

(COR0233)

**Written evidence submitted by Amnesty International UK and Migrant Voice
(COR0233)**

Amnesty International UK is a national section of a global movement of over seven million people who campaign for every person to enjoy all rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We represent more than 670,000 supporters in the United Kingdom. We are independent of any government, political ideology, economic interest or religion.

Migrant Voice is a national, migrant-led organisation working with migrants regardless of their status and country of origin, including refugees and asylum seekers. We develop their skills and confidence, empowering them to speak for themselves about their own lives and issues that affect their communities. Whether speaking out in the media or on public or political platforms, the aim is to create positive change for migrants – countering xenophobia, discrimination and unjust policies, strengthening communities, and bringing social justice – change which benefits the whole of UK society.

1. Migrant Voice and Amnesty International UK (AIUK) have previously and jointly made a submission and supplementary submission to the Committee's inquiry last year on Home Office preparedness for Covid-19. Those and this submission are solely concerned with Home Office nationality, immigration and asylum functions.

Our previous submissions

2. In our first submission of March 2020,¹ we identified three primary considerations in the light of the pandemic and public health opinion concerning response to it. Those considerations were:
 - *What powers the Home Office exercises that necessitate social interaction or reduce capacity to avoid or lessen that? Is exercise of these powers, whether in individual cases or at all, necessary, safe and appropriate at this time?*
 - *What powers the Home Office has that can help reduce need for social interaction? How might these powers be used, whether in individual cases or generally, to strengthen the pandemic response?*
 - *For what further legislative or other impediments to people following guidance or mandatory measures is the Home Office responsible? What can and should be done to remove these impediments to strengthen the pandemic response?*
3. In our supplementary submission of May 2020,² we briefly considered the Government's then recently published Covid-19 recovery strategy alongside an analysis published the following day by the Independent Scientific Advisory Group

¹ See Written Evidence COR0130 at: <https://committees.parliament.uk/writtenevidence/4972/pdf/>

² See Written Evidence COR0008 at: <https://committees.parliament.uk/writtenevidence/868/pdf/>

for Emergencies. Having regard to these publications, our initial submission and Home Office action and omission over the intervening period, we concluded:

The Government remains unwilling or unable to fully and effectively appraise the impact of immigration policy and practice in relation to the pandemic and the pandemic response.

Relevant context

4. The World Health Organisation declared a global health emergency on 30 January 2020.³ The Government published guidance on social distancing on 16 March 2020,⁴ the Health Secretary introduced the Coronavirus Bill to the House describing the virus as “*the most serious public health emergency that has faced the world in a century*” on 23 March 2020⁵ and, on 26 March 2020, the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, SI 2020/350 took effect. We highlight those regulations given their originating from the Government at Westminster, which has exclusive responsibility for matters of nationality, immigration and asylum at the Home Office.
5. The Government’s strategy document published in May 2020 confirmed that it anticipated the need to monitor, respond quickly and contain the virus for the foreseeable future and possibly far beyond.⁶ It noted that the virus is unlikely to be eradicated in the UK or globally.⁷ We note the relatively new availability of vaccines in response to the pandemic. Nonetheless, it is not yet known whether vaccines will provide long-term protection or whether research and development will need and be able to keep pace with any mutation of the virus.⁸
6. Capacity to monitor and respond quickly may, therefore, continue to be equally or similarly vital in the future as it was at the time of the strategy’s publication. All of this requires consideration of whether people are able to keep themselves safe, adhere to any necessary rules or guidance and engage effectively with relevant public health authorities and providers. That in turn requires consideration of whether policy and practice – including that relating to nationality, immigration and asylum functions – enables or inhibits people to do these things; and what should be done to ensure this policy and practice is as enabling as can be.

Our current assessment

³ See: [https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)](https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov))

⁴ This was updated on 30 March 2020: <https://www.gov.uk/government/publications/covid-19-guidance-on-social-distancing-and-for-vulnerable-people/guidance-on-social-distancing-for-everyone-in-the-uk-and-protecting-older-people-and-vulnerable-adults>

⁵ Hansard HC, 23 March 2020 : Col 35

⁶ The plan was updated in July 2020: <https://www.gov.uk/government/publications/our-plan-to-rebuild-the-uk-governments-covid-19-recovery-strategy/our-plan-to-rebuild-the-uk-governments-covid-19-recovery-strategy>

⁷ This remains the assessment in the updated plan. *Ibid*

⁸ We acknowledge that there appears to be confidence that current vaccinations will prove effective against known mutations.

7. It is a full year since the declaration of coronavirus as a global health emergency and more than 10 months since the introduction of the UK's first lockdown. Our assessment remains that, in relation to the exercise and effect of nationality, immigration and asylum functions, the Government is unwilling or incapable of fully and effectively appraising the impact of policy and practice in relation to the pandemic and pandemic response.
8. It is our shared opinion that at the root of this is a fundamental unwillingness or incapacity to consider the women, men and children – their rights, interests and experience – who are most immediately affected by these functions. This is essentially the same failure identified by the then Home Secretary in April 2018 in apologising to the House for what is now widely known as the Windrush scandal;⁹ and it is a failure that the present Home Secretary indicated is being corrected in her statement to the House in July 2020.¹⁰ Yet, it is not changing.
9. This is of vital importance in the context of the current pandemic. It means the health, wellbeing and lives of many people are put at risk; and a consequence of this is to risk sustaining the pandemic and increasing its spread.
10. But it is not only in relation to the pandemic that this is of such importance. If and when this pandemic may be over, there will remain – unless there is a fundamental change of understanding, attitude and approach – much individual, family and social harm done by the UK's nationality, immigration and asylum systems; and this will include the susceptibility of public health to real harm done by the same failure in these systems to understand, care or respond to the needs and circumstances of people subjected to them in the face of any new public health emergency.

Further explanation and example of our assessment

11. In the remainder of this submission, we set out some further explanation and example of that assessment and make some further observations upon it. Inevitably, what is set out is not a comprehensive analysis of the various nationality, immigration and asylum functions with which this submission is concerned. Before doing so, we draw attention to the response of the Home Secretary to an Urgent Question on Covid-19 protections at the UK border on 26 January 2021.¹¹ We note that the focus of that question was specifically at the border. Nonetheless, it is important to recollect the emphasis of the Home Secretary upon staying at home, avoiding all non-essential travel and adhering to social distancing and related measures as vital at this time of “*global health pandemic*.”¹² We acknowledge the importance of each of these things; but we question the capacity or will at the Home Office to recognise and give effect to their importance in its policy and practice in the areas of nationality, immigration and asylum.

No recourse to public funds

⁹ *Hansard* HC, 16 April 2018 : Col 27

¹⁰ *Hansard* HC, 21 July 2020 : Col 2021

¹¹ *Hansard* HC, 26 January 2021 : Col 173

¹² See e.g. *Hansard* HC, 26 January 2021 : Cols 173 (in her opening statement), 176 (in response to the Chair of this Committee), 179 (in response to Jim Shannon MP), 183 (in response to Lee Anderson MP) & 185 (in response to Dame Angela Eagle MP)

12. In our first submission of March 2020, we drew attention to the likelihood that many people would be unable to sustain themselves and their families in safe conditions while also adhering to necessary or mandated measures introduced in response to Covid-19 if they remained excluded from public funds. This affects both people in the UK who require or are treated as requiring leave (permission to be here) but do not have it and people in the UK who have leave that is subject to a condition of no recourse to public funds.¹³ Among the former group are people who have the right to be in the UK but are either wrongly treated as without that right or are yet to have their right recognised. Among the large number of people affected by this exclusion are, therefore, many victims of human trafficking, survivors of domestic abuse, refugees, people born in the UK and British citizens alongside many other people who have good claims to be and remain in the UK. We highlight this to draw attention to the very wide direct impact of no recourse to public funds. The indirect impact is, of course, greater – particularly in the context of the current pandemic. This is because the indirect impact of a person’s exclusion from public funds includes the impact on family members, who may be of any citizenship or immigration status or none; and because the indirect impact includes the public health consequences of rendering people more susceptible to contracting and/or passing on the virus.
13. Many members of Migrant Voice and people known to them are suffering due to their being subject to no recourse to public funds at this time. For example, one man has had to walk 8 miles to access a food bank. The pandemic has prevented many international students from taking the 20 hours of employment permitted to them by their leave; and many have also found themselves unable to rely upon the support of sponsors whose financial circumstances are affected by the pandemic. International students are also facing difficulty meeting their student fees, which in turns places their continued leave to enter or remain at risk even after they have made substantial financial and other personal investment in coming to the UK to study. Some people, whose leave is on the basis of family or private life in the UK, are in principle able to make ‘change of conditions’ applications to have the condition of no recourse to public funds removed¹⁴ but find the process is not accessible, efficient or effective. Reasons for this include evidential barriers and that, for some people, the consequence of such an application is to double the period of time (from 5 to 10 years) they must remain in the UK (paying visa fees, the health surcharge and other costs) before becoming eligible to apply to settle.¹⁵
14. The impact on people is to severely undermine their capacity to sustain themselves and their family during the pandemic, to compel people to take risks to maintain an income in circumstances that are not safe and which expose them to additional risks of abuse and exploitation and to put at risk people’s capacity to maintain sufficient funds

¹³ Such conditions are imposed under section 3(1)(c)(ii) of the Immigration Act 1971 upon most grants of limited leave to enter or remain.

¹⁴ The Home Office published an ad-hoc management information release relating to this matter on 30 July 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904641/No_Recourse_to_Public_Funds_NRPF_-_Applications_to_change_conditions_of_leave_Q2_2020.pdf

¹⁵ See <https://www.gov.uk/government/publications/application-for-change-of-conditions-of-leave-to-allow-access-to-public-funds-if-your-circumstances-change>

to renew their visas and those of their family members. Some Migrant Voice members and people known to Migrant Voice report:

“When it is time for you to renew you are looking everywhere for money. You have no money to save, for school, rent and car insurance. My son is finishing college and I want him to go into further education but that is hard financially... I work six days a week in order for me to pay for everything and it’s still not enough, I still have debt... I have so much stress, an injury and breakouts on my face... I don’t have time with my kids because I have to work so much. There is no time to sit down with family or take them out. It’s really affecting my living standard. Yesterday I had a headache, felt feverish and sweating. I drank some water and took some paracetamol, but I have to carry on working... I don’t feel heard by the government; they don’t know what I am going through. We are human too. I want to be heard.” (Fatima, a single mother with two children, has lived in the UK since 2009, has to date paid around £15,000 in visa and related fees, excluding solicitor’s fees.)

“Getting the financial evidence for six months [to apply for a visa fee waiver] is hard during Covid, as I have to physically go to the bank, and there are delays getting this. I have been told that, if it is refused, I have ten days to find over £4,000 or I will become an overstayer and lose my job... worrying about raising the money or becoming an overstayer is unnecessary and I don’t understand the logic behind this. I do not want to go under or become homeless, with the visa fees looming this is a constant worry, I will not let my children go hungry or cold, and I do not want to go into rent arrears or get into debt... I find it hard to sleep, and have to find a quiet place sometimes to cry.” (Janet works as a care assistant, is a single parent with two children, and is already struggling with the visa fees that she must pay every 30 months.)

15. It is clearly within the powers of the Home Office to address these concerns and ensure that people are not compelled to leave home, take public transport or mix in places of work or accommodation that are unsafe, including but not only in conditions that are abusive or exploitative, by reason of their exclusion from public funds. The department has not merely failed to do so. It has failed to ensure that the impact of no recourse to public funds is understood across government so that decisions can be taken in respect of the pandemic response that are properly and fully informed as to the impact of those measures upon people, the capacity of people to adhere to those measures and, accordingly, the effectiveness of those measures. So much is starkly revealed by the responses of the Prime Minister at sessions of the Commons’ Liaison Committee to questions about no recourse to public funds in May 2020¹⁶ and January 2021,¹⁷ each of which demonstrate a fundamental misunderstanding about whom the policy affects; and show that misunderstanding to have persisted well after its first being exposed before that committee.

Citizenship ceremonies

¹⁶ Liaison Committee, 27 May 2020, Oral evidence from the Prime Minister, HC 322, Q67-Q69

¹⁷ Liaison Committee, 13 January 2021, Oral Evidence from the Prime Minister, HC 1144, Q41-Q42

16. A person who is not a British citizen by birth or adoption may become a British citizen in one of two ways. Registration of British citizenship generally concerns people entitled to British citizenship, many of whom born in the UK. It is the means Parliament has determined by which people connected to the UK, who were not automatically recognised as British citizens at their birth or adoption may nonetheless exercise a right to citizenship of the UK. Naturalisation concerns only adults. It is the power granted by Parliament to the Home Secretary to make an adult, who has migrated to the UK, a British citizen where that person has become settled here and wishes to make their connection with this country. Unlike registration, it is always discretionary.
17. Registration or naturalisation of an adult generally requires the person to attend a citizenship ceremony.¹⁸ Children exercising their rights to register as British citizens may also be required to attend a ceremony if the decision on their registration is not taken before their becoming an adult.¹⁹ However, the Home Secretary has discretion to waive the requirement that anyone attend a ceremony to attain citizenship.²⁰
18. The Project for the Registration of Children as British Citizens (PRCBC) and AIUK wrote to the Home Office in September 2020 drawing attention to this unused power to waive the requirement of attending a ceremony and the impact of insisting on ceremonies during the pandemic.²¹ No response has been received. Yet among the people affected are people born in the UK, who have lived nowhere else, have no formally recognised status in this country and are entitled to its citizenship. PRCBC and AIUK did not rule out that a person may wish to attend a ceremony, even if that means delaying their attainment of citizenship. Nonetheless, there is no good reason for insisting on a ceremony where this will cause any significant delay to the person and potentially others (by reason of growing backlogs) in attaining citizenship. That is especially so in the case of a person who is entitled to British citizenship but will remain subject to immigration controls unless and until her, his or their entitlement is acted upon by their being registered.
19. This would appear to be an especially straightforward matter where the Home Office could immediately remove a practical barrier to citizenship where the Home Office has already either acknowledged the person to be entitled to that or decided that the person should in any event be granted it. PRCBC and AIUK are aware of local authorities arranging ceremonies online. We are also aware of people whose attainment of citizenship was significantly and indefinitely delayed pending the availability of an online or in-person ceremony. There remains no general or public decision on waiving the requirement.

Accommodation

20. We anticipate that others will provide the Committee with submissions addressing Home Office use of its powers of detention and provision of accommodation. We do not, therefore, make lengthy submissions in respect of these matters but note their

¹⁸ Section 42(1) and (2) of the British Nationality Act 1981

¹⁹ The ceremony requirement does not apply to children. However, section 42(1) of the British Nationality Act 1981 does apply to where an application is made by a child but not decided until that child has become an adult.

²⁰ Section 42(6) of the British Nationality Act 1981

²¹ See <https://prcbc.files.wordpress.com/2020/09/lettertoinistercitizenshipceremoniessept2020.pdf>

manifest importance in the context of the pandemic. We recall the Government's response to the Committee's Fourth Report of the current session,²² which included:

*"The Government takes the health of those in asylum accommodation and immigration removal centres (IRC) as being of the utmost importance..."*²³

*"The Home Office and its accommodation providers take the welfare of service users seriously and agree that accommodation should be provided that is appropriate to individual needs..."*²⁴

*"The Government expects the highest standards from our contractors and accommodation providers..."*²⁵

*"We are clear that the extended use of Initial Accommodation and hotels is not a long-term solution and our providers are working to move people into more suitable Dispersal Accommodation as quickly as it is available..."*²⁶

21. We do not attempt a comprehensive assessment of this across all the settings in which a person is detained or accommodated under Home Office powers. Rather we focus on the following matters, which considered together, highlight again how the focus of Home Office policy and practice is not on delivering the commitments, standards and values set out in the above extracts; nor on the welfare and safety of the people to whom these powers are applied:

- a Over the course of 2020, the Home Office response to accommodating people seeking asylum, particularly new arrivals, has extended to the opening of Penally Camp, Napier Barracks and RAF Cotishall. The Home Office has assured HM Chief Inspector of Prisons that the use of Napier Barracks is not in exercise of its powers of detention.²⁷ Nonetheless, the people accommodated at these sites have their liberty curtailed both by the policy and practice under which the sites operate and by their location.
- b There are widely reported concerns about the conditions at these sites,²⁸ which long predate the now widely reported contraction of coronavirus by over 100 of the people living at Napier Barracks.²⁹
- c Ministers' public response to criticism over conditions at Napier have repeatedly made comparisons to the previous use of this accommodation for service personnel.³⁰ These comparisons are spurious because, amongst other

²² Fifth Special Report of Session 2019-21, *Home Office preparedness for COVID-19: institutional accommodation*, November 2020, HC 973

²³ *Ibid*, p2

²⁴ *Ibid*, p3

²⁵ *Ibid*, p4

²⁶ *Ibid*, p6

²⁷ See introduction to HM Chief Inspector of Prisons report following an unannounced inspection of the detention of migrants arriving in Dover in small boats in September 2020.

²⁸ We are aware that the Committee has received evidence concerning this.

²⁹ Various media reports in January indicate that up to a quarter of the people seeking asylum in Napier had contracted the virus.

³⁰ For example, the Home Secretary issued such a statement, which she tweeted on 31 January 2021; and the

things, the service personnel formerly accommodated there were not subject to the same degree of curtailment of their liberty, were not fleeing persecution including detention and mistreatment in settings very similar to these sites, were not the survivors of traumas sustained on dangerous and sometimes deadly journeys in order to have any opportunity to seek asylum in the UK and were not living at these sites in the middle of a pandemic.

- d By contrast, it is reported that a Home Office equality impact assessment of plans to use these sites includes as justification for doing so that providing more ‘generous’ accommodation would undermine public confidence in the asylum system.³¹ On its face, that justification appears to reflect an intention – generally inconsistent with public sector equality duties to eliminate prejudice and advance equality and respect for it³² – to reflect, sustain or pander to perceived hostility among the public towards people seeking asylum.
- e On 31 December 2020 at 11pm, the Home Office brought into effect new immigration rules whereby a person’s asylum claim may be treated as inadmissible while the department seeks to find a third country in which the person has previously sought asylum, passed through or has some (undefined) connection and which is willing (despite there being no current agreement or arrangements in place) to accept transfer of the person and responsibility for her, his or their claim.³³ By introducing these rules, the Home Office has significantly exacerbated the likelihood of delays in the asylum system, which in turn risks increasing any pressure on the availability and management of suitable accommodation for people seeking asylum in the UK. The uncertainty that application of these rules will inevitably cause is also likely to add significantly to people’s anxiety and distress.

22. We set these matters out here as example of how Home Office policy and practice persists in either overlooking or demeaning the rights, interests and experience of people directly affected, including to the extent of endangering their individual and public health and safety during the pandemic. As regards other accommodation provided by the Home Office, Migrant Voice is aware from its membership that there are many people in asylum accommodation who are unable to effectively practice social distancing and self-isolation due to the constraints of that accommodation and the number of people with whom they live.

Healthcare

23. The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2020, SI 2020/59 came into force on 29 January 2020. By those regulations, coronavirus was added to the communicable diseases for which no charge is to be made in England to an overseas visitor (that is a person who is not ordinarily

Minster for Immigration Compliance and the Courts was quoted making such a statement by the Guardian, *Former immigration minister criticises use of barracks to house asylum seekers*, 2 February 2021.

³¹ We believe this was first reported by the Independent, *Home Office put refugees in barracks after fears better housing would ‘undermine confidence’ in system*, on 1 February 2021.

³² See section 149(1) of the Equality Act 2010

³³ New paragraphs 345A to 345D were introduced by Statement of Changes in Immigration Rules (HC 1043), published on 10 December 2020.

resident in the UK, which includes people in the UK who require but do not have leave to enter or remain). Regulations to similar effect were made separately in Scotland,³⁴ Wales³⁵ and Northern Ireland³⁶ because health is a devolved matter.

24. Accordingly, the position in law is that treatment (including vaccination) for coronavirus is free of charge throughout the UK. The position in practice, however, is that treatment is not available to many people in the UK who require but do not have leave (or are treated as requiring it).³⁷ Among the people affected are people who have become overstayers, including due to being unable to renew their leave for reasons relating to the pandemic. Other people affected include people, whose right to be in the UK remains unrecognised (including people entitled to British citizenship), and people in especially vulnerable circumstances such as survivors of domestic abuse and victims of trafficking and other exploitation.
25. We discuss these matters further by consideration of two matters that arise in relation to accessibility.
26. The first of these matters relates particularly to the availability of vaccination; and concerns the assessment of prioritisation for vaccination. It is instructive to consider this question though, since we have insufficient health and public health expertise, we do not make any specific recommendation or criticism concerning it. We identify the question, nonetheless, because it is the question that those with relevant responsibility, supported by relevant expertise and analysis, were required to answer. There is currently insufficient vaccination for everyone; and even if and when there is sufficient vaccination it is logistically impossible to vaccinate everyone at the same time. Therefore, there must be an order of priority. The question is in what order and by what criteria should vaccination be made available to people. Relevant questions in determining the answer to this would appear to include who is most vulnerable to the virus (whether to contracting it or to suffering death or other serious illness from it), whose vaccination is most likely to reduce the spread of the virus and what is an efficient means to roll out vaccination. We are unaware what consideration has been given to people subject to immigration controls (including e.g. people whose living or working conditions may be more risky in terms of contraction and transmission) in relation to this question.
27. The second of these matters is vital to accessibility of vaccination but also to other treatment relating to the virus. Unlike the previous matter, we are in a position to assess this and our assessment is consistent with our general assessment of the response to the pandemic (see above). The provision of healthcare in the UK has long become deeply entwined with objectives of immigration policy that are harmful to people. Many women, men and children face, by reason of their immigration status,

³⁴ The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2020, SI 2020/17 took effect on 30 January 2020.

³⁵ The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2020, SI 2020/113 took effect on 4 February 2020.

³⁶ The Provision of Health Services to Persons Not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2020, SI 2020/25 took effect on 7 March 2020.

³⁷ Migrant Voice has, for example, been in contact with people unwilling to seek a test or treatment for COVID-19, to self-isolate or notify an employer of their illness or that of a person they live with because they are without leave and fear the consequences of doing so will be that they are reported to the Home Office and/or lose their capacity to earn an income.

charges including for treatment which it is acknowledged is both vital and urgent for them to receive.³⁸ The same people face the threat of their data being shared with the Home Office so that the latter can identify and locate them for the purpose of detaining and/or expelling them from the country.³⁹ The health charges they incur can be prohibitively high, especially for the people affected whose earning capacity is often low and who may be financially supporting family members both in and outside the UK.⁴⁰ Yet, unpaid charges are as a matter of both policy and practice relied upon to refuse any immigration application a person may make (whether to remain in the country or return in the future).⁴¹

28. Whatever may be thought to be the merits of immigration policy (we acknowledge there is much in current immigration policy and the means by which it is pursued to which our organisations are opposed), the impact of using healthcare to pursue it is profoundly harmful. It deters access to healthcare, including care that is vital, care that is free and care that is necessary for public as well as individual health; and it deters access to treatment for coronavirus. This effect has been known long before the current pandemic.⁴² A further effect that is also well recorded is that many healthcare providers misunderstand the provisions regarding access to healthcare and wrongly deny healthcare in circumstances where it should be provided. This is a repeated concern in relation to registration with a GP surgery, which is as a matter of law and policy available to all. However, the problem of GP surgeries refusing to register on grounds of or related to immigration status has been a persistent one,⁴³ which in itself is a profound barrier to effective and universal roll out of vaccination.
29. It is telling that – even more than a year since a global health emergency was declared, more than 110,000 people have died in the UK alone and vaccination appears to provide a real possibility for controlling this virus – nothing has been done to change any of this. If vaccination is ultimately inaccessible to sufficient people, the risk is that this virus will not be effectively controlled. Despite this, Government has not reappraised immigration policy and its harmful pursuit through policy and practice on healthcare, still less made any change to policy or practice designed to remove or even mitigate this deterrence to accessing treatment.

³⁸ Taking, as example, the relevant provisions in England: regulation 3(1) of the National Health Service (Charges to Overseas Visitors) Regulations 2015, SI 2015/238 requires the making and recovery of a charge; and regulation 3(1A) makes clear that charges and their recovery may only be delayed until after treatment where the treatment is “*immediately necessary*” or “*urgent*”. These terms are defined in regulation 3(7) and include treatment that must be delivered promptly to save the person’s life, prevent their condition becoming life-threatening or prevent that person suffering permanent serious damage.

³⁹ The Health and Social Care Committee considered this in its Fifth Report of Session 2017-2019, *Memorandum on data-sharing between NHS Digital and the Home Office*, HC 677, April 2018.

⁴⁰ The Health and Social Care Committee recorded these concerns in its report, *ibid*, including at p24 within the letter of the Chair of the Committee appended to the report which quotes Dame Fiona Caldicott, National Data Guardian, “*the evidence presented by colleagues from Public Health England and the voluntary and charity sector that undocumented migrants are deterred from seeking healthcare for the fear that information about them will be shared with other parts of Government is convincing, and appears to be considerably more substantial than the evidence available about the benefit of these disclosures.*”

⁴¹ Paragraph 9.11.1 of the Immigration Rules

⁴² See e.g. Health and Social Care Committee report *op cit*

⁴³ This has, for example, been a repeated finding by Doctors of the World UK over many years; and barriers to GP registration are among the several concerns raised in their report, *An Unsafe Distance: The impact of the COVID-19 pandemic on excluded people in England*, May 2020

Concluding observations

30. We urge the Committee and others to consider the matters we raise here not only in connection with the current pandemic, which we acknowledge provides one especially important context and is the focus of the Committee's inquiry. Nonetheless, it is necessary not merely to consider the impact of the virus and the response to it upon nationality, immigration and asylum functions and the impact of the latter upon the virus and response. It is important to draw wider learning from this. While the pandemic has near universal impact (though that is not the same as its impact being equal), it is far from the only circumstance in which the lives of people subject to immigration policy are turned upside down by events outside their control and for which they cannot prepare. Indeed, some of the events that have this impact are changes in Home Office rules, fees, policy and practice.⁴⁴
31. The need to draw wider learning is especially pronounced at a time when the Home Office needs to be adapting its policies and practices to adjust to the impact of a huge expansion in the number of people and applications for which it has responsibility as a result of the ending of exemption from UK immigration controls of European Economic Area and Swiss nationals and their family members.⁴⁵ The importance of drawing wider learning is further emphasised by all that has been acknowledged and committed to by the Home Office in response to the Windrush scandal⁴⁶ – though in submissions to other inquiries of the Committee, AIUK has drawn attention to the insufficiency of that response.⁴⁷
32. As indicated earlier in this submission, it is in our view especially important that greater awareness, understanding and respect is given not only at the Home Office to the rights, interests and experiences of the women, men and children who in various ways are made subject to the UK's nationality, immigration and asylum systems. This is necessary not only to ensure due respect for dignity and rights of these people but also to ensure the efficiency and effectiveness of these systems. As the public health considerations that arise in relation to the pandemic highlight, it is also necessary to ensure that wider public harm is averted. As the pandemic, EU withdrawal and the

⁴⁴ This is something, e.g., which AIUK addressed in its submission (see paragraph 14) to the Committee's *Immigration* inquiry which closed due to the general election in 2017: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/immigration/written/46663.pdf>

⁴⁵ AIUK's submission to the Committee's 2017-19 *Home Office delivery of Brexit: immigration inquiry* provided a broad overview of what was (and remains) required in relation to an immigration system that has greatly extended its powers and reach, while oversight and constraint has been correspondingly diminished, at a time when the demands upon that system were set to significantly increase by the substantial increase in the number of the people subject to it. That submission is available here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/home-office-delivery-of-brexit-immigration/written/73223.pdf>

⁴⁶ The findings of Wendy Williams concerning Windrush are available in her *Windrush Lessons Learned* report, HC 93, March 2020 here: <https://www.gov.uk/government/publications/windrush-lessons-learned-review> and AIUK's October 2018 submission to the Windrush Lessons Learned Review is available here:

<https://www.amnesty.org.uk/files/Resources/AIUK%20to%20Home%20Office%20Windrush%20Lessons%20Learned%20Review.pdf>

⁴⁷ AIUK has, for example, made two submissions to the Committee's continuing inquiry into the Windrush Compensation Scheme – the first provided in November 2020 and the second shortly after the Committee's evidence session on 9 December 2020.

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Windrush scandal each provide example, whatever view may ultimately be taken as regards what ought to be the rules, practice and objectives of these systems – always provided these rules, practice and objectives are both lawful and respecting of human rights obligations – it is necessary that these are set and pursued having full regard to the people to whom they apply.

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