to see the Home Office putting some thought into what is going to happen around that.

Adrian Berry: Two points, very briefly. First, in that context—picking up on what Colin says—the only way to ensure that people are receiving medical treatment is to suspend NHS charging temporarily because although there is no charging for testing and treatment of coronavirus, there is charging for other secondary healthcare at the moment. That may be deterring people, if they have pre-existing conditions or they simply do not know the charging regulations, from seeking secondary healthcare. Therefore temporarily, for the duration of the crisis, NHS charging should be suspended across the board.

The second thing is that for victims of trafficking, if there is not going to be a general extension of leave, which of course is our recommendation, there ought to be a grant of leave to people who are going through the trafficking determination processes, so that they get exceptional leave to remain in the short term, even if they are at the stage of seeking a reasonable grounds determination or just seeking to enrol their biometric information in order to go through that process. The Home Office has yet to develop a proper policy that protects those people so that they have leave to remain during the coronavirus crisis, because while their applications are effectively being put on hold and not being determined at the moment, so the specific consideration to the victims of trafficking needs to be cleared up imminently and quickly.

Q281 **Chair:** Very finally, on the issues that we raised with you at the beginning about the NHS staff, the social care staff and their families, if you could, would you provide us with any further information about the number of people likely to be affected and the kinds of costs and things they face? The evidence that you gave us at the beginning was very troubling, about potentially huge numbers of people who are working currently on the frontline of the UK fight against coronavirus who might be facing huge legal uncertainty, who cannot be sure that they are included in the extension or who may end up having to pay additional very significant sums of money



or provide paperwork in the short term just in order to be able to stay in the country. Also the concerns that we have raised particularly about the family of anybody who might die of coronavirus working in the NHS or working in social care as well. Could you confirm, if the Home Office wanted to sort all of that and provide reassurance through statutory instruments to provide all of those workers with the reassurance that they do not have to worry about their immigration status right now, how quickly would you be able to do that kind of statutory instrument to sort it all out?

Adrian Berry: It is a matter of parliamentary procedure, but one could be brought in as swiftly as Parliament is able to process it. Obviously I appreciate there are some difficulties in the way in which Parliament is working at the moment. My understanding is that it could be done—subject to parliamentary procedures operating in the usual way—within a week. I do not see that there is any difficulty at all.

Q282 **Chair:** There would not be long delays in drawing it up? It would be a simple thing to draw up?

Adrian Berry: It is very simple. It has a few regulations within it, maybe five or something: one commencing it; one enacting it; literally one provision within it providing for the regulation. The 2016 Immigration (Variation of Leave) Order, which applies to victims of modern slavery, is incredibly short.

Chair: Thank you very much. We very much appreciate your time and we will move on now to our second panel.

Examination of witnesses

Andy Hewett, Head of Advocacy, Refugee Council, Chai Patel, Legal Policy Director, Joint Council for the Welfare of Immigrants, and Bella Sankey, Director, Detention Action.

Q283 **Chair:** In our second panel we have Chai Patel from the Joint Council for the Welfare of Immigrants, Bella Sankey from Detention Action and Andy Hewett from the Refugee Council. We very much welcome you, and thank you for joining us for our online session.

Can I ask each of you what impact you are seeing from the coronavirus crisis on the situation around refugees, around migration/immigration, beginning with Chai Patel?

Chai Patel: The impact is severe and the thing that has exacerbated it the most is the lack of strategic thinking and planning that we have seen from the Home Office; your previous witnesses said a bit about that. It is important to talk a little bit about the nature of the challenge that the Home Office faces. One of the things that is really difficult for the Home Office in adjusting its approach to coronavirus is the nature of its policies up to this



HOUSE OF COMMONS

point, particularly things around the compliant environment, the hostile environment and minimum income requirement and things like that.

A very large part of its strategy up until this point has been to make it very clear to people that they should not be accessing public services, that they should not be accessing benefits and, even where there are exemptions or procedures whereby people can do that, creating a generalised culture where they are worried about doing so because of things like data sharing with Immigration Enforcement or because of a generalised perception that they are being checked up on. That was what the compliant environment was for; it was to do immigration enforcement on the cheap by persuading people to be scared of accessing services, even if they might be able to.

Obviously this is a public health crisis where—as Adrian and Colin said just now—everyone in the population needs to be protected if we are all to be protected. Of course, just from a humanitarian perspective, undocumented migrants do need access to healthcare, as do migrants on visas, who have no recourse to public funds, need access to public funds because they need to be able to be safe and to not have to go to work if they have symptoms.

The challenge that the Home Office has now is in taking those very complicated exemptions and exceptions that it has created over a period of time in response to challenge, whether in the courts or through advocacy or through political challenge, to ensure that the policies have some degree of granular control over who gets excluded and applying that very complicated series of exemptions to a situation where everyone simply needs to have some certainty about what is going on. Therefore what is needed is the replacement—at the very least for this period—of that very complicated and hostile series of policies with very simple and clear rules that are then promulgated in exactly the same way that information about the compliant environment was promulgated, which was designed to make people not go to public services, but this time to make sure that people know that they are safe to go to public services.

This came up before, but we would say at JCWI—and you will hear about immigration detention and about the situation for refugees, but for migrants in general—and this is both for migrants with authorisation and migrants without authorisation, the three issues that are important are access to healthcare, the lifting of “no recourse to public funds” conditions, which encourage people to go in to work when it may not be safe for them to do so, and what I would add to what Colin said about undocumented migrants is that undocumented migrants are also at the front lines of coronavirus. They are often employed in industries that we do rely upon, such as cleaning. Many of them do care work, informally often, and sometimes unpaid care work, but they are caring for people in the community who would not otherwise get that care and so—

Chair: Sorry; we will come back to a lot of those issues and pursue them further. I just want to bring everybody in for the opening point first of all, but thank you. Bella Sankey.



HOUSE OF COMMONS

Bella Sankey: The impact of the coronavirus in immigration detention cannot be underestimated. The situation in immigration detention at the best of times, in normal times, is precarious, but at the moment people in immigration detention are incredibly fearful. We have roughly 80 clients in immigration detention at the moment. It is impossible to know how many people in total are in immigration detention because the Home Office is not particularly forthcoming with that infrastructure. We estimate that it could be up to 1,000 people, including those held under immigration powers in prisons.

We know that very many of those people have serious underlying physical health conditions—Covid comorbidities, as they are known. We know that a large number of those individuals are also vulnerable for other reasons because they are victims of torture, because they are trafficking survivors, and we know that the impact on people’s mental health at the moment is acute. For a long time at the start of the pandemic, it seemed as though those in immigration removal centres had been instructed not to talk about Covid, so there was just no information being made officially available and people’s anxiety levels were incredibly high. People obviously have access to the news and so they see the advice that is being given by Government when it comes to social distancing and shielding, but in immigration detention it is impossible to socially distance or to shield yourself effectively, so very many people are incredibly fearful for their health and for their lives.

Andy Hewett: There are a number of issues. Access to the asylum system is problematic at the moment. The Home Office is still requiring people to physically attend the asylum intake unit at Croydon, which necessitates journeys on public transport. There is no alternative mechanism for people to access the asylum system once they are in the country. Obviously, people can apply at port. If they miss that opportunity they still have to attend the asylum intake unit, so that is one thing—access to the system as a whole.

Once people are in the system there are huge issues starting to appear around the standard of asylum accommodation, the ability of people to self-isolate, to maintain social distancing or shield within overcrowded asylum accommodation, whether that is dispersed accommodation or initial accommodation at hotels. We know that there are issues with communal spaces in some of those places, so it is difficult. I would echo what Bella says, when people know that the Government guidance is that they need to maintain social distancing measures and they are put into a situation where it is almost impossible for them to do so.

Aligned with that is that we saw on 20 March the Chancellor announce an increase to universal credit payments of around £1,000 a year, which equates to about £20 a week. We still have seen no parallel increase to asylum support rates. The whole rationale the Chancellor gave around that universal credit uplift was to strengthen the safety net for the most vulnerable. We have seen no movement from the Home Office as yet on



strengthening the safety net in terms of those people on asylum support, and we would call for the Home Office to put in a parallel uplift immediately. That is very urgently needed.

There are issues around digital exclusion because a lot of the people in the asylum system have limited or no access to data or to wi-fi. All of the normal places they would have gone out to in public, in cafés to access wi-fi and to access information, have now shut down. There are huge issues around people just being able to keep up-to-date with information, being able to access services. A lot of the NGOs, we have had to close down our face-to-face service provision and we are supporting people via telephone or by WhatsApp or Zoom, but of course people cannot afford to either top up their mobile or obtain some wi-fi data, so that is a real barrier for people.

All of that exacerbates the level of anxiety and the mental health impact that people are seeing. We know people in the asylum system already have an underlying high level of anxiety, both from the situation why they have come to the UK and the situation that they find themselves in around navigating the asylum system. If you then add on the anxiety induced by Covid and being placed in overcrowded situations or not being able to access information, we see from our own clients that that is already starting to trigger instances of post-traumatic stress and it has heightened the underlying level of anxiety. It is very damaging in terms of both physical health and public health, and also individuals' mental health.

Q284 **Laura Farris:** Bella, in a previous session this Committee has heard about detention centres and the issue of whether or not detainees could adequately self-isolate. That is something we have discussed previously. I want to ask you a bit about your challenge in the High Court. I am going to summarise—and if I have summarised it wrong, correct me—and then I have a question. I think I am right in saying the application was made first of all under article 2 and article 3 of the Human Rights Act. That was the first element?

Bella Sankey: Yes, that is correct.

Q285 **Laura Farris:** That was protection and inhumane and degrading treatment and so on. The second bit was whether or not detention itself was lawful because the prospect of removal was no longer imminent. Would I be right in saying that was a Hardial Singh-type challenge?

Bella Sankey: Exactly right.

Q286 **Laura Farris:** I had a look at the summary of the decision and I think it was said it was an unarguable case because the present circumstances were exceptional and the court was satisfied that—sorry, I am just reading my notes—the arrangements in place will be sufficient to address the risk in the majority of cases. Are you appealing that decision at all?

Bella Sankey: The important thing to note when considering the High Court decision on our application for interim relief was that this is not the substantive main challenge. This was an application we made to try to get



HOUSE OF COMMONS

some urgent action from the Home Office to address the risks in detention. When we brought our challenge there was no policy or mechanism under way to review detentions of people in light of Covid, so the article 2 and 3 point that we were making was that the Home Secretary is under a procedural obligation, in order to protect people's right to life and against the risk of inhumane and degrading treatment, to put in place a procedure to ensure that people were not being subjected to those human rights risks.

In response to our challenge, the Home Secretary undertook to put in place such a procedure and so the High Court felt that that was sufficient at that stage—which was over a month ago now—to answer that point of our challenge. We are not appealing the interim relief decision because, as I say, that is a kind of standalone urgent application that was made. But the challenge does continue and last week the High Court ordered the Home Secretary to provide her substantive defence tomorrow, and also to answer some follow-up questions that we have put to the Home Office about the undertakings it gave to review detention.

In our letter to the Home Office of last week, we refer to 22 clients that have acute underlying vulnerabilities who are still in detention and who do not seem to have had their cases reviewed. We are not satisfied that the article 2 and 3 review process that the Home Secretary undertook to put in place is working effectively because of the numbers that are still in detention and because of those with, as I say, particularly acute vulnerabilities that are still in detention.

Q287 **Laura Farris:** Sorry, Bella, just to interrupt you, are you going for a speedy trial on that? Do you know when the substantive hearing will happen?

Bella Sankey: We do not have a date yet for the substantive hearing, but the defence needs to be filed tomorrow.

Q288 **Laura Farris:** You are still looking for an injunction or are you bringing the claim on behalf of individuals who are in the detention system or is it just a general application, a judicial review?

Bella Sankey: It is a judicial review, but it is on behalf of all of those that remain in detention. On the second point that you make—the Hardial Singh point—yes, up until we brought our challenge and then the Home Office had to create and disclose policy and documents, it was not known which countries the UK could not currently remove to. As a result of our challenge, we received disclosure of 49 countries where removals are currently impossible. We understand that that list is updated every day, so we imagine that many more countries have been added to that list.

One of the questions we have now put again to the Home Office is to ask for an updated list because that is not being provided to individuals, and obviously that has a real bearing on Hardial Singh in individual cases if someone is continuing to be detained when there is no prospect of imminent removal.



HOUSE OF COMMONS

We know from colleagues at Bail for Immigration Detainees that they are having an almost 100% success rate with bail applications at the moment. We imagine that is largely because the global pandemic means that borders have shut globally and it is not possible for flights to remove anybody. We are not aware of any removals taking place in the last month, so I think on the Hardial Singh point in particular it is very unlikely that any of these detentions are currently lawful.

Q289 Laura Farris: Can I just be clear on what the position with the court is at present? What I think I got from the judgment is that the court was satisfied that the people who remain in detention are FNOs—foreign national offenders—so they are a sort of higher category of individual requiring detention. That seems to be recorded in the judgment. Is that right?

Bella Sankey: The Home Office has said that the majority of people that remain in detention are ex-offenders. Yes, that is correct.

Q290 Laura Farris: Just to be clear, I understand that there is going to be a future hearing on this matter, but the position at the moment from the Queen's Bench Division is that the Hardial Singh argument is not arguable. That was their conclusion. It was pretty clear.

Bella Sankey: That was the position, as I say, a month ago when we had the hearing, but obviously Hardial Singh is a movable feast and it has been a month where, as we understand it, no removals have taken place, so it is less and less likely that removals are lawful. As I say, in that period of time we are seeing an almost 100% success rate with bail applications.

Q291 Laura Farris: My final question—I think you may have already answered this—is do you have any sense of when the final hearing will happen in this?

Bella Sankey: No, we do not yet have a date for a final hearing. As I say, we just know that the defence needs to be filed tomorrow.

Q292 Janet Daby: The World Health Organisation has stated that all national healthcare initiatives must be afforded to all migrants to ensure the protection of the human right to health. Do you believe the UK Government are meeting this standard? If I could come to you first, Andy Hewett, to answer that, because you have mentioned anxiety, post-traumatic stress and so on.

Andy Hewett: Yes, I can speak for people who are in the asylum system and in the main they are able to access the health service. There are certain groups of people in the population that are excluded, and Chai can probably speak more about that and I think he would be better placed to answer that.

Janet Daby: Chai, may I come to you next?

Chai Patel: Asylum seekers who are recognised as asylum seekers can access healthcare, in theory. The problem that has arisen is one largely of



deterrence against groups who are not entitled to access NHS care or think that they are not. What we have in this country is a charging system, which means that if you do not have access to free NHS healthcare you can be charged for it.

The Department of Health has issued a new piece of guidance that amends that, a regulation that puts treatment and diagnosis of Covid on the list of exempt diseases. The problem is twofold. You have received written evidence from the BMA and from various organisations that work in healthcare about why this does not address the issue. The basic point is that just because something is on the exempt list, it does not mean that anyone knows that. Our surveys and research into the knowledge of the NHS charging regulations among the people who are meant to be using them and carrying them out—doctors and nurses and clinicians—show that there is an incredibly low level of understanding of what is and is not exempt and who is and is not entitled to treatment. Those misunderstandings are even greater when you look at the migrant population, who are not obviously meant to be fully knowledgeable about that, and what happens is people are scared that they will get charged if they go.

They are also scared that their information, even if they are exempt from treatment, will be shared with the Home Office and it can then be used—because sometimes you are treated but you still run up a debt—to deny you a visa in future. Sometimes the information that trusts share with the Home Office, which still happens, can be used to find you. People are worried that Immigration Enforcement might come after them, and we have seen cases of people already who have not gone to get treatment for Covid and have subsequently died. The organisations who have been talking to them and their families are reporting that it is because they were scared of those sorts of consequences.

Q293 Janet Daby: So what you are saying is there are lots of negative barriers. Do you have any numbers—or are you gathering that—around how many people have passed away due to the virus?

Chai Patel: We do not have any figures on that and that is probably not going to be very easy to find because, by definition, the kinds of reasons why people are scared to come forward to the NHS are the same reasons that they would be scared to come forward to anyone else to ask for help, so we hear about a few cases through organisations but it is hard to get a full picture.

Q294 Janet Daby: What do you think the Government should do to try to address this?

Chai Patel: Suspend the charging regulations. This has happened in Ireland where they have seen that there are similar problems. They have suspended the charging regulations that they have. They have also committed to do no data sharing between the health service and Immigration Enforcement. Then the third step is that people need to be



HOUSE OF COMMONS

told about it because, as I said, all of the evidence is that no one understands the NHS charging regulations, not even NHS workers. What people need to know very clearly is that they will not be charged, that they will not face any Immigration Enforcement action if they come forward to the NHS, and that it is safe for them to go and access the treatment that they need. That obviously is important for their lives, but it is also essential if you are going to have a unified public health response to what is a universal public health crisis.

Q295 **Janet Daby:** Why do you think the Government are not doing this?

Chai Patel: I do not know. I do not know because I also do not know why the charging regulations exist in the first place, because there is no real evidence that they save any money or that they work in any way. As I said, all of the research that has been done shows that they do not do anything except deter people from accessing healthcare.

We have said for a long time that the regulations should be suspended in toto, but at the moment what is clear is that the effect that they have is contrary to the primary objective that the Government should have right now of protecting the health of the population. Therefore they need to be suspended and they also need to be reviewed and also the hostile environment. Wendy Williams, in her "Lessons Learned" review, recommended a full review of the hostile environment. That should of course follow, but to deal with the immediate crisis we need a suspension.

Q296 **Janet Daby:** Bella, would you like to give a view on that to do with detainees?

Bella Sankey: Yes, absolutely. Detention is the sharp end of the hostile environment, shall we say. It predates the official term "hostile environment" but it is certainly part of a system that, as Chai has said, is all about discouraging people from accessing public services, and is set up to kind of freeze out through punitive means—whether it is destitution, the threat of detention or deportation—people who may have a right to be in the UK or people who need to get their status regularised.

As Chai has also said, the Wendy Williams report should be a watershed moment. In the Chamber, the Home Secretary made a number of commitments when responding to that report about a change in culture at the Home Office, about putting fairness and dignity at the heart of the Home Office's work, about seeing human beings as human beings rather than statistics, and about having a bit more empathy and sympathy and being able to walk in other people's shoes.

The coronavirus epidemic has been the first huge test to the Home Office of those undertakings, and from what we are seeing it is resolutely failing in meeting that challenge. The Department is out of step with, as I can see it, all other Departments in Government that are prioritising public health, which are putting orthodoxy and ideology to one side and coming together and saying, "This is not normal, but we need to take certain measures and



HOUSE OF COMMONS

do things we may not have thought we would do before to try to beat this" because we are all in this together. We depend on each other for our own health.

Every measure that the Home Office has put in place to respond to the Covid pandemic has only been done because litigation has been brought or because sufficient public pressure has been brought to bear. There has been no strategic long view taken and there has been no vision from the Home Office to say, "These are extraordinary circumstances. We are going to put in place these policies to give people reassurance, to ensure that healthcare is accessed and to ensure that people do not stop themselves from coming forward because they fear our hostile environment." We just have not seen anything like that in terms of a Home Office response.

Q297 **Janet Daby:** Thank you, Bella. This is very much about saving people's lives, all people's lives in terms of getting the necessary treatment that people need.

I just want to move you on to the impact of no recourse to public funds. Do you have any evidence or information on how this is affecting people during this crisis that we are in, the Covid-19 crisis? If I could start with you, Chai.

Chai Patel: Yes, there is substantial evidence that this is causing real problems. As you heard earlier, there are a number of real problems with this. One is that, first, people with no recourse to public funds cannot access public benefits, so we are hearing about people who are forced to stay working in unsafe conditions because they simply cannot afford not to. We are hearing about people in unsafe accommodation. Where people become homeless they are shunted between local authorities who cannot decide who is meant to take care of them because there are no central Government funds available. If you have an NRPF you are at the mercy of the individual systems of the local authority that you are in, and the default position for local authorities is that if you are a migrant you have no recourse to public funds. Unless your circumstances are exceptional, the default position is that you do not get assistance. Rough sleeping is a real problem and obviously in the current health crisis that is incredibly dangerous.

You can vary your status. If you are on a visa you can vary your visa, but as you heard, that shunts you on to a 10-year route to settlement and your previous lawful residence in the country is not counted. That could mean for you and your family you have already paid £10,000 to £15,000 for your five years of leave up until now; you are shunted on to a 10-year route where you have to renew your visas every two and a half years. That could be another £40,000 to £50,000 for a family that is not necessarily going to be on a high income. There is a strong incentive for people not to even try to make that application and instead to muddle through.

Q298 **Janet Daby:** If I could just interrupt you there, Chai. If people do not go and try to put themselves forward for that change of conditions and then



HOUSE OF COMMONS

they are not getting public funds, obviously that means they are not getting any funds for food and bills and so on. That is a real poverty issue. Is that correct?

Chai Patel: Yes, absolutely. It also impacts on some groups much, much worse than others. Women facing domestic violence are placed in an invidious position by all of this, because if they cannot access public funds it is a lot harder for them to leave unsafe situations. In the current health crisis you can see that there are even more barriers to doing that. Similarly, people who are already in exploitative work conditions—victims of modern slavery or people who are maybe not quite victims of modern slavery, but who are clearly being exploited by the people either housing them or employing them—are going to find it much more difficult to get out of those situations and will continue to be placed in danger and will not be able to do things like self-isolating or resting or seeking healthcare when they need to. Again, that puts them at risk, it puts their families at risk and it puts everyone else at risk as well.

Janet Daby: I just wondered if either Andy or Bella had anything to add.

Andy Hewett: Yes, I have a couple of points. It is important to recognise that when we are talking about people with no recourse to public funds, essentially there are two groups. There are those that enter the country on a visa that has a “no recourse to public funds” stamp on it, giving them no recourse to funds, and there are those who had a visa or have gone through the asylum system and have exited the asylum system who by virtue become no recourse to public funds because their visa has expired. That is the group that we deal with mostly. What we are seeing is particularly those people who become appeal rights exhausted as a result of the asylum process, they are left with very little provision in terms of accommodation and financial support.

We welcome the Government announcement on 26 March to accommodate all rough sleepers that went out through local authorities, but we know that that has been inconsistent with the clients. We know some local authorities were very proactive and did accommodate large numbers of people who would have had no recourse to public funds, but we know that others were less able to do so or less inclined to do so. What there needs to be from central Government is clear guidance about how that instruction needs to be put into practice.

The other challenge is that although that announcement was welcomed, it only attended to the provision of accommodation. It did not put any detail in around how you would provide financial support for these people. Again, the local authorities have interpreted that very differently. We see some people have been accommodated, but have been left with no support. Some people have been accommodated, have been provided with some support, but where they have been provided with support that has been inconsistent. It may be the local authority is providing it or an NGO, a charity or whatever. While the announcement was welcomed, it was lacking



HOUSE OF COMMONS

in detail, and I think that is what has led to this kind of inconsistent application.

Q299 Holly Lynch: Andy, coming straight back to the point you have just made, if that is okay, I am very mindful that in that letter issued by a Government Minister on 26 March it did say that local authorities should utilise alternative powers and funding to assist those with no recourse to public funds who require shelter and other forms of support due to the Covid-19 pandemic. That is the point that you just made, that it is almost asking local authorities to find new and innovative ways of circumventing the existing laws to try to provide that support to people with no recourse to public funds. Have you seen any particularly innovative ways of doing that? I want to probe a little bit further on why we are asking Government therefore to be absolutely clear about what local authorities need to do to support people with no recourse to public funds.

Andy Hewett: I do not have the detail as to the levels of innovation. We do know that there were some places where people were immediately accommodated and provided with financial support that we would consider was adequate; there were other places where neither thing has happened and other places where accommodation was provided but the financial support element was more tricky to put in place. Another example would be section 4 support from the Home Office in terms of people whose asylum case is refused but are not able to leave the country.

That cannot be provided as subsistence only at the moment. You might have somebody who has been temporarily provided accommodation under the provision from 26 March, but they are unable to be provided with section 4 support that would give them that financial provision by virtue of the fact that section 4 support cannot be provided just by subsistence only. This needed a whole of Government approach. This one announcement also needed the Home Office policies to fall in line behind it. I think that is true of other Departments. It is difficult to see how this can work in isolation. It needs every other Government Department to fall in behind it.

Q300 Holly Lynch: Chai, do you have anything else that you can contribute there in terms of examples that we have seen from different local authorities trying to approach this?

Chai Patel: We are seeing a very inconsistent pattern, but the basic solution is to lift NRPF for everyone, whichever category you are in, both lifting the visa conditions, but also temporarily, at the very least, changing the rules so that there is universal access to those sorts of benefits and public funds. That is the only way that you can deal with this situation in a coherent manner and ensure that different people are not getting different treatment just because of where they happen to be.

It has a knock-on effect for people in other visa categories. You were talking earlier about minimum income requirement families. One person, for example, is earning about £18,000 a year and his wife supplements that income as a carer; she is a migrant on a family visa. They have a



HOUSE OF COMMONS

young child, but because of the combination of things like NRPFs, the minimum income thresholds, she cannot stop working—even though she is sure that it is unsafe for her to keep doing so because of the conditions she has to work in—because of concerns about renewing the visa. A universal lifting of NRPF and blanket extensions of visas are the only way that we are going to deal with the many different situations that people find themselves in.

Q301 Holly Lynch: Forgive me; I am jumping around a little bit with these different questions, if you will bear with me. Bella, perhaps if I might come to you, it strikes me that with the points that you have made, as well as the points made by the first panel, some of the ongoing legacy issues of the hostile environment mean that the people you will be working with and supporting, where they are seeing some of those Government statements around relaxation or extensions of visas, without the legal and very clear underpinning that was called for by both of our witnesses in the first panel, is part of the reason why those you are working with perhaps just do not have the confidence in the statements that have been provided already by Government. Do you think that that would be a fair assessment, Bella?

Bella Sankey: Yes, I think that is absolutely right. Communication has been lacking. When it has been forthcoming by the Home Office it is by way of updates to its website. We have seen in detention that basic information about Covid was entirely lacking for a long period of time and it was only through news sources that people became aware of what was going on and the risks that they faced.

One of the other issues when talking about communication in this is that obviously a large number of migrants will not have perfect English, particularly people in detention that may have recently arrived and are seeking asylum. One of the very basic things you would expect is the provision of information in languages that people understand about changes to Home Office policy. Again, that has not been forthcoming at all. We produced a guide for people in detention outlining Covid risks and providing information about legal advice that is available to people being detained, because the already pretty threadbare system for legal advice in detention has all but come to a grinding halt. The Home Office prevented these leaflets being distributed in detention. Yes, communication has been lacking, and the Home Office's approach to it, yes, I would say wholly lacking.

Q302 Holly Lynch: Chai, have you anything to add?

Chai Patel: Yes. Just the hostile environment in general is causing a lot of problems. One of the things that we have seen recently that is worrying is of course the overrepresentation, it seems, of ethnic minorities and migrants in the people who are falling victim to Covid and who are dying. We obviously need to understand a bit more about the causes of that, but one of the things that seems to be linked to it is poorer outcomes in general in society in things like housing. Of course we have had the High Court judgment on the Right to Rent scheme that requires landlords to carry out



immigration checks, which showed that it was causing racial discrimination against migrants and against ethnic minorities in the housing market. That meant that people were spending longer in trying to find accommodation than people who were white British. Obviously, that kind of thing in a heated housing market means that ethnic minorities are more likely to have less desirable housing, housing that is less in demand, because it is easier for them to compete for that kind of thing.

On a systemic level, if you are looking at some of the answers for why people are suffering more and more as ethnic minorities and as migrants, some of that is laid quite directly at the door of the sorts of immigration policies that we have seen over time. It may not be easy to deal with that in the next few weeks, but the answers for why these policies continue despite the fact that we have had court judgments that say quite clearly that they cause that kind of discrimination do need to be addressed. It does damage our resilience as a society if we have those kinds of systems in place that discriminate against particular groups and that create those kinds of vulnerabilities where they did not need to exist.

Q303 Stuart C McDonald: First, want to follow up on a couple of questions that Holly asked about no recourse to public funds and this letter that was sent by the Government back in March. As I understand it, that letter came from the Housing Minister rather than from the Home Office, and as Holly has pointed out, it referred to other sources of funding and using other powers. Is the suggestion then that the tranche of funding that the Department had announced was not to be used for people who are now subject to NRPF provisions or who are undocumented or unauthorised?

Chai Patel: The letter that came from the Housing Minister saying?

Stuart C McDonald: Yes, apologies. Basically, I think the suggestion that Holly made was that the letter said local authorities should look to other sources of funding and other powers if they wanted to look after those with NRPF conditions or who are outside the system or whatever. Is that fair?

Chai Patel: The point raised by that is that if you have no recourse to public funds you do not have access to many centralised public funds. It falls to the various statutes that require local authorities to support people. Under the Children Act or under homelessness provisions, if you then fall within some categories, like you are a family with children, you might then be required to be accommodated by the local authority, which it has to fund out of its own pocket of money. For people who have no recourse to public funds and cannot easily prove a connection to the local area and also do not fall under priority housing need, there is no real protection. If you want local authorities to start supporting those people, they are not legally obliged to do that. I think there was just a general suggestion being made they should dig into their pockets somehow and step up and do it, but without any support or obligation necessarily to do so in every case.

Q304 Stuart C McDonald: A clear instruction and some specific funding that is required?



HOUSE OF COMMONS

Chai Patel: I am not sure how that would work, but we can look into it and see if there is an explanation.

Stuart C McDonald: Of course that would be resolved anyway if no recourse to public funds rules are simply suspended.

Chai Patel: Yes.

Stuart C McDonald: Andy, any further thoughts on that?

Andy Hewett: Just to say that that was what was missing from the letter—a clear instruction and, “Here is the pot of money available to enable you to do this”. Asking local authorities to look in their drawers for bits of spare money when they have already been subject to budget cuts, it is not surprising that it has been inconsistently applied.

Q305 **Stuart C McDonald:** Following up on what you said about asylum support and just looking at both ends of the system, first of all, those who are newly arrived and have just made a new asylum claim, you spoke first of all about the fact that we still have this ludicrous rule in place that people would physically have to attend Croydon to make an asylum claim, regardless of where they are in the United Kingdom. Is there any suggestion that that has been looked at by the Home Office and that it is going to change that?

Andy Hewett: Yes, we flagged this to the Home Office on 17 March and we know that it is looking at it. We expect it to perhaps make an announcement in the next few days or the next week. We think what it might end up doing is looking at regional asylum intake units, having an office in every region, which is better than having everybody go to Croydon. Of course it still requires people to make a journey that would normally be on public transport to an office that could still be many miles away. Our preference would be to allow people to lodge or register their asylum claim by email or by post, that they would get a reference number and that would then allow them to enter the asylum support system, because the only reason they are going to those offices is to have their biometrics taken and that could be done further downstream.

The Home Office has moved already to suspend reporting, because that requires journeys. It has moved quickly to allow people to submit further submissions via email or post, whereas they used to have to go to the office in Liverpool. What we are calling for is that same principle to apply, that these are journeys that we think are unnecessary and that alternative mechanisms should be put in place.

The one thing I would add is that in all of this, since Covid erupted, what we have not seen is any clear indication that the Home Office has been working to a contingency plan or business continuity plan. There has been no evidence of that. At no point have we felt like, “Okay, it has activated its contingency plan and we are at phase 1.” It has put in place some positive policy measures, but it has been a very reactive process as a result of either litigation or some quite strong advocacy from refugee sector



HOUSE OF COMMONS

organisations. It feels like this is missing. An office like Croydon—what would happen if that office was subject to a serious fire and was out of action? The Home Office must have thought about some of these things. There must be some kind of continuity.

Q306 Stuart C McDonald: Say somebody makes a claim successfully, whether by going to Croydon or whatever else, what are the next steps then in getting support? What form does that support take and are there problems with that?

Andy Hewett: If they are immediately destitute and unable to support themselves they can request to go into initial accommodation, which are the hostel types that are dotted around the country. Once they are accommodated in there they can apply for asylum support—section 95 support—which would then allow them to be dispersed out into the regions. We found that those initial accommodation centres are generally full; they were already over capacity prior to Covid. The Home Office is now using hotels much more regularly as overflow to initial accommodation.

One of the positive things the Home Office has done is freeze or halt evictions from dispersed accommodation up until June. That is very welcome, but it has also created a bottleneck in the system in that people are not exiting accommodation, but people are entering the system still and requiring accommodation.

It is no surprise that hotels have to be used and we accept that, but I think one of the challenges is that where people are being accommodated in hotels and in initial accommodation, very often it is in the form of having to share rooms with people who are unrelated. We think that people should be given single-unit accommodation to allow them to self-isolate or maintain social distancing. It is not appropriate for people to be given shared rooms when they are not related to the people that they are being asked to share with.

Q307 Stuart C McDonald: How long does it take, generally speaking, for an asylum seeker to access section 95 support, the actual financial support, albeit in the form of an Aspen card, I think it is?

Andy Hewett: That can vary. There have been delays in the system around the processing of applications and probably the Home Office could give you more detail on average times. It used to be a matter of days or weeks, but in recent times that has been extended to many, many weeks. That can be a problem, but it is not so much a problem if people are already in what is called section 98 accommodation. They are in the initial accommodation and from there they have their section 95 application.

It is more of an issue if you have people who are perhaps being helped by a friend in the community and that friend has now said, "Because of Covid I do not want you in my house any more. You have to apply for section 95 support". If that application is then subject to delays, that can cause huge issues.



Q308 Stuart C McDonald: Finally, on the other end of the system when people have had their asylum claims refused, some will still be in accommodation, others will have been put out of accommodation. In theory, there will be some of them on section 4 support already. Is there a sense in which the actual current crisis and lockdown means that more people will be entitled to section 4 support? Is that solution simply providing section 4 support more broadly or do we need to push further than that?

Andy Hewett: We have already seen that more people who became appeal rights exhausted prior to Covid are now applying for section 4 support, on the basis that there is no viable support and that those applications are being processed and generally accepted. I do not think we have seen many appeals go to the asylum support appeal tribunal on those grounds, so that is good. However, it still requires people to submit an application, to then submit themselves to a lengthy processing time for that application, and in all of that time they may remain destitute and homeless.

It would be better if the Home Office was to make a blanket provision, just saying, "If you are in this situation you will now be eligible for support and this is how you can access it" and to streamline the application process. The Home Office has made some welcome provisions in terms of lowering what evidence it needs to see in terms of original documents. However, the application process still seems quite rigid, it still takes a long time and I think there is work that could be done to streamline that process.

Stuart C McDonald: One final question for me?

Chair: I want to bring Ruth Edwards in, Stuart. We have a hard deadline of 11.40 am for the evidence session before we get cut off by the technology. I will come to Ruth, and if there is time I will come back to you, Stuart.

Q309 Ruth Edwards: I want to continue talking about asylum accommodation. I know there have been some concerns about how easy it is for people living in communal asylum accommodation to socially distance. How much accommodation is available in the asylum system for people who need to shield or to self-isolate? Do you have any idea of that?

Andy Hewett: My understanding is that the Home Office has put in provision for people who are perhaps symptomatic and need to shield, that there are some specific locations where people are able to do that and they will get moved into that accommodation. I am not sure that number of bed spaces that equates to. I think you would have to go back to the Home Office on that.

Q310 Ruth Edwards: In your view, given that there will still be asylum applications coming in, do you believe the capacity to provide it is adequate for the likely increase in people staying in asylum accommodation over the Covid-19 pandemic?

Andy Hewett: What is sure is that there is going to be pressure on the accommodation estate. There was pressure before Covid and Covid has



HOUSE OF COMMONS

just added another level of pressure. We do not expect the Home Office to magically quickly procure dispersed accommodation. That takes time and it is difficult to do in the context of Covid. But where it is using hotels, it should be taking greater steps to make sure that those hotels include self-contained accommodation so that individuals can self-isolate rather than having to share rooms with strangers.

The other issue is that where they are sharing rooms it is not always with the same people. Some people might be moved out to a different place and then a new person is moved in, which again increases the public health risk when you have this throughput of people coming in and out of hotels or initial accommodation and these shared rooms being mixed up and jumbled up.

Ruth Edwards: Chai, Bella, did you have anything you wanted to add?

Chai Patel: We are seeing that there are real problems with people who are in shared accommodation and are not able to self-isolate. There are processes that theoretically exist to move them out if they start to see symptoms, but I would agree with what Andy said about there needing to be more care put into that and speedier resolution where those problems arise.

Bella Sankey: I would just very briefly add that we too are hearing about pressure and very serious overcrowding in asylum accommodation for people that are released from detention. We are also aware of people being released to destitution, so individuals with no recourse to public funds, asylum seekers being released from detention with nowhere to go and no financial support whatsoever. I referred earlier to the Home Office defending bail applications, which it continues to do. By putting resource into doing that I think it is taking away important resource and energy that the Department needs to find to secure this accommodation and to ensure that people are not being released to destitution.

Q311 **Ruth Edwards:** How many people would you say, Bella, have you heard about who have been released into destitution?

Bella Sankey: It is impossible to put a figure on the number of people that are in that situation. We have heard reports from all of the organisations that support people in detention. There is a group that support people in Gatwick that report a number of people released to destitution. We know some of our clients have been. We have probably heard of say 20 cases, but we hear very few reports once someone has left detention, so I do not think we have, by any means, a representative sample there. There obviously have been a number of releases in a relatively short period of time, but we just do not think that there is a joined-up policy approach from the Home Office as to how to deal with that as people are moved out of detention.

Q312 **Ruth Edwards:** Thank you; that is very helpful. This is my final question, because we are short of time. You were talking about issues with accessing



HOUSE OF COMMONS

healthcare. Obviously, asylum seekers are entitled to access first and second-tier healthcare in the UK for free. In your experience, are they accessing that healthcare, and if not, do you have a sense of why and what needs to be done in order to help them access the healthcare they are entitled to?

Chai Patel: The Equality and Human Rights Commission did a piece of research on asylum seekers' access to healthcare under the charging regulations and for other reasons, which raised a number of problems, both around people not knowing what they are entitled to, health workers not knowing what asylum seekers are entitled to, that causing a deterrent effect and people just generally being reluctant to engage. There is also just a general problem where even though people are entitled to primary care, so GP services, many GP services have in place gatekeeping mechanisms that stop people without fixed accommodation from getting healthcare even though they are entitled to it. There are all sorts of problems.

You have written evidence, I think, from Medact and also from Doctors of the World that refers to that Equality and Human Rights Commission research and some other pieces of research that have a lot more detail on that.

Chair: Does anybody want to come in very quickly or have anything else to add on that? Stuart, you had a specific question to Bella.

Q313 **Stuart C McDonald:** Thank you. It was just for a more general update, Bella, about the numbers that you think are still in detention and what procedures are in place in terms of social distancing and ensuring that the public health effort is being taken seriously in there.

Chair: Bella, if you could provide us with some written evidence on that it would be helpful, given the time constraints that we have. Did anybody else want to make a final point in response to Ruth's question—Andy or Bella?

Andy Hewett: No.

Q314 **Chair:** Great. Thank you very much, and I thank all of you for your time today. We very much appreciate it. If there is any further information that you want to provide us—certainly a response to Stuart's final question, Bella, that would be helpful, but to any of the other questions—then do provide us with that as well.

Andy Hewett: Can I just make a final comment? A lot of the provisions that the Home Office has put in place with regard to asylum accommodation end at the end of June, so the halting of evictions and the continuation of support. We are frankly seeing a potential cliff edge then, or if it gets extended, at a later date. We would urge the Home Office to think about that and ensure that that is managed well.

The second point is that some of these positive policy measures have been put in place and there needs to be an overarching review to see which of



HOUSE OF COMMONS

those potentially could be made more permanent because they have addressed some long-standing issues. There cannot be a situation where we go back to business as usual pre-Covid.

Chair: Thank you to our panel. I am going to draw this evidence to a close before the technology closes it down for us. Thank you again to our parliamentary staff for making it possible to hold this evidence session remotely.