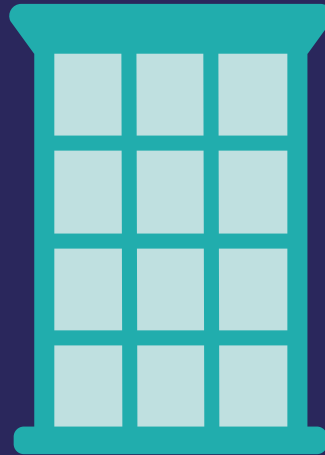


# WE ARE **HERE**

## ROUTES TO REGULARISATION FOR THE UK'S UNDOCUMENTED POPULATION



THE JOINT COUNCIL  
*for* THE WELFARE  
OF IMMIGRANTS

ZOE GARDNER & CHAI PATEL  
**APRIL 2021**

# EXECUTIVE SUMMARY

## BACKGROUND

The purpose of this report and the research carried out by JCWI is to better understand the reality of life for undocumented migrants in the UK today. It explores how people become undocumented, and how vulnerability is produced through the structures of the system itself. It reveals the systemic weaknesses of our immigration system that lead to so many people becoming undocumented and how a small error, or a short period of illness can change the course of a life.

Under the current system, people are kept in insecure temporary status, punctuated by expensive and stressful renewal applications, for years and decades, greatly increasing the chance that a piece of bad luck will drive them out of status. Once that happens, the system makes it almost impossible to correct course and regain status. We explore how once someone becomes undocumented, the criminalisation of their everyday lives drives them into exploitation. Their voices are silenced, and they are unable to get help or tell anyone about their plight. Under the Hostile Environment, almost everyone who should keep them safe, like the police, the NHS, social services, and even some charities, are part of the system of immigration enforcement and surveillance trying to rip them away from their families and homes.

We look at how undocumented status impacts on people's lives and the lives of those around them. And finally, we make recommendations as to how sensible, measured, and simple reforms could help break the cycle of insecure immigration status for people living and working in the UK. We propose measures that would both prevent people from becoming undocumented in the first place and make it practically possible for undocumented migrants who have established lives here to resolve their situation.

## OUR RESEARCH

Our research combines survey evidence and testimony from immigration lawyers about people they represent, interviews and focus groups with undocumented and formerly undocumented migrants, and data from JCWI's undocumented migrant helpline.

## FINDINGS

### **The immigration system actively and unnecessarily creates undocumented migrants**

The immigration system itself creates insecurity. Migrants are considered “temporary” for a decade, and forced to reapply for the right to remain in their homes and jobs every 2.5 years at a cost of thousands of pounds per person each time. If the time where they need to apply to renew their stay coincides with any kind of personal crisis, they can lose their status and every part of their lives become criminalised.

Our research found that people became undocumented for a variety of reasons outside their control, including relationship breakdown, domestic violence, poor legal advice, their or a relative’s physical or mental health crisis, inability to pay extremely high fees, or a simple mistake.

Some visa pathways have no route to extend or settle at all, meaning that there is no flexibility to protect migrants from becoming undocumented if their circumstances change while on that route.

**82% of those in our surveys entered the country through legal route and later fell out of status.**

### **Undocumented migrants are left deeply vulnerable to exploitation and harm**

Given that over three-quarters of migrants in our surveys reported having family in the UK, it is unsurprising that many of those forced out of status have to remain here, but to do so they face grave risks of exploitation and harm under the Hostile Environment.

Migrants in our research suffered high rates of domestic abuse, which they cannot escape because of their immigration situation. The Government’s Hostile Environment makes it impossible to report exploitation or crime to the authorities because migrants fear this will result in being pursued for deportation. Women in our surveys experienced domestic violence at three times the average national rate, while men did so at double the national rate.

Migrants are particularly vulnerable in the workplace; exploitative employers underpay or enslave undocumented migrants with impunity.

They are usually forced into some form of under the counter work of the kind characterised by exploitation, underpayment, long hours, poor health and safety standards, and no benefits such as sick leave or paid holiday.

**Of the migrants in our surveys who are still currently undocumented, 24% are employed. Almost half (46%) of migrants in our surveys have been affected by right to work checks, driving them into more exploitative parts of the labour market.**

### **The routes available to undocumented migrants to regularise their status are inadequate**

The existing routes to regularise status that are available for migrants who have become undocumented are extremely complicated and expensive. A child, even one born in the UK is required to demonstrate having lived a minimum of seven or ten years, or half their lifetime in the UK to be eligible to obtain a regular immigration status, depending on their circumstances. For adults, the criteria include a requirement to demonstrate 20 years’ residence before they are considered permanent enough residents to apply to regularise their status.

The system is not only inaccessible, but vastly over-complicated and expensive, far more so than in other countries comparable to the UK. The average cost of a regularisation application in France, Spain, Portugal, the Netherlands, or Germany is less than a tenth of the cost in the UK, and the cost of applying for permanent settlement in the UK costs 20 times more than the average cost in those countries.

The design of the system ensures that people are trapped in limbo, are at high risk of exploitation and have no options to get back on track. Even migrants who are able to regularise their status are placed at risk of becoming undocumented again.

**One third of the callers to JCWI’s undocumented migrants’ helpline over the past year had gone in and out of status. 87% of migrants surveyed had been living in the UK for over five years.**

## RECOMMENDATIONS

### **Introduce a new, simplified route to regularisation based on five years' residence to replace the seven-year, half-life and 20-year routes**

The Government must ensure that people are assisted to regularise their status and are supported to maintain their status. The current system is so complex and restrictive that it instead pushes people out of status. A five-year route would provide simplicity within the immigration system and provide a clear route back into a safe immigration status for people who have been forced out of it. This would provide a realistic, permanent solution for long-term residents.

### **Children born in the UK should be entitled to British citizenship**

Every child born and raised in the UK should have an automatic right to British citizenship. The removal of birthright citizenship in 1981 means that people who were born and raised in the UK can often be considered for removal to countries they have never known. Restoring birthright citizenship would prevent the injustice of young British people living under the threat of deportation.

### **All visa routes should be affordable**

The ability to document right to stay in the UK should not depend on whether the applicant can afford the fees. The UK's immigration fees are far higher than in most comparable countries and they continue to increase. Families who are unable to raise thousands of pounds every few years are at risk of losing their status and becoming undocumented, or forced to choose which family members maintain their status while others cannot. Immigration fees should be set no higher than the cost of processing an application.

### **Visa renewals should be automatic and facilitate integration & settlement**

Once someone has successfully applied to live in the UK, the system should ensure that they are able to put down roots and become settled members of their community. Under the current system, almost all migrants lose their status by default every thirty months unless they go through a complex and expensive renewal process. This is a crucial point at which many people become undocumented. Visa renewals should be simple, cheap, and granted by default unless there is new and important information to be considered.

### **All migrants should be entitled to permanent settlement after five years' legal residence**

The immigration system does not respond to the fact that once people enter the UK, they form permanent relationships and communities, and put down roots. Too many types of visa come with no pathway to settlement or renewal. Others include a long and expensive 10-year path to settlement. This increases the risk of people being forced out of status after having built a life here. All those welcomed to live or work in the UK should be able to do so with confidence and should be allowed to renew their visa and apply for indefinite leave to remain after five years' lawful residence.

### **Abolish the offence of Illegal Working & introduce a work permit system allowing lawful residence based on lawful employment**

All workers should be safe and protected from exploitation and abuse, regardless of their immigration status. Banning undocumented migrants from working legally does not reduce the need for people to work or to provide for themselves or their families. Illegal working offences drive undocumented migrants underground and strengthen the hand of exploitative employers who profit when workers are marginalised, fearful and have few choices. Undocumented workers are unprotected and cannot report labour violations without fear of punishment or being reported to immigration enforcement. Work permits should be made available for all undocumented migrants with an offer of employment, and form part of the route to regularisation.

### **Make the immigration system responsive to human circumstances**

The immigration system should seek in the first instance to resolve errors in applications and changes to personal circumstances, particularly for those already living here. Under the current system, simple errors and personal crises can result in the loss of immigration status. Missing a deadline, making a minor error, poor legal advice, or using the wrong form can have grave consequences lasting for years or decades. Migrants with an insecure status are also put at risk if they seek to access state support in the instance that they are the victim of crime or domestic violence. The system should only deny visa renewal applications as a last resort, and only after serious effort has been made to provide that person with support to resolve any issues in the application process.

## **Akunna's story**

Akunna\* came to the UK on a student visa 13 years ago. He was studying to become a chartered accountant and working to support himself and his family in a fast-food restaurant. He enjoyed his work, *"It was a good place to work. I had the opportunity to interact with people from different cultural backgrounds, from different countries, Pakistanis, Indians, Polish, I think there was someone from Fiji Island. I'd never heard of that country before, and I met someone from there through that job. I enjoyed the experience. It helped my perception and broadened my horizons about people. That was my kick about England. The opportunity to meet people of different races and I enjoyed that because I've never met so many diverse people in one city."*

As he was approaching the end of his studies and his final exams, he witnessed numerous migrant students losing their visas due to complexities in the immigration system. He became anxious about completing his studies and being able to stay, particularly because his family was settled in the UK. This included four children, two of whom were born in the UK.

Akunna had to work as many hours as he could to afford the visa renewal fees for his family, which came to thousands of pounds. Nearing qualification as an accountant, the stress of the exams and the pressures of the immigration system were impacting his mental health.

As his mental health deteriorated, he was unable to keep up with his studies, and lost his visa when he couldn't continue to fulfil the requirements of his course. He applied for leave to remain outside the rules, but his application was refused, sending him deeper into crisis.

*"Before, I used to be very outgoing, but I withdrew from people, I became isolated. The cost implication of having to apply to the Home Office, the cost of paying a solicitor, being refused, going to appeal. All those things were getting at me. I think that pushed me to the edge and I had no control over what happened then."*

*"When I had depression, I applied for leave to remain outside the rules while I was attending to my health issues and couldn't continue my studies. I applied before I was hospitalised. The stress was too much for me when the Home Office rejected my application. That's what led to my first suicide attempt."*

*"It was my wife who found me and called the ambulance. I can't really... I didn't know what happened. I just found myself in hospital."*

*"Death was better than being sent back, you have to understand, that was real desperation."*

The following years were incredibly difficult for the whole family. Akunna attempted suicide once more and also suffered a dissociative episode where he blacked out and came around far from home, unaware of what was happening to him or how he had got there. During these difficult years, Akunna was having to work where he could in order to support his family. He took whatever work he could find and was often forced to work in poor conditions, for little or no pay.

*"I just had to survive and take care of my kids. I was paid three pounds an hour, where it should have been more, and it was not a good experience. I was working with other people who were in the same situation and sometimes we did the work, and we didn't get paid at all. The employers knew that they could threaten us and say they'll call immigration enforcement and that we'll be deported. And against that threat, no one will chase after the money, so there's a lot of exploitation."*

Constant fear of himself or his family coming to the attention of the authorities and being deported made it impossible for Akunna to overcome his mental health difficulties.

For him the worst thing was that his children would feel the same helplessness and insecurity that led to his own mental collapse.

***“My daughter is nearly 15 and my oldest son is nearly 12, and then the two other boys are younger. The two oldest ones in particular are old enough to be aware of the situation. And they were aware of how unstable their lives were.”***

***“No child should have to know about that. It’s a terrible worry even for adults. For them to know that their parents are not safe, that can do a lot of damage. The effects of suffering that kind of trauma as children could impact their lives for a long time.”***

Akunna and his family were helped by JCWI’s legal team who supported them to regularise their status, and later to get citizenship. They didn’t lose their status because of any desire to play the system or to break the rules. They found themselves in an impossible situation when the student visa system cut them off without any flexibility to allow for health crisis that can impact on studies. ***“The UK is a country that is known for its protection of human rights, and now that I’m a British citizen I feel that it is a stain on the reputation of the country.”***

***“The Home Office may think that it is about denying that one person the right to live here, but it’s not just about that person. That person’s family is suffering, people are exploiting and taking advantage of them, they cannot even go to the police and report a crime because of the fear of being detained or deported. So many crimes and instances of people being badly treated. A person’s dignity is taken from them.”***

Today, Akunna\*, his wife and his children are all British Citizens. Akunna is still recovering from the severe mental health breakdowns that caused him and his family to lose their status. His wife is now training to be a mental health nurse and his children are thriving at school. They are now safe and secure in the UK.

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# INTRODUCTION

**The purpose of this report and the research carried out by JCWI is to better understand the reality of life for undocumented migrants in the UK today. It explores how people become undocumented, and how vulnerability is produced through the structures of the system itself. It reveals the systemic weaknesses of our immigration system that lead to so many people becoming undocumented, how a small error, or a short period of illness can change the course of a life. Under the current system, people are kept in insecure temporary status, punctuated by expensive and stressful renewal applications, for years and decades, greatly increasing the chance that a piece of bad luck will drive them out of status. Once that happens, the immigration system makes it almost impossible to correct course and regain status.**

We explore how once someone becomes undocumented, the criminalisation of their everyday lives drives them into exploitation. Their voices are silenced, and they are unable to get help or tell anyone about their plight. Under the Hostile Environment, almost everyone who should keep them safe, like the police, the NHS, social services, and even some charities, is part of the system of immigration enforcement and surveillance trying to rip them away from their families and lives.

We look at how undocumented status impacts on people's lives and the lives of those around them. And finally, we make recommendations as to how sensible, measured, and simple reforms could help break the cycle of insecure immigration status for people living and working in the UK. We propose measures that would both prevent people from becoming undocumented in the first place and make it practically possible for undocumented migrants who have established lives here to resolve their situation.

## METHODOLOGY

This report is based on several sources of data, including an online survey, individual interviews, focus groups and data from JCWI's undocumented migrant helpline. [1]

Our online survey was targeted at legal professionals and asked for anonymous information about undocumented clients they represent. The survey received information about 92 cases of undocumented migrants, with some legal representatives submitting more than one example.

We also conducted 22 individual interviews and two focus groups with migrants who are or have been undocumented. Interviewees were clients and ex-clients of JCWI in 13 cases, seven were attendees at a legal advice drop-in centre for undocumented migrants run by Hackney Migrant Centre, and the final two were reached through other associations. The first focus group was organised with four migrants who had spontaneously contacted JCWI regarding their undocumented situation, and the second was organised by the Roma Support Group, with five participants.

As we reached them through our own or other support services, all the migrants we interviewed or whose stories were shared with us in our survey had in common that they have come into contact with specialised support services. This may mean they have slightly different characteristics than the population as a whole.

Care was taken in all the interviews and focus groups to ask for the same basic information as was requested in the survey, so that data from the interviews and survey could be meaningfully analysed together. In addition, subjects at interview shared personal stories and testimonies, from which quotes or case studies are used throughout this report. Two interviews did not cover all the same data points as the survey and focused only on the migrants' experiences in work. These interviews are not included in the consolidated data but are quoted in this report.

Finally, data was collected via JCWI's undocumented migrant's helpline, which is open to undocumented migrants seeking advice three mornings per week and is staffed by legal representatives, supported by donations from the public and from Trust for London.

The line has been operational since 2005 and from March 2020, we have collected specific data from callers aimed at this research, alongside standard, anonymised case data that has historically been collected. This data, comprising 450 records from calls between March 31st, 2020 and March 4th, 2021 is used throughout the report.

As shorthand, the data obtained through the survey, interviews and focus groups, relating to 121 individuals in total has been consolidated and is what is meant when we refer to "migrants in our survey". Meanwhile, the data from the helpline is always used separately and indicated as such. Where examples from the research have been given to illustrate particular issues, the names are marked with an asterisk, as they have been changed in order to protect identities.

The data collected does not perfectly reflect the undocumented population as a whole, but very broadly reflect the findings of larger demographic studies like the Pew Research Centre's in terms of age range, geographic spread of countries of origin and gender balance. It is very likely that our survey sample underrepresents the numbers of undocumented migrants born in the UK. Often children and young adults who are born undocumented consider themselves British, and it is not until much later in their lives that they discover that there is an issue. As our survey was directed at immigration lawyers, who reported back on behalf of clients, we are likely to miss those children who still believe themselves to be British.

## Mary's story

Mary\* came to the UK as a student almost ten years ago. While she was studying, a change of government in her home country made her a refugee. One of her close family members was killed, and she was directly threatened with death herself if she were to return. She applied for asylum but was poorly advised by her lawyer. Her claim was refused. Unable to go home, she became undocumented and absconded to hide from deportation.

Despite being in hiding and fearing for her safety, she worked hard to support herself and to avert a mental health crisis. *"I used to walk, admire the scenery. I couldn't go to the hospital or to the GP to say I'm depressed or anything because I was undocumented, and I was too scared to show up in the system. But I found hiking really helped. I hiked along the coast and it did a lot of good for me."*

Mary met a man who she fell in love with. *"We had a religious ceremony, because he told me that because I was undocumented, we couldn't have an official marriage. So, we had a religious ceremony and soon I was pregnant expecting my son, but he lived in another city and he was refusing for me to come to live with him. It started to change when I would ask him about what our plans are for the future to raise the baby and get a house. He started to change."*

*"He would go off into a rage almost from nowhere and he started to reference my asylum situation and saying I was nothing, and he had to work because I couldn't."*

*"I was getting complications in my pregnancy – misalignment in the pelvis caused by stress and I was so depressed. I was admitted to a psych ward for 6 weeks. This man was reminding me every day that I am nothing, the Home Office won't even open my file and I was homeless, I felt I was alone in the world with this boy."*

*"I didn't understand at that time how abusive he was, until I tried to move in with him. And that is when I found out that he had another family and three kids. When I confronted him, he said that I couldn't question him because I was an asylum seeker that I couldn't even call the police, if he wanted to, he could kill me right then and nobody would care. And I believed him, I really believed him."*

*"I tried everything. I called the Council, but they said I couldn't have emergency accommodation because I have no recourse to public funds. There was a day when I was in the city, in my nightdress, with a newborn baby, prepared to sleep outside at night. All this time the Home Office was refusing that I was an asylum seeker, because they had a miscommunication in their department and the people in charge of the support were not aware that I had made a fresh claim."*

Mary managed to reach out to a refugee support organisation who assisted her in finding emergency accommodation and have the Home Office acknowledge her asylum claim. She has now been recognised as a refugee.

*"It's really depressing to be honest. But I love this country. People should know that there are a lot of people who are put in vulnerable positions because of this system."*

*"If you don't have a status you are nobody and people can treat you pretty much however they want."*

# WHO ARE UNDOCUMENTED MIGRANTS?

## WHAT DOES IT MEAN TO BE UNDOCUMENTED?

For the purposes of this report, Undocumented Migrants are people who are living in the UK whom the Government does not consider to have the legal right to remain. This is usually because they are a non-citizen who does not currently have a valid visa or other form of documentation proving their status or their right to live in the UK.

## HOW DOES SOMEBODY BECOME UNDOCUMENTED?

There are many pathways to becoming undocumented. Broadly speaking, a person is most likely to become undocumented if they:

1. Travelled to the UK on a time-limited visa, work, student, family or other visa and after their visa ran out, they could not successfully renew or extend it.
2. Travelled to the UK in a clandestine manner and never successfully applied for any regular migration status.
3. Have been refused asylum but have remained in the UK.
4. Were born in the UK and have not successfully regularised their status or obtained British citizenship.
5. Were undocumented for reasons 1-4 above, then managed to regularise their status, but were then unable to remain regularised, e.g. because of the high costs and legal fees associated with current routes to regularisation.
6. Were in the UK lawfully until the Government made changes to the conditions of their residence status, which they were unaware of or unable to fulfil new criteria. [2]

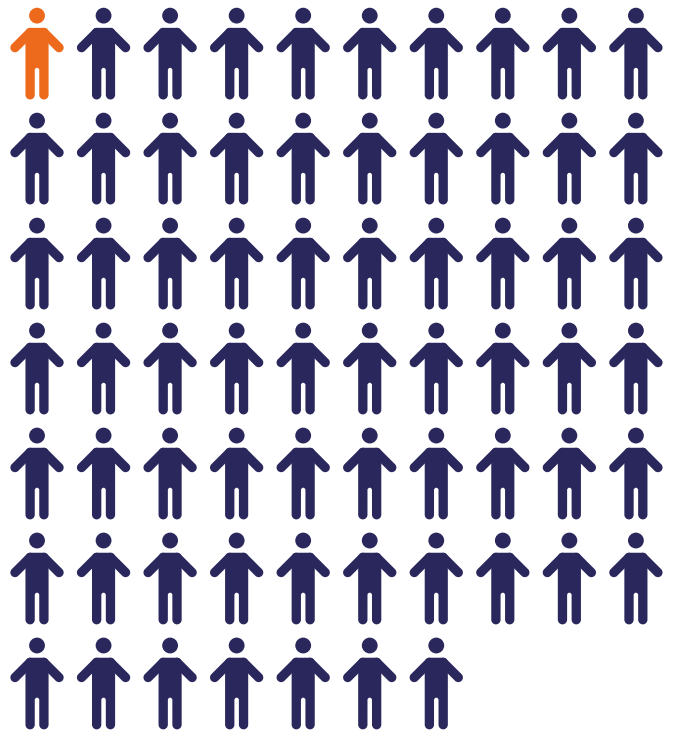
Although asylum seekers making desperate journeys to the UK in small boats may have dominated media depictions of migration over the past year, that is not representative. The circumstances that lead to people becoming undocumented are complex, as are the challenges they face once they are undocumented. [3]

Understanding these complexities is key to developing considered, effective, appropriate policy responses. Undocumented migrants in the UK are a diverse group of people and most have not had the kind of experiences that dominate media depictions of them.

## HOW MANY PEOPLE IN THE UK ARE UNDOCUMENTED?

It is, by definition, impossible for any research to provide an authoritative answer to this question. The British Government does not produce an estimate of the undocumented population and has not attempted to do so since 2005, where its estimate came to 430,000 people. [4] There has since been no indication that it intends to produce an updated figure.

Recent estimates conducted by researchers [5] suggest the undocumented population is between 800,000 [6] and 1.2 million people. [7]



Orange figure represents estimated percentage of the UK population who may be undocumented

The Pew Research Centre's recent study found an almost even split between men and women, of all ages, originating from all regions of the world. 52% are estimated to come from Asia, 20% from Sub-Saharan Africa, 16% from the Americas and non-EU Europe, and 11% from the Middle East and North Africa. [8]

Like the migrant population as a whole, it is estimated that undocumented migrants tend to be relatively slightly younger and more likely to be of working age than the general population, but also include elderly members, as well as significant numbers of children. [9]

Whatever the precise size, we know that there is a significant population of undocumented migrants living and working in the UK. The demand for advice and legal representation of migrants in desperate circumstances because of their immigration status far outstrips the capacity of JCWI and other similar organisations. Even a small number of people living in such a precarious situation is a serious problem which requires a considered and compassionate response. Undocumented migrants work and contribute to our communities, keeping many of our essential sectors and services afloat. They have strong community ties of friendship and family in the UK, extending across the settled migrant and British populations as well as with other undocumented migrants.

JCWI has regularly raised concerns that the undocumented population may increase significantly as the deadline for EU citizens to register for the EU Settled Status Scheme approaches. The EU Settled Status Scheme has been designed as an application process. Any EU citizen living in the UK who has not applied and been granted status by the 30th of June 2021, will be living in the UK unlawfully. This has the potential to create tens of thousands of new undocumented migrants overnight. [10] JCWI has undertaken research that suggests a concerning number of EU citizens do not know about or fully understand the implications of the Scheme and so are at risk of joining the undocumented population if the deadline is missed. [11]

## HOW DO UNDOCUMENTED MIGRANTS ENTER THE UK?

### Circumstances of arrival



- Clandestine entry: 15%
- Legal entry: 82%
- Other: 3%

Total surveyed (online, interviews & focus groups): 121

Only 15% of undocumented migrants in our surveys had entered the UK through irregular journeys. The vast majority, 82%, entered the country legally, and later fell out of status. Half of those who came to the UK legally had originally entered on a visitor visa, and the other half were divided between other temporary visa routes including student, spouse, and work visas as well as some non-visa nationals.

We were troubled to find that the phenomenon of undocumented migrants successfully obtaining and then later losing their lawful status again is common. Far too many people struggle to regularise their status in the first instance, and many then find themselves unable to remain on the pathway to settlement as the odds are stacked against them.



## HOW MANY HAVE BEEN HERE SINCE CHILDHOOD?

The Greater London Authority (GLA) estimates that just over a quarter (26%) of undocumented migrants in the UK, or 215,000 are children, half of whom were born in the UK. [12] A further 117,000 are estimated to be young people under the age of 24. People who are brought to the UK as children or who are born here can still be considered undocumented and therefore at risk of removal to countries they have never known.

Many of the migrants in our research came to the UK as children. Two were born in the UK to migrant parents and have therefore never actually migrated. Almost half (46%) have dependant children of their own, many of whom are still undocumented like their parents. Many of these children were born in the UK. Numerous families have children with a mix of different statuses, as children are regularised when they have lived in the country after seven or ten years, or half their lives, and only when their parents can afford it and prove that they fulfil the criteria.

### Ajay's story

Ajay\* came to the UK at 16 years old. He is now 34 years old and has never been able to regularise his immigration status. He works cash-in-hand in construction and is paid below the minimum wage, forced to work in poor conditions and receives no sick pay or other benefits. He has experienced exploitation. He has been made vulnerable to blackmail by the people he relies on for accommodation because he cannot legally rent in his own name.

## HOW MANY HAVE FAMILY HERE?

A significant majority (three quarters) of migrants in our research have family members in the UK. This does not change significantly when looking only at those who are still undocumented, of whom two thirds have family in the UK. Over half have children, many of whom have lived their entire lives in the UK.

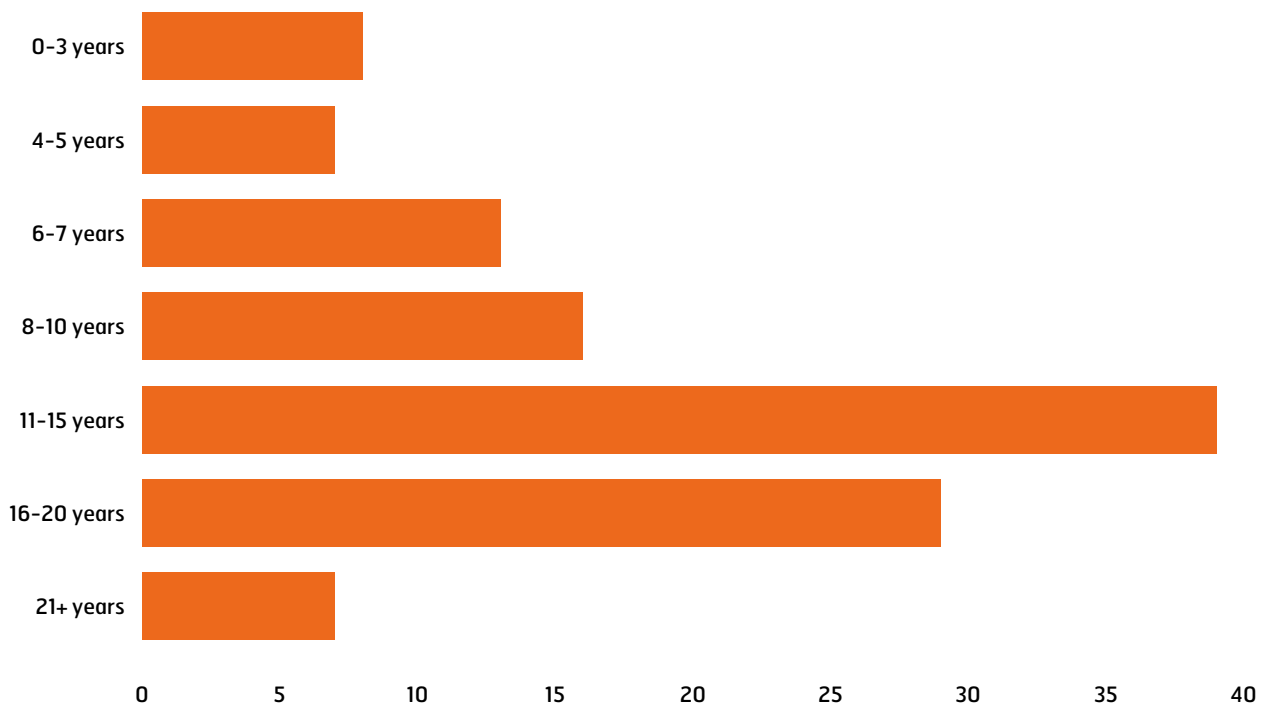
Others have siblings, parents, spouses and aunts and uncles. They also have friends, colleagues, and religious communities to whom they belong.

### Christabel's story

Christabel\* worked as a care worker for elderly and disabled people for over ten years. She used false documents to get the job. *“Even though I did something illegal, I worked, and I paid taxes. I am a woman with a child, where am I going to go?... I got care work and I was very passionate with caring for elders, for people with disabilities.”*

Family is often the only source of support in the UK for the people in our survey. Migrants, after being in the UK for years, inevitably meet local people or other, settled migrants, form relationships and build families. Migrants are often part of mixed status families, in which everybody, including children, suffers because one member is excluded from society and lives at constant risk of detection and being forced out, away from their family.

## Length of time in the UK (years)



## HOW LONG HAVE THEY LIVED HERE?

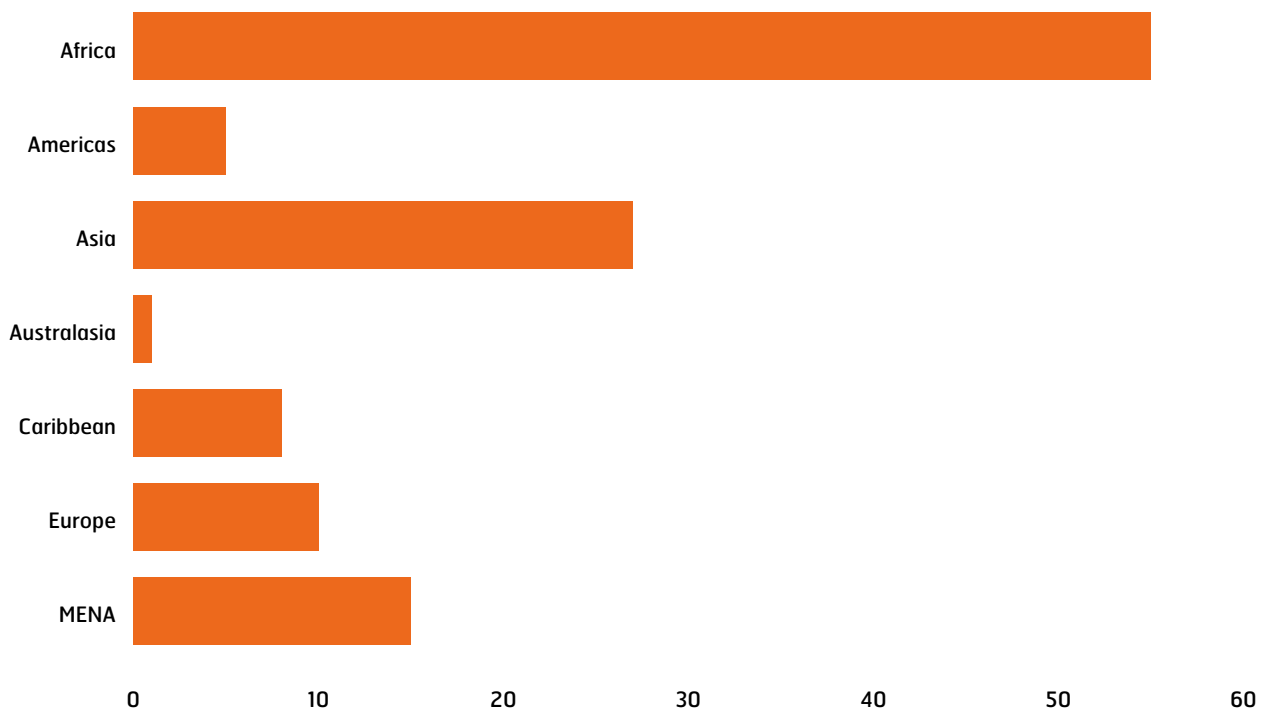
86% of the migrants surveyed who are still undocumented have lived in the UK for longer than five years, and 66% have lived here for over a decade. 73% of callers to the JCWI undocumented migrants' helpline in the last year whose length of time in the UK is known, have lived here for five years or longer. Over half, 54%, have lived here for longer than 10 years. [13]

This is comparable to the Pew Research Centre's findings that the UK's undocumented migrant population is the most settled in Europe, with over half (57%) having lived here for more than five years. [14]

The Pew research counts asylum seekers as "undocumented" despite them being in the process of claiming asylum and therefore documented with the right to stay, at least temporarily, within the immigration system. The inclusion of asylum seekers is likely to contribute to the shorter average length of residence for undocumented migrants within their research findings. Meanwhile it's possible that our research overrepresents migrants with longer residence, as our surveys were conducted through legal representatives, and therefore reach people accessing support who are in the process of regularising their status.

Nevertheless, both sets of figures reveal a well-established, long-term population of people who are living, working, and settled in the UK.

## Region of origin



## WHERE ARE THEY FROM?

The most significant region of origin of migrants who were surveyed is Africa, followed by Asia and the Middle East/North African (MENA) region. This does not perfectly reflect the estimates of the population as a whole, however, it does reflect, as expected, a higher proportion of migrants becoming undocumented from regions where flexible and visa-free travel and stay in the UK is limited, such as Africa and the Middle East, as oppose to Europe and Australasia.

Though the population is diverse, therefore, there are some trends which reflect our established understanding of how migration patterns work.

The largest groups of migrants surveyed originate from countries with large, established diaspora communities in the UK and strong historical, linguistic, and colonial ties to the UK, such as India, Pakistan, Bangladesh, South Africa, Nigeria, China, and the Philippines, all of-which are in the top 20 non-EU countries of origin for diaspora communities living in the UK. [15]

Eight out of the top ten most common countries of origin for migrants in our survey are former British colonies or protectorates where English is one of the official languages spoken. Seven out of these top ten countries of origin are also members of the Commonwealth. Among callers to the undocumented migrants' helpline, seven out of ten of the top countries of origin are ex-British colonies or protectorates and five out of ten are also members of the Commonwealth, four of whom have English as at least one of their official languages. [16]

Nigeria is the single largest country of origin for surveyed migrants and of callers to the helpline. Other countries of origin include Jamaica, Ghana, Pakistan, India, and Bangladesh. Migrants with strong community ties to the UK and belonging to established diasporas, can find work, get married and live with family members with or without authorisation far more easily than people who come from a country with a relatively small community established here. While the factors impacting migrant decision-making are complex and poorly understood, the impact played by having existing networks as a factor driving migrant decisions to go to one country over another is widely recognised. [17]

# HOW THE IMMIGRATION SYSTEM MAKES PEOPLE UNDOCUMENTED

## SUMMARY

### Migrants in our research often lost status due to circumstances beyond their control

- The majority of migrants in our research had entered the country legally and later lost their status. This often happened because of circumstances beyond their control, including going through a health crisis when they needed to renew their status, the breakdown of their relationship with the person who was a sponsor of their visa, or receiving poor legal advice. Inability to pay immigration application fees often combined with these circumstances to make obtaining or renewing status impossible.
- In many cases where relationship breakdown led to loss of status, domestic violence was at play. The migrants in our research have experienced domestic violence and abuse at a rate far higher than the national average. Their immigration status has made them much more vulnerable to this abuse, and limited their ability to escape it.

Domestic violence had impacted 7% of the men and a worrying 20% of the women in our research.

### The standard route to settlement for migrants is too long and expensive

- Even when migrants manage to regularise their status, they too often lose it again because the route to permanent settlement is too long and too expensive. Migrants who are able to regularise their status are placed on a 10-year route to Indefinite Leave to Remain. Status needs to be repeatedly renewed during this 10-year period, at great cost each time.
- The research revealed a worrying trend of migrants managing to jump through the hoops and regularise their status, only to lose it again at a later stage because they cannot save up the several thousand pounds required in fees every two and a half years.

One third of the callers to JCWI's undocumented migrants helpline over the past year had gone in and out of status in this way.

### The immigration system lacks flexibility and forces “temporary” migrants out of status

- Many visa routes to the UK are completely inflexible and have no route to settlement at all.
- The controversial 1981 Nationality Act removed birthright citizenship. This means that even people who are born in the UK can be considered “temporary” migrants and may be liable to be removed to a country to which they have never been if their parents do not have a stable status.
- The 30 June 2021 deadline for the EU Settled Status Scheme is approaching, and anyone who fails to apply will become undocumented. Millions of EU migrants have unnecessarily been granted only a temporary Pre-Settled Status and may also eventually become undocumented.

# HOW MIGRANTS LOSE THEIR STATUS

By design or by accident, the UK’s immigration system and policies greatly increase the chances that someone legally resident in the country will fall out of status.

Even after a migrant has first applied and been granted leave to remain in the country, the UK demands that they frequently reapply, pay huge sums of money (several thousand pounds each time) and provide extremely extensive and complex evidence each time, in order to stay.

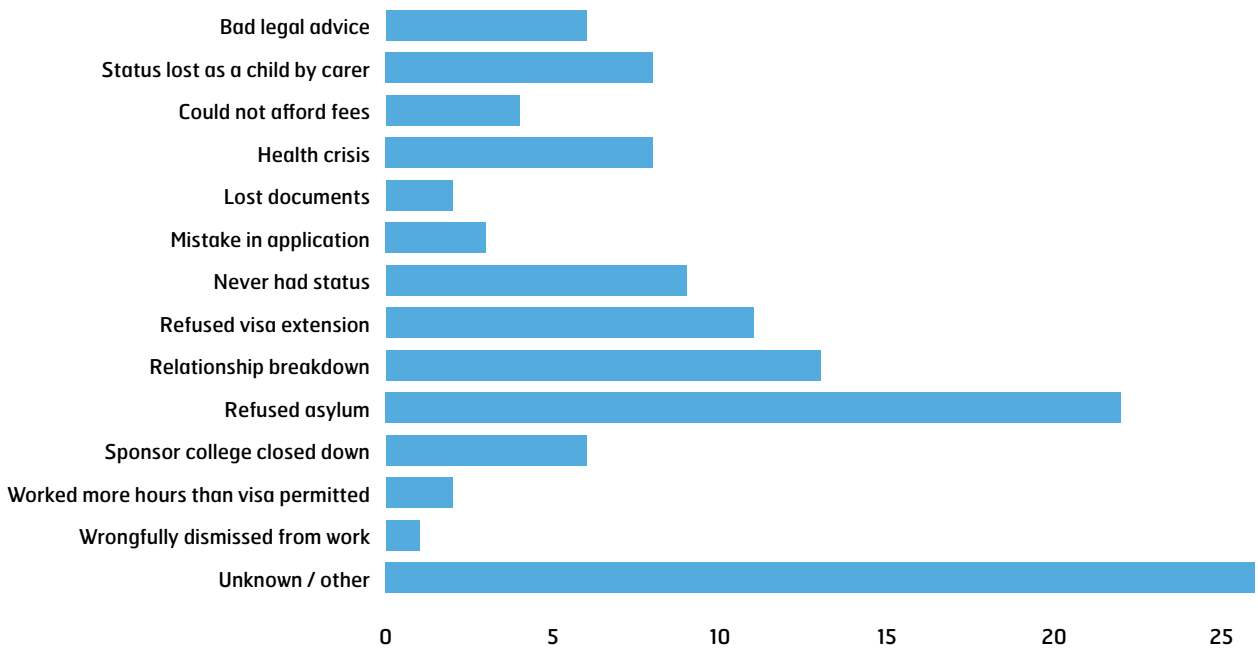
Often, this system is counterproductive. If the UK has granted leave to someone to come here on the basis that they fulfil certain criteria, for example that they are joining family or coming to work, the sensible default would be to assume that that person should be allowed to stay. Instead, the default position is to remove that person’s status after two and a half years, unless they redo the whole application process perfectly. This approach treats almost all migrants as visitors who do not belong here, even when they have come here with the intention to build their lives here. Keeping people as “outsiders” in this way for long periods is illogical, and runs counter to the professed values of a country where anybody who fulfils the criteria can belong.

A large proportion of the undocumented migrants JCWI spoke to have lived in the UK all their lives, or all their adult lives, and cannot meaningfully be described as anything other than British. They know no other country, and have inseparable bonds with their local communities, friends, and families.

The current system does not allow for realistic human behaviour, which includes crisis. Not being able to afford a fee, getting bad legal advice, losing any one piece of the mass of paperwork the Home Office requires you to keep, having a health crisis and missing a deadline – all of these can result in a permanent loss of status. And far too often migrants do everything right, but the Home Office itself will make a mistake and wrongfully refuse the application, in which case it is extremely difficult to correct the situation.

Depicted here are some of the most common reasons our survey identified for people becoming undocumented. In many cases, two or more of these issues occurred around the time when a visa needed to be renewed, leading to loss of status.

## Reasons for losing legal immigration status



## Relationship breakdown and domestic violence

Relationships are a key area where the inflexibility of the immigration system comes into conflict with the realities of human lives. Family ties and relationships can bind a person to a country and a community, or can put them at risk and lead to the loss of immigration status.

Where a person's immigration status is dependent on a relationship, this dependency makes them extremely vulnerable to violence, because leaving or reporting a perpetrator can mean their status can be lost, or where it has been, becoming known to the authorities risks becoming subject to enforcement and removal. When relationships break down for any reason, the immigration system is inflexible and unable to provide for people to maintain their status after that point. People with families in the UK, like most of the migrants we surveyed, are very unlikely to consider leaving them behind and leaving the country under any circumstances. The immigration system is simply not designed to deal adequately with the universal complications of building and altering bonds between humans.

### Esfir's story

Esfir\* came to the UK from Iran on a spouse visa. She was studying dentistry and planning a family when her husband became abusive, leaving her with no choice but to escape. She had not received advice from a lawyer and was unaware that her immigration status could be at risk, and that her right to be in the UK was dependent on her abusive partner.

Migrant women are more likely than men to be on a spouse visa and therefore depend on their husband for their immigration status. [18] This can make them particularly vulnerable to domestic violence, as it reduces their ability to leave an abusive partner. Having No Recourse to Public Funds can mean women, even where they have a visa, are turned away from domestic violence refuges and support services. [19]

In cases where a person is undocumented, they become yet more vulnerable, as they are unable to turn to the authorities for protection, due to the fear of facing immigration enforcement themselves. [20]

**A worrying 7% of the men in our surveys and one in five women had experienced domestic violence. For men this figure is nearly double the average for the general population - for women it is nearly three times the average. [21] This reflects the acute vulnerability that arises when immigration status is insecure.**

Being undocumented means that women face significant challenges over and above the immediate danger and trauma of abuse. Leaving a partner can mean losing the right to be in the UK, and therefore the loss of a home and family. In this all-too-common situation, women are confronted with an inflexible and restrictive immigration system that fails to offer a safer path away from abuse.

Often whole families are dependent on one family member for their visa and their right to be in the UK. In the circumstance that family units fall apart, this can leave members without support and sometimes even unaware of their immigration situation. This can be particularly difficult for children.

### Ben's story

Ben\* was taken into care at the age of four months when his parents split up. His father is British, but his social worker has not been able to prove that he is entitled to British citizenship because his father is uncooperative. He is now eight years old and lives with a state-appointed guardian. He remains undocumented through no fault of his own. His lawyer says, *"I see a significant number of children who are British from birth but struggle to prove it. We prepare applications for British passports or Nationality Status Letters - they are invariably refused initially and have to be challenged."*



### **Waseem's story**

Waseem\* came to the UK at eight years old. His father is a British citizen but failed to apply for leave to remain on his behalf. Waseem was taken into care after his father became abusive. He is now 24 but as his carers did not resolve his immigration status when he was a child, he has lived here undocumented for most of his life. He has been homeless and destitute for much of this time, and now relies on his partner to support him. They are struggling to find safe and secure accommodation because many landlords refuse to rent to them as he cannot provide any ID, which he has not had since he was a child.

### **Abena's story**

Abena\* has lived in the UK for 12 years. Her husband was refused a visa extension and abandoned the family, saying he could not live with the shame. As she had been reliant on his student visa, she was made destitute along with her three children, two of whom were born in the UK. She relied on support from friends and her church. She and her young children lived for several years in one small room in a factory.

Relationship breakdown causes people to lose their status, but where family ties are strong, they also bind migrants to a place, regardless of what their paperwork says. The fact that a large proportion of migrants surveyed have family ties here demonstrates that people are more likely to move to the places where they already have established links, while those who don't already have such ties will inevitably meet people, fall in love and create new families. People do not check immigration status before welcoming others into their lives.

Family anchors a person to a place and a home, and return is simply not an option people will consider if it means splitting their families apart. Too often the immigration system assumes that if someone can't afford fees to renew their leave, or they lose their job, they will simply return to their "home" country. But if that means leaving their British family members and even children behind, most would not consider it for a second. Our system fails to take that basic human reality into account.

### **Illness or crisis**

Another common reason for migrants in our surveys to overstaying their visa was a life crisis, whether that be a mental health breakdown, physical illness, the need to care for a relative, or other changes in circumstances that put normal life on hold. Eight of the people in our surveys had lost their status because of a health need in their family.

When a crisis of this kind emerges near the deadline for somebody to renew or extend their leave to stay, it can result in delays submitting applications or a loss of the savings that would have gone towards non-refundable immigration fees. It may impact on somebody's ability to make an application at all. The inflexibility of the immigration rules can mean that even a relatively short delay can result in being dropped out of the system with no way back in. Individual consideration of extenuating circumstances is not available, even in cases of extreme hardship.



### **Kojo's story**

Kojo\* failed to renew his leave because he was overwhelmed with caring duties. His wife became ill, and he became the primary carer for her, as well as caring for his two daughters, both of whom have Autism Spectrum Disorder. When his wife died, he found himself an undocumented father with two children in need of care. After nearly 20 years in the UK, he has finally been able to obtain two and half years' leave to remain.

### **Maia's story**

Maia\* overstayed her visa in order to care for her mother. She has been living in the UK for nearly 19 years undocumented, despite being recognised by her Local Authority as the primary carer for her elderly, British mother who is blind and has developed dementia. Maia's son is also undocumented. She was detained in an immigration raid, and her lawyer said, *"When she was detained, the immigration officers stated that they checked this with the local authority, but her mother's caseworker states that no one got in contact with them."*

### **Mukasa's story**

Mukasa\* came to the UK as a teenager. He has lived in the UK for 15 years and has British children. He lost his leave due to mental health problems. His lawyer said, *"Significant evidence from mental health professionals was ignored in poor quality decision-making by the Home Office that is causing more stress and delay. It is not a good use of public finances to add another stupid refusal to an already overburdened appeal system."*

## **Poor legal advice**

Many people surveyed became undocumented because they were poorly advised by their immigration advisors or lawyers. Legal advice is expensive, and these expenses are harder to meet if you are not legally allowed to work. In 2012, access to Legal Aid, which allowed people to access high quality representation and advice regardless of their income level, was reduced significantly for migrants. [22] It is unlawful for an unqualified person to give legal advice on immigration issues, even if they are a lawyer qualified in another area of law. Meanwhile in JCWI's experience it is completely standard for the Home Office to refuse applications, resulting in the need for complex cases to go to appeal, unnecessarily. [23] As noted above, the demand for legal advice and representation for migrants in insecure situations far outstrips the available supply.

Migrants faced with the extreme complexity and harsh outcomes of the immigration system are often desperate, and very vulnerable to anyone who can promise to resolve their status in exchange for a large sum. The problems that ensue may arise from incompetence in some cases and only more rarely from outright deception, but the result is the same.

### **Adjo's story**

*"I wanted to regularise my status and I asked a friend who was a solicitor for advice, but they told me, you don't qualify. After some time, I was desperate. I was introduced to a solicitor who said he could help me. I paid him money, but it didn't go anywhere. Later I realized that he didn't actually make an application on my behalf. And I was scared to contact the Home Office to find out whether my case was actually being considered. So, he was able to just take my money and do nothing and I couldn't do anything about it." - Adjo\**

In at least nine of the cases examined, poor legal advice had been a factor in why people had lost their status, however, this was not a specific question in the survey, so could potentially have impacted many more.

### Dola's story

Dola\* was advised by a lawyer that she could get a visa extension, and so paid them all her savings. The lawyer did not take her case forward.

### Clara's story

Clara\* gave her money to a lawyer who gave her a letter which she thought confirmed her status. The letter was later found to be a forgery provided by a fraudulent lawyer.

### Navin's story

Navin\* was erroneously advised by a lawyer that his leave was still valid. This wasn't the case, and he became undocumented. He attempted to rectify this when right to work checks meant he lost his steady job in a restaurant. He couldn't afford to pay the fees required to regularise the status of his entire family, leaving them all undocumented. He took on cash-in-hand work at a car wash. He was regularly underpaid or simply not paid at all, and feared that social services would take his children away if they find out about his situation. *"My kids were born here, and I don't know where else I would go. I've got nothing back in Mauritius at all, no family, no one I know. I left when I was young, a long time ago. Here I have my life, my family."*

The immigration system, and the Hostile Environment in particular, is designed so that undocumented migrants are deterred from approaching any official body and many charities, for fear of being reported to immigration enforcement or being prosecuted for immigration-related offences. Exploitative legal advisers or those posing as legal advisers are just one group that take advantage of the vulnerability created by these laws.

## Mistakes

The complexity and lack of flexibility of the immigration system also mean that sometimes the most banal of mistakes or delays can ruin lives and cause significant distress. JCWI sees this happen regularly, and the consequences can be dire.

### Phoebe's story

Phoebe\* is now homeless after simply losing a document which contained proof of her right of abode, having lived in the UK for several decades.

### Latoria's story

Latoria\* was in the UK on a student visa and applied to extend her leave to remain on the basis of being the parent of a resident. She did not realise that she had to declare her son's previous convictions on the form with her application and so had her leave denied.

### Imka's story

Imka\* filled in the wrong form when submitting her application to extend her work visa. By the time she understood her mistake and resubmitted the application, the fees and form had been changed in one of the very frequent immigration rule changes, and the application was therefore rejected. Before she was able to undergo the process again, she suffered a grand mal seizure. In the health crisis that followed, she and her family were unable to prioritise making another fresh application, and so she became undocumented.

## NHS debt

JCWI has published evidence demonstrating that the barriers to healthcare for undocumented migrants cause them to avoid or delay going to the doctor and accessing treatment. [24] In the context of the ongoing Coronavirus pandemic, this has been detrimental to public health efforts. The Hostile Environment in healthcare makes migrants extremely vulnerable in numerous ways, and our research has found it can actually be the cause of people becoming undocumented.

### Sonia's story

Sonia\* has two children, one of whom has Downs Syndrome. She has accrued NHS debts due to her child's need for care while she had only a "temporary" immigration status, and then became undocumented when this meant her visa extension was refused.

Owing NHS debt is grounds for refusing a visa application. Migrants without status – who are prohibited from working – or those with only a temporary status may be charged 150% of the cost of non-urgent NHS treatment. Unsurprisingly, this prices a lot of people out. [25]

### Jayad's story

Jayad\* is a refugee from Kashmir who became undocumented because of the NHS charging regime. He entered the country on a visitor visa and intended to apply for asylum, but became ill before he could. *"When I came back around after the anaesthetic, straight away one of the women who worked there came to my bed and said to me that I have to pay. So, I said ok, I have some money in my wallet. I asked how much, and they told me it was £1,600. I didn't have that in my wallet. I didn't have it at all."*

*"I was really new here; I didn't have much information about what to do and I wasn't brave enough or informed enough to go somewhere to get advice of how to handle the situation. After that they started sending me threatening letters saying they were going to send my case to enforcement agency, and they would send a letter to the Pakistani embassy."*

*"I had one friend who told me I had to leave the address where I was staying. I was scared. Of course, on that visa I was not allowed to get a job in order to pay the bill."*

*"It was scary, I was sure I didn't do anything wrong, but I heard so many stories, like, I was like a criminal now and that if I went to claim asylum that would be on my record and they would arrest me."*

In fear because of the debt, Jayad disappeared instead of claiming asylum, and lived undocumented for a long time before obtaining competent legal advice and assistance to submit his asylum claim. He has now been recognised as a refugee. *"When you have this kind of huge bill and you are new here it just seems so scary, and with all the wrong advice I had I was far too scared to apply."*

## Fees

Another way in which migrants surveyed have become undocumented is simply through being priced out of maintaining a legal immigration status. The fees required to maintain legal status are extremely high and have risen sharply over the past two decades.

It is possible to obtain a fee waiver, but it is difficult to obtain because the Home Office requires huge amounts of financial and other evidence to prove that the applicant cannot afford the fee and has not spent money on anything but the most essential items. [26]

### Zayn's story

Zayn\* has lived in the UK for over 20 years. When he needed to apply for a fee waiver, the Home Office required bank statements showing a lack of funds, but he had been barred from opening a bank account due to being undocumented. His fee waiver request was eventually denied because he was sleeping on a friend's sofa. It was deemed that his friend was a source of support, meaning he was not destitute. [27]

His lawyer said *“Client was mostly homeless or sleeping on friends' couches. He survived thanks to friends, charity and sometimes going hungry. He did not receive any post given that he did not have a fixed address. This all made it quite hard to show that (1) he was destitute, and (2) he had lived in the UK for 20 years. The application for a fee waiver was initially refused on the grounds that there wasn't evidence that his friends couldn't help. This was allowed the second time round but this time the application for leave itself was refused on the grounds that there wasn't evidence for every year of his life in the UK.”*

### June's story

June\* and her children were abandoned by her husband, who had become violent. Her spouse visa was only extended for one year after that. Her lawyer said *“After that she could not pay Home Office fees and legal fees to renew their leave to remain. She had very young children to look after, was unable to work and depended on friends for accommodation and food.”*

Immigration fees and additional charges, such as the Immigration Health Surcharge are not only extremely high but have repeatedly risen over the past decade. There is a growing consensus across the political spectrum that pricing people out of a settled status is an undesirable outcome of the extremely high current costs. This was illustrated in a recent debate in parliament, in March 2021, where Members of Parliament for the Conservatives, Labour, the Scottish National Party and the Liberal Democrats all spoke of their concerns about the issue, and how it had negatively impacted families in their constituencies. [28]

Generally, the lack of high quality and affordable legal advice means few people know that obtaining a fee waiver is a possibility. In a situation where they are barred from working and earning money legally, paying thousands of pounds in fees is quite simply impossible for the majority.

The Government has also been criticised for failing to assess the impact of its fees on the rights of children, who benefit from no discount in visa application fees, and only a small reduction in the price of the additional Immigration Health Surcharge. [29] In February of 2021, the fee charged to children registering as British Citizens was found to be unlawful in the Court of Appeal because the Government had failed to consider the welfare of the affected children. While the cost to the Home Office of administering a citizenship application is £372, the cost to the applicant is £1,012. The Home Office therefore has been making £640 profit from each application. There are no circumstances under which profiteering from immigration fees in this manner are justified, but when it results in pricing children out of status in the country it is particularly remarkable. [30]

## Refused asylum

A common reason people in our sample lost their immigration status was through being refused asylum.

Issues with the asylum decision-making system are well-documented. [31] These include a culture of disbelief, which results in a high proportion of initial wrongful refusals, with more than half of appeals subsequently upheld. [32] Issuing refusals to people who are fleeing persecution and then forcing them through a lengthy appeals processes often retraumatizes them. In too many cases people are unable, either because of trauma, poor comprehension of the system, or a lack of documentary evidence, to prove the risks they face to the Home Office's satisfaction.

Several of the people we spoke to had initially had their asylum claims disbelieved and their appeals refused. Only after many years of living undocumented were they finally able to access support to make their case fully, and eventually be recognised as refugees, as they should have been at the first point of applying.

Because there is no visa pathway to come to the UK for the purpose of seeking asylum, refugees are often forced to make irregular journeys to reach our shores. When people who are refugees are refused asylum, they often become undocumented because it is, by definition, impossible for them to return to their country of origin. These are often some of the most vulnerable of all undocumented migrants.

### Irfan's story

Irfan\* came to the UK at the age of 15 from Pakistan. He now has a job as a support worker, helping people with learning disabilities and behavioural problems. *"I believe it was my family who organized it. My journey started from Pakistan when I was 15 years old. I didn't know anything about it, I think my father organized it. They said we would leave all together. Then they said the smuggler wouldn't take us all together, we needed to go one by one, and I was the first to leave. Since that day I haven't seen or heard from my family again."*

*"When I got out of the lorry, I remember it was cold, it was freezing. I didn't know where I was. I stayed at the bus stop overnight. The next day someone helped me. I went to the Home Office and they asked me lots of questions. They gave me an ID card and sent me to a hostel. After a week or two they sent some border agency officers and they took me to a detention centre. They didn't believe me. It was a very terrifying detention centre. It was a month or something, more than a month that I was there. I didn't know anyone, I didn't know what to do."*

Still a teenager when he was released from detention after having his asylum case refused, he absconded instead of going to sign in with the Home Office regularly. This was due to significant trauma caused by his experiences of the immigration system, which ultimately led to fear of the immigration authorities. After several years of living undocumented, including being detained at least one more time, he obtained competent legal representation and was finally recognised as a refugee. He remains scarred and severely impacted by his experiences, although he has tried to channel this into an effort to help others, and now works as a support worker for people with disabilities.



## THE LONG ROAD TO SETTLEMENT

The 10-year route to settlement is the default route for most categories of visa-holders, including all regularised migrants. It was introduced in 2012, alongside much of the Hostile Environment, in pursuit of the then-Government's objective of reducing yearly net immigration figures.

Ten years is an extremely long time to require a person to live without security. The majority of migrants have No Recourse to Public Funds during this time, which can often mean they live in poverty throughout the qualifying period. [33] Furthermore, the 10-year route to settlement is split up into four 2.5-year sections where the default position is for a migrant to lose their status unless they submit a whole new application, including paying large fees.

The introduction of this 10-year pathway to Indefinite Leave to Remain has almost certainly increased the number of people who fail to maintain their status and therefore end up undocumented. There are numerous examples of this from within this research and from helpline data, suggesting that this is a significant problem.

### The 10-Year Route to Settlement - Fees

After ten years of lawful residence in the UK you will usually be eligible to apply for Indefinite Leave to Remain (ILR), a status that allows you to remain in the UK without a time limit. Until that time, you must renew your status usually every two and a half years. During this time the default position is to have No Recourse to Public Funds. Every initial application and renewal application is subject to fees as laid out below.

Cost of visa renewal every 2.5 years until settlement (as at April 2021)	
Visa application fee	£1,033
Immigration Health Surcharge	£1,560 (2.5 x yearly rate of £624)
Biometric data processing	£19.50
<b>Total</b>	<b>£2,612.50 per person</b> + potential legal fees*

Cost of settlement application at the end of 10 years	
Visa application fee	£2,389
Life in the UK test	£50
<b>Total</b>	<b>£2,439.00 per person</b> + potential legal fees*

Total cost of obtaining settlement on 10-year route	
First application £ 3 renewals after 2.5 years, 5 years £ 7.5 years	£10,450 (4 x £2,612.50)
Settlement application after 10 years	£2,439
Life in the UK test	£50
<b>Total</b>	<b>£12,937.00 per person</b> + potential legal fees*

### Legal costs

Aside from asylum cases, most immigration cases have not been eligible for Legal Aid since 2012. [34] While charity law firms, including JCWI, provide legal advice and representation free of charge, demand far outstrips capacity. The immigration system is also extremely complicated, meaning many migrants require legal assistance to complete visa applications, renewal applications, and certainly for regularisation applications.

This means that in addition to the extremely high fees charged by the Home Office, most migrants will have to factor in legal costs.

From the fees publicised by five well-regarded immigration law firms, the cost of legal assistance for applications to extend a visa or regularise one's status in the first place typically cost from £1,000 - £3,000, and more for complicated cases and appeals. [35]

## Overstaying

In 2016, the window for error when submitting an application to renew leave to remain in the UK was made smaller and tighter. Previously, there was a 28-day “grace period” in which a person whose leave had technically run out could submit an application and renew their leave without being penalized and forced to leave the country. This was reduced to 14 days, and applicants now need to prove they have a “good reason” beyond their control for this short period of overstaying to be overlooked. There is a lack of clarity in the guidance as to what may constitute a good reason, but none of the factors outlined in the sections above, such as an inability to pay fees, are included.

During a debate on the changes in the House of Lords, the Minister of State for Home Affairs Baroness Williams claimed that this change was intended to “encourage greater compliance with the immigration rules.” [36] However, its effect is to require more evidence from applicants in less time. The Government has not presented any evidence that this change has been effective in achieving its stated purpose.

The risks associated with making an out-of-time application in the context of these strict criteria are high – if an application is rejected the applicant will have lost their application fee and put themselves on the Home Office’s radar as an overstayer. This means they may face a ban on re-entering the UK, as well as potential criminal proceedings.

The Home Office has released guidance suggesting that it will take a flexible approach to cases where EU citizens miss the deadline for applications to the Settled Status Scheme. It claims that in cases where a person has not applied because they are a child, have a medical condition, are a victim of abuse or missed the deadline because of practical reasons, they may be considered to have reasonable grounds to have missed the deadline. [37] This approach, if applied appropriately, would have assisted a great many of the migrants in JCWI’s research, and should be extended to all migrants, regardless of their country of origin.

## MIGRANTS REPEATEDLY FORCED OUT OF STATUS

In the last year JCWI advised 154 people who had gone in and out of status at least once before contacting our helpline, comprising a third of all callers. Migrants who do manage to fulfil the extremely limited criteria to regularise their status under the current system frequently become undocumented again further down the line. Our immigration system places regularised migrants in an insecure situation for too long, putting them at risk of losing their status every two and a half years for a decade. Those who lose status but are able to regularise again later have to stay the 10-year qualifying period again, pushing the security of a stable status ever further out of reach.

### Diwa’s story

Diwa\* had successfully regularised her status as the parent of a British citizen child but couldn’t afford the fees to apply to extend her leave after two and a half years. As a result, she overstayed her visa and became undocumented again. Diwa’s British husband sexually abused their daughter. They were unable to escape immediately due to Diwa being undocumented. Her lawyer said, *“The applicant was often disbelieved re: sexual abuse. I don’t have any concrete proof of this, but a lot of this seemed to be linked to her not having status... Applicant’s husband was sexually abusing their daughter. He was eligible for council housing and so the family all lived together. Mother then wanted to get the children out of the house, but they had nowhere to go, and at the time she had No Recourse to Public Funds and then became an overstayer. A social worker became involved, and, in their notes, they spoke a lot about mother not having status being a reason why children should not be with mother (so they should be with the sexually abusive father?!)”*

Undeterred by the lack of evidence that this approach is effective, and indeed by plentiful evidence to the contrary showing that it causes more people to become undocumented, the Government appears to be pursuing an expansion of long-term “temporary” migration status. The New Plan for Immigration, published in March 2021, outlines plans to give most refugees recognised in the UK a “temporary” status as well, leaving them with No Recourse to Public Funds and barred from settlement, forever subject to the threat of removal. [38] This is particularly pernicious since it applies specifically to people recognised as having fled a well-founded fear of persecution in their country of origin. It will have the same effect as policies that keep other categories of migrants for long periods in an insecure status: increase the risk that they at some point lose that status and become undocumented.

### Ellie’s story

Ellie\* first lost her status when she escaped serious domestic violence. She later managed to get leave on the basis of being the sole carer for her British son. However, as she had limited English and little understanding of the immigration system, she misread the deadline for renewing her leave and lost her status again. Because of this gap in her leave, her 10-year road to indefinite leave was reset when she finally managed to renew it again. Her lawyer said, *“Despite being in UK since 2001 and working to try to regularise her status throughout (she has been the sole carer of a British child from 2002), due to the gap in her leave, she will not be eligible for settlement until 2028.”*

There are many examples in this research of people who successfully regularised their status based on family ties and relationships with British citizens. However, if these relationships broke down before the end of ten years, they were back to square one, undocumented and again vulnerable to abusive or controlling relationships.

The fact that migrants who have regularised their status have No Recourse to Public Funds on the 10-year route also caused hardship for migrants in our research. Several women who had escaped domestic violence found themselves unable to access Free School Meals for their children, for example. Living in poverty, especially for migrants with children, makes it far more difficult to afford the fees to renew a visa. Without money to pay a lawyer, most will be unaware of the existence of fee waivers, or that they might be eligible to apply. This was an issue for many of those surveyed.

### Chamai’s story

Chamai\* came to the UK on a student visa. He was then granted discretionary leave to remain with his family. He was able to renew his leave once, but on the second renewal he couldn’t afford the fees and was unable to secure a fee waiver, so he lost his status. When he lost his status and could no longer work or rent legally, he became homeless.

### Obi’s story

Obi\* had been on the 10-year route but lost her status after her health deteriorated and she was unable to afford to renew her visa. After more than a decade of living in the UK, she is now homeless and relies on support from her church. She is applying again to renew her status and restart on the 10-year route.

Most people are unable to spare several thousand pounds every 2.5 years just to maintain their lives in the UK. A large proportion of the migrants we surveyed are in families and given that there is only a very minor discount for dependant children, the costs for families add up extremely fast.

After experiencing the difficulties and in some cases the trauma associated with being undocumented for long periods, many migrants are extremely anxious at the short period of leave they are eventually granted.



## Sayoko's story

Sayoko\* is studying to become a paediatric nurse. She entered the UK on a visitor visa with no understanding of the immigration system or its requirements. She did not know that she didn't have the right to work and ended up destitute with her children when her family unit broke down. She was unable to afford accommodation and had to depend on charity, leaving her family in overcrowded and unsanitary housing. When she sought to apply to regularise her status, she was given poor quality advice by a lawyer who encouraged her to falsify the information in her application.

Fortunately, when she reached out to more scrupulous legal representatives, she was able to make a new application and finally regained her status. By the time she was able to regularise her status she had lived in the UK for almost 10 years. Sayoko and her three children have leave for two and half years which remains a source of serious anxiety, given the long road to getting a settled status and the fear that she will be unable to afford the fees to extend their visas repeatedly. *"It's a huge fee, and I have to pay the NHS charge too which is over £1,000. They just increased it again, and I have to pay for a lawyer and somehow I have to find almost 3 grand. So, it's not rosy, it's not easy to pay that and then to only be safe for two and a half years, and I'm worried about going back down again [to being undocumented] if I can't make it next time. I've seen it happen to other people who manage to get their papers sorted out and then they go back."*

It is extraordinarily cruel to keep migrants who have managed to regularise their status once in a state of fear. Inability to maintain status for an adequate length of time constitutes a barrier to safety and wellbeing within communities.

## AN INFLEXIBLE SYSTEM

Sometimes people who are coming to the end of their visa will find that they simply have no legal route to renew it. But if they have built a life in the UK, there may also be no realistic way for them to leave – they may have to leave behind family, or they may no longer have secure positions in their home country. A system that cannot bend will crack under pressure. The immigration system that most people encounter is rigid and does not allow for the reality of how people's lives and circumstances change.

Often, a person's visa denies them the right to switch into another visa category while remaining in the UK, even where they fulfil the criteria. Visa routes for visitors, agricultural and domestic workers and participants in youth mobility partnership programs also allow for no extensions or pathway to settlement at all. This means that if a person's circumstances change within their six months of leave, it is impossible for them to extend their stay at all. Inevitably, this means that people on these routes are likely to end up undocumented and become excluded from society and at risk of exploitation for extremely long periods.

All temporary visas that provide no flexibility and no route to settlement entail these same risks, especially in terms of making exploitation and abuse in the workplace more likely. [39] These visas appear to be designed to extract the labour value that migrants bring, without having to provide for the needs of the human beings who carry that labour out. This approach is both undesirable and unrealistic.

## Malee's story

Malee\* became undocumented due to a lack of flexibility in the system. She was originally on a visitor visa for a maximum of six months. During this time, her husband became ill. She tried to switch to a spouse visa in order to be able to continue to care for him and build their lives together in the UK where he could access healthcare. Despite her husband's illness, the switch was denied on the basis that people on visit visas are not eligible to extend or change their terms. Faced with leaving him alone in hospital or overstaying her visa, she made the decision to stay and care for her husband. She became undocumented and was even detained at one point and threatened with deportation. She has now managed to obtain 2.5 years' leave to remain.

*"I'm so thankful to the authorities for letting me go home to my husband, I'm thanking everybody all around me! I have residency now for two and a half years. Of course, it's a huge relief but they can always take it away again. I'm afraid even now before it happens that I'll go through the same thing again. I don't want to go to Yarl's Wood again. Not again, not anymore. I would love, if I was settled, to go and visit my family [in Thailand]. But I have to put my husband first and make sure he is well enough first, either to travel or to be without me while I went on a short trip. It's been almost two years now since I was able to see them. For now, I can't go because he's not well and his mother is old and weak and I also care for her, do the shopping for her at least. Because he can't carry the shopping because of his dialysis so that is my family and my priority here now."*

## Seasonal workers and domestic workers

There are two visa routes that create a particularly high risk of people falling out of status, because they are designed in a way that prevents workers from establishing themselves in the UK. This leaves migrant workers exposed to exploitation and with no real choice but to become undocumented if they are mistreated.

Visas for seasonal agricultural workers and domestic workers are sector-specific and completely inflexible. They are granted for a period of six months and cannot be extended under any but the most extreme circumstances.

Before 2012, workers entering the UK on an Overseas Domestic Workers Visa were able to extend their stay and had a route to settlement. The new, more restrictive system has caused a significant increase in the numbers of domestic workers who are underpaid, abused and exploited, according to Kalayaan, an organisation supporting migrant domestic workers. [40]

While workers in these visa categories do have limited rights to change employer in cases of exploitation, in practice it is extremely difficult to find alternative employment within the six-month time frame of the visa. As soon as a worker stays beyond six months, of course, even the minimal protections afforded by this visa are taken away as they become undocumented and their work becomes a criminal offence. Restrictive visa categories such as this empower slavers and abusive, exploitative employers.

Workers on the Seasonal Agricultural Workers Visa face the same challenges and risk of workplace exploitation, which becomes more severe in cases where they stay beyond six months and become undocumented. [41] This visa type is nominally a pilot scheme, although it has been extended without public assessment twice. It was introduced in 2019 to provide an alternative to EU Freedom of Movement, which had previously supplied the vast majority of workers in these jobs. At the outset relatively small numbers of people were making use of the scheme, meaning that recruiters could take care on an individual basis to minimise the risks of exploitation and abuse. However, as the scheme continues to grow to meet significant demand in the agricultural sector, providers are concerned that it will be impossible to meet these standards, and the risks will increase. [42]

## CHILDREN OF “TEMPORARY” MIGRANTS

The British Nationality Act 1981 removed the right to birthright citizenship, which meant that not all children born in the UK are automatically considered British citizens. [43] During the passage of this legislation, JCWI and other civil society organisations opposed the changes, raising concerns about increasing levels of racial discrimination. A child born to settled migrants, or one parent who is a British citizen, is still automatically entitled to citizenship, but a migrant born to parents who are undocumented or have a “temporary” immigration status in the UK is not. [44]

The 1981 Act itself was designed to remove the prospect of obtaining British citizenship from black and brown Commonwealth nationals, while preserving that right for white Commonwealth nationals from countries like Australia. [45] Margaret Thatcher, the Prime Minister who brought forward the Bill, spoke in the years preceding it of the fear that migrants from the “new” Commonwealth, particularly Pakistan, would “swamp” Britain and raised the prospect of “an end to immigration”. [46]

The impact of the legislation means that if a child is born in the UK to undocumented migrant parents or to parents who fail to secure a legal immigration status for them, they are considered liable to removal despite being born and raised in the UK.

There are also many instances of children in local authority care who are entitled to citizenship, but whose legal guardians fail to apply on their behalf in time. The Coram Children’s Legal Centre has written about this specific issue. [47] Alongside We Belong, they have raised how migrant children in general are excluded from status by long and expensive routes to settlement in the immigration system. [48] [49]

## THE DROP-OFF FOR EU CITIZENS

The 2016 vote to leave the European Union put the future of EU citizens at risk, particularly those who had already made their homes in the UK. Despite reassurances from Ministers and the Prime Minister Boris Johnson that nothing would change for EU migrants, any EU citizen living in the UK who fails to apply for and obtain a Settled or Pre-Settled Status by the 30th of June 2021 is set to lose their legal status overnight.

The Government has no precise record of how many EU citizens live in the UK, so it cannot know for certain that every EU national living in the UK has engaged with the system by the June deadline. Given the size of the population, a failure to register even a small proportion will result in large numbers of new undocumented migrants.

The Government’s approach to the Settlement Scheme reflects its wider immigration system in that it limits access to a permanent, secure status. By February 2021, 44% of people granted leave under the Settlement Scheme had been given a temporary status, Pre-Settled Status, that will expire by default unless renewed once the person has lived in the UK for five years. [50] This means that over the next five years, over two million EU citizens living in the UK will face their own personal deadline by which they must successfully apply for a new, permanent status, or become undocumented.

# NO WAY OUT

## SUMMARY

### Existing routes to regularisation are unjustifiably long and expensive

- The existing routes to regularisation for a person who has lost their status are complicated, inaccessible, and expensive.
- An undocumented migrant would typically have to pay between two and four thousand pounds in fees alone to make an initial application, with legal fees potentially doubling that outlay.
- If a migrant succeeds in regularising their status, they will still be on a 10-year route to settlement, with repeated points at which their status must be renewed. This process can cost between £10,000 and £15,000 before lawyer's fees are taken into account.
- These costs are calculated per person, with children and dependants subject to almost the same fees, so the costs for families can be many multiples of this.
- For undocumented migrants, who aren't legally able to work, these fees can be unattainable, and families may have to make a choice between which members apply for status and who is left undocumented.
- A significant proportion of the fees payable for visas in the UK result in profit for the Home Office. Across the EU, it is normal to charge migrants the cost price for a regularisation or permanent status application.

**The average cost of a regularisation application in France, Spain, Portugal, the Netherlands, or Germany is less than a tenth of the cost in the UK, and the cost of applying for permanent settlement in the UK costs 20 times more than the average cost in those countries.**

### The Hostile Environment is ineffective and causes workplace exploitation

- Undocumented migrants are subject to the Hostile Environment, a series of policies aimed at making life in the UK so difficult that undocumented migrants leave the country of their own accord.

- The migrants in our research have not been encouraged to leave by the Hostile Environment, they have simply been pushed into greater exploitation and suffering. There is no evidence that the Hostile Environment achieves its aims, but there is much evidence of the harm it causes.
- The aspect of the Hostile Environment which most affects the migrants in our research is the prohibition on working and employer right to work checks.

**46% of the migrants we surveyed had been impacted by right to work checks.**

- The UK criminalises work by undocumented migrants, pushing them further into the hands of exploiters and traffickers. Undocumented migrants find their working conditions are often dangerous and wages are withheld. It is impossible for them to complain because they face criminal charges just for working. This is compounded by the Hostile Environment which prevents undocumented migrants from coming forward to police, to the NHS, to social services, and even to charities for fear of being reported to immigration enforcement.
- In several cases, migrants in our research were working in secure conditions before the introduction of right to work checks and had to take on more exploitative work as a direct result of them.

**Of the migrants in our surveys who are still currently undocumented, 24% are employed.**

- This is usually in some form of under-the-counter work of the kind characterised by exploitation, underpayment, long hours, and no benefits such as sick leave, health and safety standards, or time off.

**Migrants in our research were twice as likely to be in work after they had managed to regularise their status.**

# WHAT ARE THE EXISTING ROUTES TO REGULARISATION?

Regularising your immigration status in the UK as an undocumented migrant is incredibly complicated, expensive, and difficult. The Home Office pursues an approach focused entirely on removing people without status from the UK, rather than providing them with alternative solutions.

**£392 million was spent on immigration enforcement in the year 2019-20, [51] a year in which 7,360 enforced removals were carried out. [52] The cost of each enforced removal is estimated to be £15,000. [53]**

An approach purely based on removal of people who fall through the cracks simply is not effective.

**At the current rate it would take the Home Office roughly 135 years to enforce the removal of the entire UK undocumented migrant population.**

A policy of removal is not a realistic approach to the undocumented population, even if it were a desirable one.

If the aim of the Government is to reduce the undocumented migrant population, the realistic solution is an accessible regularisation system and reforms to the immigration system to prevent people losing their status in the first place.

Under the current system, most people who become undocumented neither leave the UK, nor regularise their status through a straightforward and equitable system, and so remain undocumented and excluded from society for many years.

The available routes that currently exist for undocumented migrants to regularise their status are summarised below.

Route: 10 years from birth		
Eligibility criteria	Application cost [54]	Route to settlement
<p>A person who was born in the UK and lived the first 10 years of their life in the UK without interruption is entitled to British Citizenship.</p> <p>To qualify for this route, the applicant must be able to demonstrate that they are of 'good character'.</p>	<p>£1,206</p> <p>(£1,012 if applying as a child)</p>	<p>Direct route to British Citizenship</p>

Route: Seven-year route for children		
Eligibility criteria	Application cost	Route to settlement
<p>Undocumented children who are still minors at the time of application, regardless of whether they were born in the UK can regularise their status on the basis of seven years' continuous residence.</p> <p>This means they must have come to the UK before the age of 11 and be regularised before their 18th birthday.</p> <p>Applicants must be able to demonstrate that it is in the best interests of the child to remain in the UK and have no serious criminal record.</p>	<p>Visa application fee: £1,033</p> <p>Immigration Health Surcharge: £1,175 (2.5 x yearly rate of £470)</p> <p>Biometric data processing: £19.50</p> <p><b>Total: £2,227.50</b> + potential legal fees*</p>	<p>Status is granted for 2.5 years on the 10-year route to settlement.</p> <p>Every 2.5 years they must apply to renew at the same cost as the initial application.</p> <p>The cost of an application for settlement after 10 years is £2,389.</p> <p><b>Total: £11,299</b> + potential legal fees*</p> <p>People on this route standardly have No Recourse to Public Funds.</p>

Route: Half-life route for young people		
Eligibility criteria	Application cost	Route to settlement
<p>Undocumented migrants who are aged 18-25 and who can demonstrate that they have lived in the UK for half their life can apply to regularise their status through this route.</p> <p>This means an 18-year-old must show a minimum of nine years' residence, while a 25-year-old must show a minimum of 12 and a half years.</p>	<p>Visa application fee: £1,033</p> <p>Immigration Health Surcharge if under 18: £1,175 (2.5 x yearly rate of £470)</p> <p>If over 18: £1,560 (2.5 x yearly rate of £624)</p> <p>Biometric data processing: £19.50</p> <p><b>Total: £2,227.50 - £2,612.50</b> + potential legal fees*</p>	<p>Status is granted for 2.5 years on the 10-year route to settlement.</p> <p>Every 2.5 years they must apply to renew at the same cost as the initial application.</p> <p>The cost of an application for settlement after 10 years is £2,389.</p> <p><b>Total: £11,299 - £12,839</b> + potential legal fees*</p> <p>People on this route standardly have No Recourse to Public Funds.</p>



Route: Article 8 – Family or personal life		
Eligibility criteria	Application cost	Route to settlement
<p>Undocumented migrants are eligible to regularise their status who are in a durable relationship (two years or more) with a partner who is a British citizen or settled migrant and it would be unreasonable to expect the partner to relocate to the applicant's country of origin, or where the applicant is the sole carer for a minor child who is a citizen or settled migrant and it would be unreasonable for the child to relocate.</p> <p>It is arguable whether the Article 8 route can be properly considered a 'route', as it is in fact only a protection for those who would otherwise be liable for deportation in very strictly limited circumstances if removal would breach their human rights.</p> <p>The test of what would be considered unreasonable is very hard to fulfil. Not speaking the language nor having any family or contacts in the other country, for example, does not count as sufficient grounds to make it unreasonable to consider moving out of the UK.</p>	<p>Visa application fee: £1,033</p> <p>Immigration Health Surcharge: £1,560 (2.5 x yearly rate of £624)</p> <p>Biometric data processing: £19.50</p> <p><b>Total: £2,612.50</b> + potential legal fees*</p>	<p>Status is granted for 2.5 years on the 10-year route to settlement.</p> <p>Every 2.5 years they must apply to renew at the same cost as the initial application.</p> <p>The cost of an application for settlement after 10 years is £2,389.</p> <p><b>Total: £12,839</b> + potential legal fees*</p> <p>People on this route standardly have No Recourse to Public Funds.</p>

Route: 20-year route for long-term residents		
Eligibility criteria	Application cost	Route to settlement
<p>Undocumented migrants who can demonstrate 20 years of living in the UK can apply to regularise their status on this basis.</p> <p>Even after 20 years, they must still be able to demonstrate that they could not reasonably relocate to their country of origin and that they have significant ties to the UK. It is often difficult to evidence residence for such a long period of time, especially for people who have had to live under-the-radar and hence do not have tax receipts or employment or housing contracts or other ways of evidencing their lives. During this time, they will almost certainly have been forced to commit some criminal offence, simply because all the important activities for survival, such as working, are criminalized for undocumented migrants, but they must have no serious criminal record.</p>	<p>Visa application fee: £1,033</p> <p>Immigration Health Surcharge: £1,560 (2.5 x yearly rate of £624)</p> <p>Biometric data processing: £19.50</p> <p><b>Total: £2,612.50</b> + potential legal fees*</p>	<p>Status is granted for 2.5 years on the 10-year route to settlement.</p> <p>Every 2.5 years they must apply to renew at the same cost as the initial application.</p> <p>The cost of an application for settlement after 10 years is £2,389.</p> <p><b>Total: £12,839</b> + potential legal fees*</p> <p>People on this route standardly have No Recourse to Public Funds.</p>



Route: Leave outside the rules / Very significant obstacles		
Eligibility criteria	Application cost	Route to settlement
<p>An undocumented migrant who does not fulfil the criteria for regularisation within the rules outlined above may apply to regularise their status based on being able to demonstrate an extremely high standard of difficulty in establishing themselves in another country.</p> <p>The criteria are extremely strict and difficult to prove.</p>	<p>Visa application fee: £2,389</p> <p>Immigration Health Surcharge: £1,560 (2.5 x yearly rate of £624)</p> <p>Biometric data processing: £19.50</p> <p><b>Total: £3,968.50</b> + potential legal fees*</p>	<p>Status is granted for 2.5 years on the 10-year route to settlement.</p> <p>Every 2.5 years they must apply to renew at the same cost as the initial application.</p> <p>The cost of an application for settlement after 10 years is £2,389.</p> <p><b>Total: £14,195</b> + potential legal fees*</p> <p>People on this route standardly have No Recourse to Public Funds.</p>

Route: Asylum		
Eligibility criteria	Application cost	Route to settlement
<p>Any migrant is entitled to make an application for international protection when they are in the UK but criteria for being accepted are very high.</p> <p>You must prove a well-founded fear of persecution, or that you would be at risk from generalised violence in your country of origin, and that you would be unable to find protection anywhere in your country from the authorities or others.</p> <p>Since January 2021, applications for asylum can be declared 'inadmissible' if there is evidence that the applicant has transited another country deemed 'safe' before entering the UK, essentially limiting applications to people able to fly directly to the UK.</p>	<p>There is no cost to apply, and Legal Aid is usually available.</p>	<p>If granted, Refugee Status or Humanitarian Protection lasts for five years, with access to public funds, after which beneficiaries can apply for ILR.</p>

\*See estimate of typical fees in the section on Legal Costs.

The system outlined above is extremely complicated and is wholly inadequate for addressing the current reality of undocumented migrants in the country.

The length of residence required, even in the case of young children, is unreasonably long. The cost of making each application is remarkably high. This is compounded by a cumbersome and long route to settlement, which means that even once you have regularised your status you need to make repeated, expensive applications to avoid falling out of it again.

The administrative cost to the Home Office of processing an application for Indefinite Leave to Remain is £243, while the fee charged to applicants is almost 10 times as much, at £2,389. [55] This extreme inflation in fees as compared to administrative cost is repeated across the board. [56] Other countries in Europe do not inflate the fees required for regularisation or for accessing permanent settlement to a comparable degree. Examples of the fees chargeable for these visa processes in different countries are outlined below.

Country	Application fee to regularise status	Application fee for a permanent status
UK	£1,033.00 [57]	£2,389.00 [58]
France	€69.00 [59]	€225.00 [60]
Spain	€37.90 [61]	€21.65 [62]
Portugal	€194.00 [63]	€84.00 [64]
Germany	N/A	€113.00 [65]
Netherlands	N/A	€192.00 [66]

The average cost of a regularisation application in these three European countries is €100. It is more than 10 times higher, at over £1,000 in the UK. The average cost of an application for permanent residence in these five European countries is €127, while in the UK it is 20 times higher.

It is hard to justify the Home Office making such large profits on visa fees when its counterparts in other countries function without doing so. The approach of the Home Office clearly prices undocumented migrants out of status.

All these routes are currently beyond reform. It would be far more effective for the Home Office to reconstitute its approach to regularisation, and replace this system with a single, shorter, clearer, and more accessible route based on five years' residence.

## THE HOSTILE ENVIRONMENT

Undocumented migrants are subject to a series of policies that bar them from accessing the basic services and the public safety net. These policies, commonly called the "Hostile Environment", include the criminalisation of work as an undocumented migrant, making it illegal to rent a home, open a bank account or obtain a driver's licence, as well as immigration checks taking place in healthcare settings.

The centrepiece of Hostile Environment policies is the introduction of immigration checks and controls into all parts of ordinary life, forcing the public – landlords, employers, doctors, and bank clerks, to act in the capacity of border guards and enforce immigration checks. The purpose is to leave people without status with no access to safe spaces.

Housing, police protection, access to healthcare, the ability to work and earn a living, are all taken away. By denying fundamental rights and protections and exposing migrants to harm from anyone who cares to exploit them, the Government hopes they will be persuaded to leave the UK.

The policies of the Hostile Environment were introduced largely through rule changes in 2012, the Immigration Act 2014, and then expanded in the Immigration Act 2016. Between 1999 and 2016, 89 new types of immigration offenses for which offenders can be convicted were introduced onto the statute book. [67]

The policies of the Hostile Environment are understood in this report to be those under review by the Home Office in response to the recommendation to conduct such an assessment in the Windrush Lessons Learned Review. [68] These are:

- Work – it is a criminal offence to work while undocumented and employers must conduct "right to work" checks
- Housing – undocumented migrants are barred from renting property and landlords must conduct "right to rent" checks
- Financial services – undocumented migrants are barred from opening a bank account and banks must conduct immigration checks
- Driving – undocumented migrants are barred from obtaining a drivers' licence and DVLA must conduct immigration checks
- No Recourse to Public Funds – migrants are ineligible to access most benefits until they have obtained indefinite leave to remain

The insidious nature of the Hostile Environment has had multiple ramifications for community trust and cohesion. A 2018 study by JCWI found that the “right to rent” checks were increasing racial discrimination in the housing market, with landlords being uncertain about which immigration documents entitled a person to rent, preferring to rent to applicants who could produce a British passport. [69] This finding was later supported in the courts, where a challenge was brought against the policy in 2019. [70]

But beyond the extensively documented negative impacts of the Hostile Environment on migrants and on our communities, there is very little evidence that the approach works, even on its own terms.

Only one individual surveyed for this research expressed that at any point they had considered simply giving up and going back to their country of origin. For the vast majority of others, returning to their country of origin simply isn’t an option. In many cases, migrants in our research expressed the sentiment that they would have died, rather than be sent away. This is deeply concerning and points to the severe mental health impact and extreme desperation that being subject to the pressures of the Hostile Environment, and the threat of deportation, can produce.

There is some agreement, instead, from all sides of the political spectrum, that there are great socio-economic benefits both to the migrants themselves and for the wider population, if undocumented migrants were able to regularise their status, and live free from fear and exclusion in society.

There has been relatively little exploration of alternative measures to address the needs of the undocumented population, but interventions from across the political spectrum have found that a purely enforcement-based approach is unrealistic. Even the largely pro-enforcement thinktank Civitas has criticised the current approach as ineffective and said that to make an enforcement approach more successful would be both too costly and too brutal. [71] Similarly, the thinktank IPPR has recently concluded that new routes to regularisation are the most feasible and realistic solution to the question. [72]

Numerous recent official reports, including by the Equality and Human Rights Commission, [73] Public Accounts Committee, [74] the Independent Chief Inspector of Borders and Immigration, [75] National Audit Office [76] and the Windrush Lessons Learned Review [77] have similarly found no evidence that this Government’s hostile approach works as a method of immigration control.

What can be known for sure, is that it produces severe harm to the people who are subject to it.

## **The Hostile Environment puts migrants outside the protection of the law**

The result of the Hostile Environment is that undocumented migrants are vulnerable to almost any kind of abuse, exploitation and criminal acts, and the Government is complicit in allowing this to continue. The police frequently report victims and witnesses to crimes to immigration enforcement, meaning that undocumented migrants are too scared to come forward and denied the basic protection of the law. [78]

### **Layla’s story**

Layla\* was arrested after her husband broke a restraining order and entered the home she shared with her children.

### **Kelly’s story**

Kelly\* was arrested by immigration enforcement. She had reported being kidnapped and raped and was being cared for in a recovery centre when she was arrested. She was also pregnant at the time of her arrest. [79]

As long as we criminalise migrants for working and existing in the UK, they will have nowhere to turn. The risk for a migrant of seeking help is often just as great as allowing the abuse to continue. Even charities have been drawn in to helping the Home Office deport people. [80]

We asked respondents to the survey to list the Hostile Environment policies which had directly impacted their clients. 46% had been impacted by right to work checks, 27% were prevented from opening a bank account, 22% by right to rent checks, 13% were prevented from obtaining a driver’s license, 12% by NHS charging and 11% had been held in detention. In every case, these policies had made life difficult for the people in our survey, but in no case had they prompted consideration of voluntarily leaving the country as they are nominally supposed to do.

## Adjo's story

Being unable to work legally means undocumented migrants are the perfect victims for exploitative employers. Adjo\* has been living in the UK for 22 years and has two British children. Adjo had previously been able to work a regular job for a security firm and had enjoyed regular minimum standards, pay and conditions. But when the right to work checks were introduced, he lost that job and was forced to take on irregular, cash-in-hand jobs, largely in construction.

*“Sometimes you get to the day you should be paid and there's nothing and you don't know what to do. They may say that they'll pay you the next week, or the week after and you just have to find a way to push along and find something else. It was on and off because I couldn't make them pay me if they didn't want to. It was extremely stressful.”*

The single most common way in which migrants surveyed said they had been negatively impacted by the policies of the Hostile Environment was through the right to work checks, which was raised in almost half of cases.

There is a very significant problem of exploitation of undocumented workers in unregulated “under-the-counter” work. This was flagged as an issue of concern by JCWI representatives in 11% of the calls received through the helpline over the past year.

In several European countries, work is considered a way in which undocumented migrants prove they are integrated in society and able to support themselves. Because of this, it is often a pathway to make regularising their immigration status quicker and easier. A study by the Paul Hamlyn Foundation in 2014 found that *“The effect of punitive immigration measures, including raids on businesses thought to be employing migrants without permission to work, has lowered wages and increased vulnerability.”* [81]

Of the migrants surveyed who are currently undocumented, 24% are employed, usually in some form of under-the-counter work characterised by exploitation, underpayment, long hours, and no benefits such as sick leave, protections from dangerous working conditions, or time off. The 66% who are currently unemployed have, in many cases, also been engaged at other times in this type of exploitative under-the-counter work to survive, or else have been left destitute and forced to rely on charity, friends or family.

There are numerous accounts from the migrants surveyed of extreme exploitation and abuses that they have suffered at work. But there is no alternative for a person with no right to legal employment, no access to unions or employment tribunals, no protection from labour inspectors and no access to the public safety net. The risk of labour inspectors sharing data with immigration enforcement teams hampers their effectiveness, with negative implications for the entire workforce.

## Anjay's story

*“We were hired because we are not entitled to sick pay and we're desperate to help our families. We have to work to make a living. Being a sensible, responsible and practical person – risking everything and tolerating all the exploitation is the only way to survival if you are classified as illegal in the UK.”*  
– Anjay\*

Currently, there is no firewall between labour standards inspectors and immigration enforcement. Indeed, immigration officers and labour inspectors regularly conduct joint operations in workplaces, making it impossible for migrant workers with an insecure immigration status to bring exploitative conditions to the inspectors' attention without risking becoming the victims of enforcement in place of their employer. [82]

A common experience of migrants in our research that raises great concerns is that of being under the control of agents who facilitate finding work, accommodation, and often travel. These migrants suffer exploitation and coercion for the benefit of organised criminal gangs but continue to live in fear of seeking assistance from the authorities and are completely unaware of what rights they have. In too many cases, however, their fear is justified.

A recent judgment in the European Court on Human Rights (ECHR) required the British Government to pay compensation to two Vietnamese victims of trafficking, who were charged with drugs-related offences when they were discovered undertaking forced labour on a cannabis farm. [83]

### Sohail's story

Sohail\* was sent to the UK in 2003, with no idea of how his family arranged the travel, which was handled by an "agent". He had no knowledge of which country he was travelling to, did not speak English, had no understanding of the requirements of the immigration system, nor the minimum labour standards that must be respected in the UK. His family were simply told that he would earn good money to be able to send back and support them.

He was taken to a flat which he shared with nine other migrants and was told he had to pay his debt for the journey by working on a farm. He was paid below the minimum wage and worked picking vegetables in hard conditions with no sick pay, time off or support. He never earned enough to send back to his family because it all went to the agent on "rent". He managed to escape after two years of working on that farm. But even now, he has been unable to get anything other than cash-in-hand work in construction because he is still undocumented. Although he is paid regularly for his work now, he still has no sick pay or time off, and struggles to make ends meet.

### Eze's story

Eze\* came to the UK on a student visa and later switched on to a skilled worker visa when he found employment. He suffered a family breakdown and during the same period of time, lost his job. This meant he was no longer eligible for his visa. Once he became undocumented, he was unable to rent and became homeless.

He spent several months going from sofa to sofa, and eventually slept in a McDonalds car park when he had nowhere else to go. Out of desperation he found an agency that would help him find work as a cleaner without checking his papers and experienced severe exploitation. *"It was really, really terrible. No work, nothing to do. It was hard to keep going. I've heard about people in work getting exploited, but it's only when you get into that situation then you understand what being exploited means."* He had no guaranteed hours, no guaranteed pay, sometimes he would receive less than minimum wage, other times nothing at all. He worked whatever hours he was offered regardless of how long, or in what conditions and yet still was often unable to pursue even minimal pay.

From the experiences of migrants in our surveys their immigration status creates a barrier for them to access work and support themselves, rather than other explanations such as a lack of available jobs or desire to work. This is shown by looking at the rising rate of employment for the surveyed migrants as their immigration status becomes more secure.

Among migrants in our research who are currently undocumented, 24% are in work. Among those in our surveys who are impacted by the checks, who have managed to regularise their status, and have 2.5 years' leave to remain on a 10-year route to settlement, 42% are employed. Overall, migrants in our survey are twice as likely to be in employment if they have managed to regularise their status.

The "right to work" checks are a direct barrier, preventing migrants from accessing secure, decent employment to support themselves and their families.

Revoking the criminal offence of working while undocumented, ending right to work checks, and introducing a work permit system for undocumented migrants in work, along with a firewall between labour standards inspections and immigration enforcement would prevent migrants from becoming victims of abuse while they work to survive.

# CONCLUSION



**People become undocumented in the UK because we have an inflexible system that denies them the right to a permanent, secure status for many years, or at all. The system forces people out of status by default, and prices many out of the chance to make their case to stay. This is particularly detrimental for people who are already lower paid and working in areas with a higher risk of exploitation, trafficking, and abuse. By limiting flexibility for visitors and certain categories of workers, the system ignores and denies the reality of people's lives, perpetuating vulnerability. By failing to provide realistic pathways back to regularisation, the system traps people in a cycle of hostility, which excludes them from society.**

The immigration system has developed, over successive rule changes, into one where most people who build lives here and intend to stay are considered “temporary” and removable. Over the course of 10 years, migrants must apply for the right to stay in their homes and in their jobs, and pay huge sums, numerous times, before obtaining a safe and secure status in the UK. This is unnecessary and creates multiple points at which migrants become undocumented by default unless they are able to navigate a needlessly complex and demanding system.

Stability for different groups of migrants has been chipped away bit by bit, extending the length of time to settlement, or removing it altogether, in the name of reducing overall numbers or extracting only the labour from migration as characterises the current Government's approach. It has proved a failure.

Estimates reveal that we have a growing population of migrants who have lived here for many years but have been unable to stay documented within the system. Where weaknesses in the system lead to an increase in migrants becoming undocumented, it is virtually impossible for them to get back on track, due to the labyrinth of existing routes to regularisation, which is additionally expensive to access. This leaves people who drop out of status with no remedy, excluding them from the public safety net and leaving them highly vulnerable to exploitation and abuse for long periods of time. The only parts of society that benefit from the failures of our immigration system that produce this long-term undocumented population are those who are willing to exploit them.

Reforms that allow all migrants a stable and secure immigration status at the earliest opportunity and at lower cost are urgently needed. We need a coherent approach to settlement, where anyone seeking to build a home here can do so in a reasonable timeframe, regardless of what job they take on in our society, or how old they are. Migrants need accessible, affordable pathways to get back on track where they have fallen through the gaps. They need assistance, instead of criminalisation, where crises or simple mistakes have led to failing to renew a visa.

Fundamentally, we all need an immigration system that works on the basis of a coherent plan, rather than one that has grown up out of piecemeal, restrictive rule changes with no basis in evidence. We need to ensure that the rights of migrants are protected in the workplace and in their homes, and that the immigration system allows them to become part of our communities.



## RECOMMENDATIONS

### **Introduce a new, simplified route to regularisation based on five years' residence to replace the seven-year, half-life and 20-year routes**

The Government must ensure that people are assisted to regularise their status and are supported to maintain their status. The current system is so complex and restrictive that it instead pushes people out of status. A five-year route would provide simplicity within the immigration system and provide a clear route back into a safe immigration status for people who have been forced out of it. This would provide a realistic, permanent solution for long-term residents.

### **Children born in the UK should be entitled to British citizenship**

Every child born and raised in the UK should have an automatic right to British citizenship. The removal of birthright citizenship in 1981 means that people who were born and raised in the UK can often be considered for removal to countries they have never known. Restoring birthright citizenship would prevent the injustice of young British people living under the threat of deportation.

### **All visa routes should be affordable**

The ability to document right to stay in the UK should not depend on whether the applicant can afford the fees. The UK's immigration fees are far higher than in most comparable countries and they continue to increase. Families who are unable to raise thousands of pounds every few years are at risk of losing their status and becoming undocumented, or forced to choose which family members maintain their status while others cannot. Immigration fees should be set no higher than the cost of processing an application.

### **Visa renewals should be automatic and facilitate integration & settlement**

Once someone has successfully applied to live in the UK, the system should ensure that they are able to put down roots and become settled members of their community. Under the current system, almost all migrants lose their status by default every thirty months unless they go through a complex and expensive renewal process. This is a crucial point at which many people become undocumented. Visa renewals should be simple, cheap, and granted by default unless there is new and important information to be considered.

### **All migrants should be entitled to permanent settlement after five years' legal residence**

The immigration system does not respond to the fact that once people enter the UK, they form permanent relationships and communities, and put down roots. Too many types of visa come with no pathway to settlement or renewal. Others include a long and expensive 10-year path to settlement. This increases the risk of people being forced out of status after having built a life here. All those welcomed to live or work in the UK should be able to do so with confidence and should be allowed to renew their visa and apply for indefinite leave to remain after five years' lawful residence.

### **Abolish the offence of Illegal Working & introduce a work permit system allowing lawful residence based on lawful employment**

All workers should be safe and protected from exploitation and abuse, regardless of their immigration status. Banning undocumented migrants from working legally does not reduce the need for people to work or to provide for themselves or their families. Illegal working offences drive undocumented migrants underground and strengthen the hand of exploitative employers who profit when workers are marginalised, fearful and have few choices. Undocumented workers are unprotected and cannot report labour violations without fear of punishment or being reported to immigration enforcement. Work permits should be made available for all undocumented migrants with an offer of employment, and form part of the route to regularisation.

### **Make the immigration system responsive to human circumstances**

The immigration system should seek in the first instance to resolve errors in applications and changes to personal circumstances, particularly for those already living here. Under the current system, simple errors and personal crises can result in the loss of immigration status. Missing a deadline, making a minor error, poor legal advice, or using the wrong form can have grave consequences lasting for years or decades. Migrants with an insecure status are also put at risk if they seek to access state support in the instance that they are the victim of crime or domestic violence. The system should only deny visa renewal applications as a last resort, and only after serious effort has been made to provide that person with support to resolve any issues in the application process.

# ANNEX: METHODOLOGY & TABLES OF RESULTS

## METHODOLOGY

Research was conducted between November 2019 and January 2020. Research consisted of an online survey of legal practitioners about their undocumented clients, a series of long-form interviews with undocumented and previously undocumented clients of JCWI, shorter interviews with undocumented clients of Hackney Migrants Centre and two focus groups, one with currently undocumented and one with previously undocumented migrant groups.

This primary research is supplemented by data collected through the JCWI undocumented migrant's helpline, which runs throughout the year on three mornings per week to provide confidential immigration advice to migrants seeking to regularise their status or understand their options. Data from this source used in this report was collected between March 2020 and January 2021.

An additional two short interviews were carried out, one in May and one in June 2020, with migrants, one of whom is still undocumented and one who was previously, which focused specifically on their experiences of exploitation in the workplace.

### Online survey

The online survey was live between 4 November 2019 and 20 January 2020 and received 92 responses. It was aimed at legal practitioners representing or advising undocumented migrants seeking to regularise their status and asked for anonymised information about case studies from among their clients.

While the client data was provided anonymously, the survey did ask for the legal representative to identify themselves and their firm to ensure legitimate legal professionals were responding and to enable us to follow up where needed. It was also a requirement to specify the geographical location of the firm in order to ensure we were getting responses that reflected the national picture, rather than being too skewed towards London.

The survey included a mix of multiple choice, single choice, and open text questions. It took an average of 12 minutes to complete.

We reached participants online through sharing the survey on JCWI's platforms, including newsletters, Twitter, and Facebook. We also reached out directly to law firms across the country as well as ILPA, which represents a network of immigration lawyers, in order to disseminate the survey among their staff and networks.

### Interviews and focus groups

13 long-form, semi-structured interviews were carried out throughout January 2020. Interviewees consisted of clients and ex-clients of JCWI, who had been or were being assisted by our legal team to regularise their status. They were contacted by their legal representative at JCWI and asked if they would be willing to take part on an anonymous basis. Interviews lasted around 1 to 1.5 hours and were recorded.

A further seven, shorter interviews were also carried out on 15 January at the drop-in service of the Hackney Migrant Centre. This drop-in service provides a space for undocumented migrants to socialise and receive a free cooked midday meal while they wait for a drop-in appointment to discuss their immigration case with a volunteer legal advisor. We were introduced to the waiting migrants when the drop-in centre opened, and then approached individuals who were waiting to be seen, explaining the purpose of the research, and receiving permission to conduct short, recorded interviews.

We also conducted two focus groups, reaching a further nine people in total. The first of these took place at the JCWI office on 23 January 2020 with four participants. The participants were all Bengalis who had come to the UK on student visas which had later been revoked on the basis that the colleges they were attending were deemed "bogus". They were unable to find a place at an alternative higher education institution within the allocated time limit and became undocumented.

The second focus group was organised with the assistance of the Roma Support Group and was intended specifically to reach members of the Roma community, who had come to the UK from Eastern European countries before EU Freedom of Movement was extended to them, as asylum seekers. These individuals did not have their asylum claims accepted but were eventually regularised through the mass regularisations of refused and long-term asylum seekers that were undertaken between 2000-2005. Five migrants attended this session held at the office of Roma Support Group on 6 February 2020.

Care was taken in all the interviews and focus groups to attempt to capture at least the same data as was asked for in the online survey in order that the data could be joined together and analysed as a whole without difficulty.

The findings from the final two interviews that took place in May and June of 2020 were not consolidated into the rest of the data in this way, as they were specifically focused on understanding the dynamics that had led these participants to experience exploitation in their places of work, and so didn't cover the other topics. These two are used only as case studies in the report.

## Helpline data

The undocumented migrants' helpline has been a long-standing advice line provided by JCWI's legal team since for several years. Its purpose is to provide free and confidential immigration advice to undocumented migrants across the UK. It runs three mornings per week and is sometimes a source for finding and taking on the cases of clients, or for signposting them to other appropriate legal representation.

The data that is collected from this source is systematically recorded and provides a source of understanding of key issues facing the undocumented migrant population over time. The data collected in each call can vary depending on factors such as the level of English of the caller, and what their needs and vulnerabilities are. Regularly, basic data about their situation, country of origin, age and gender are recorded, alongside what type of issue they are experiencing and what advice they have been given.

Since March 2020, we have additionally been collecting some additional data from helpline callers to assist with this report. Legal representatives taking calls have recorded whether a caller has previously managed to regularise their status and then become undocumented again, and whether there is any reason to be concerned that the caller is facing exploitation at work.

We make use of this and the more general data collected between March 2020 and March 2021 to supplement our insight on key issues raised in this report at appropriate times but did not consolidate this data with that of the findings from the survey and interviews.

## Sample bias

By its very nature, the study of the characteristics and experiences of the undocumented population of the UK is extremely difficult. It would be impossible to conduct a survey seeking the opinions of this group on a representative scale. For this reason, we have sought to obtain information about the experiences of being undocumented through contact with legal representatives.

While a reliance on the data shared by legal professionals ensures that it is likely to be of a high standard of accuracy in terms of terminology and complex visa processes, it does result in an obvious bias within the data towards undocumented migrants who have been able to reach out to lawyers or at least migrant support organisations and obtain their representation or advice.

The likelihood is strong, therefore, that the data from our survey and interviews contains a bias towards undocumented migrants who are, overall in a relatively better legal position than the undocumented population as a whole. This is either because they are people who a legal representative has judged fulfils regularisation criteria or has a sufficiently strong human rights case in order to take their case on, or at least because they have received some information and support from expert organisations.

Or they are likely to have recently encountered a particular point of crisis, which has prompted them to seek out legal support or other assistance, such as being subject to immigration checks as a result of the Hostile Environment, necessitating reaching out in order to avoid the threat of destitution or deportation.

Bearing these biases in mind, it is possible to assume that, generally, the same issues that impact on the migrants whose data this study relies on are impacting the wider population, but that there may be other more extreme cases that this report does not capture. For example, nobody currently under the coercive control of an abusive partner or an exploitative employer or even trafficker forms part of our research. These situations are ongoing among the wider undocumented population, however, although it is extremely difficult to estimate at what rates.

Given that the focus of much of this paper is on the problems that are impacting migrants within existing pathways to regularisation, however, it is appropriate that the majority of our data relates to people who are currently or have already gone through those processes.

# ONLINE SURVEY, INTERVIEWS & FOCUS GROUPS RESULTS

## 1. Age

0-20	7	5.8%
21-40	61	50.4%
41-60	45	37.2%
60+	5	4.1%
Blank	3	2.5%
<b>Total</b>	<b>121</b>	<b>100%</b>

This question asked for the exact age of the client, which was then categorised into age-ranges to make analysis clearer.

## 2. Gender ID

Male	71	59%
Female	50	41%
Prefer not to say	0	0
Other	0	0
<b>Total</b>	<b>121</b>	<b>100%</b>

## 3. Region of origin

Africa	55	45.5%
Americas	5	4.1%
Asia	27	22.3%
Australasia	1	0.8%
Caribbean	8	6.6%
Europe	10	8.3
MENA	15	12.4%
<b>Total</b>	<b>121</b>	<b>100%</b>

This question asked for the country of origin of the client, which was then categorised by region to make analysis clearer.

## 4. Length of time in the UK (years)

0 to 3	8	6.6%
4 to 5	7	5.8%
6 to 7	13	10.7%
8 to 10	16	13.2%
11 to 15	39	32.3%
16 to 20	29	23.9%
21+	7	5.8%
Blank	2	1.6%
<b>Total</b>	<b>121</b>	<b>100%</b>

This question asked for the exact length of time in the UK of the client, which was then categorised by range to make analysis clearer.

## 5. Circumstances of arrival

Born in the UK	2	1.6%
Clandestine entry	18	14.9%
Spouse visa	7	5.8%
Student visa	28	23.1%
Visitor visa	46	38%
Work visa	3	2.8%
Trafficking	1	0.8%
Other (legal)	13	10.7%
Blank / Unknown	3	2.8%
<b>Total</b>	<b>121</b>	<b>100%</b>

## 6. Reasons for losing immigration status

Bad legal advice	6	5%
Status lost as a child by carer	8	6.6%
Could not afford fees	4	3.3%
Health crisis	8	6.6%
Lost documents	2	1.7%
Mistake in application	3	2.5%
Never had status	9	7.4%
Refused visa extension	11	9%
Relationship breakdown	13	10.7%
Refused asylum	22	18.2%
Sponsor college closed down	6	5%
Worked more hours than visa permitted	2	1.7%
Wrongfully dismissed from work	1	0.8%
Unknown / Other	26	21.5%
<b>Total</b>	<b>121</b>	<b>100%</b>

This question was open-ended, allowing space for an individual explanation of what happened to the client. Answers were then categorised to make analysis possible.

## 7. Current immigration status

Citizenship	3	2.5%
Refugee Status	8	6.6%
Resolved – 2.5 years on 10 year route	48	39.7%
Resolved – ILR	6	5%
Undocumented	50	41.3%
Other	6	5%
<b>Total</b>	<b>121</b>	<b>100%</b>

## 8. Employment

Employed	42	34.7%
Student	2	1.7%
Unemployed	66	54.5%
Other	6	5%
Blank	5	4.1%
<b>Total</b>	<b>121</b>	<b>100%</b>

<b>Current: undocumented</b>	
Employed	12
Student	0
Unemployed	33
Other	3
Blank	2
<b>Total</b>	<b>50</b>

<b>Current: all legal statuses</b>	
Employed	30
Student	2
Unemployed	33
Other	3
Blank	3
<b>Total</b>	<b>71</b>

<b>Current: resolved 2.5 years on 10 year route</b>	
Employed	20
Student	1
Unemployed	22
Other	2
Blank	3
<b>Total</b>	<b>48</b>

## 9. Housing

Homeless	6	5%
Renting privately	36	29.8%
Social housing	18	14.9%
Staying with friends or family	40	33.1%
Other	18	14.9%
Blank	3	2.%
<b>Total</b>	<b>121</b>	<b>100%</b>

Current: undocumented	
Homeless	4
Renting privately	9
Social housing	6
Staying with friends or family	22
Other	8
Blank	1
<b>Total</b>	<b>50</b>

## 10. Do they have family in the UK?

No	26	21.5%
Yes	90	74.4%
Blank	5	4.1%
<b>Total</b>	<b>121</b>	<b>100%</b>

## 11. Do they have children in the UK?

Yes	56	46.3%
No	64	52.9%
Other	1	0.8%
<b>Total</b>	<b>121</b>	<b>100%</b>

Respondents were asked to give details of family in the UK in an open-ended question. The number mentioning children were then counted here. The other category here refers to the one case where the subject has stepchildren.

## 12. Have they previously successfully regularised their status, and then subsequently lost it again for any reason?

Yes	22	18.2%
No	65	53.8%
Other	4	3.3%
Blank	0	0
<b>Total</b>	<b>121</b>	<b>100%</b>

## 13. Have they been impacted by any measures of the 'Hostile Environment'? (check all that apply)

Employment checks	56	46.3%
Right to rent	27	22.3%
NHS charging	15	12.4%
Inability to open a bank account	33	27.3%
Inability to obtain a driver's license	16	13.2%
Detention	13	10.7%
<b>Total respondents</b>	<b>121</b>	<b>100%</b>

## 14. Top ten countries of origin

Nigeria	25	20.5%
Ghana	7	5.7%
Jamaica	6	4.9%
India	6	4.9%
Pakistan	6	4.9%
Afghanistan	4	3.3%
South Africa	4	3.3%
Philippines	3	2.5%
Iran	3	2.5%
Gambia	3	2.5%



# JCWI UNDOCUMENTED MIGRANT HELPLINE

(31 March 2020 – 04 March 2021)

## 1. Region of origin

Africa	136	30.2%
Americas	43	9.6%
Asia	100	22.2%
Australasia	2	0.4%
Caribbean	32	7.1%
Europe	20	4.4%
MENA	72	16%
Unknown	45	10%
<b>Total</b>	<b>450</b>	<b>100%</b>

The individual country of origin is recorded and these were then categorised by region to enable analysis.

## 2. Length of time in the UK (years)

		%	% of known
0 to 3	43	9.6%	17.7%
4 to 5	22	4.9%	9.1%
6 to 7	18	4%	7.4%
8 to 10	28	6.2%	11.5%
11 to 15	55	12.2%	22.6%
16 to 20	41	9.1%	16.9%
21+	34	7.6%	14%
Unknown	207	46%	
Total known	243	54%	
<b>Total</b>	<b>450</b>	<b>100%</b>	

Length of time in the UK is not standardly recorded. Therefore, this data was collected where possible from narrative sections describing the caller's needs and advice given. As this data was only available in just over half of records, the percentage for the known cases has been recorded for more meaningful analysis.

## 3. If the caller is in irregular status, have they ever successfully 'regularised' their status in the past?

No	296	65.8%
Yes	154	34.2%
Unknown	0	0%
<b>Total</b>	<b>450</b>	<b>100%</b>

## 4. Does the caseworker have reason to be concerned about suspected exploitation at work?

No	401	89.1%
Yes	49	10.9%
Unknown	0	0%
<b>Total</b>	<b>450</b>	<b>100%</b>

## 5. Top ten countries of origin

Nigeria	68	15.1%
Afghanistan	44	9.8%
India	26	5.8%
Jamaica	20	4.4%
Bangladesh	15	3.3%
Brazil	13	2.9%
Ghana	13	2.9%
China	9	2%
Philippines	9	2%
USA	8	1.8%

# ENDNOTES

- [1] Please see the annex to this report for more detail and our tables of results.
- [2] This happened, for example, in the case of people who entered the UK in good faith on student visas, whose colleges were later declared “bogus” by the Government and shut down, leaving them without a course to attend and in violation of the terms of their student visa. It could also impact EU citizens after the deadline to apply to the Settled Status Scheme.
- [3] [Migration Observatory, Migrants crossing the Channel in small boats: What do we know?, October 2020](#)
- [4] [Home Office, Control of immigration statistics, United Kingdom, 2005.](#)
- [5] [Migration Observatory, Recent estimates of the UK’s irregular migrant population, September 2020](#)
- [6] [Mayor of London, London’s children and young people who are not British citizens, January 2020](#)
- [7] [Pew Research Centre, Unauthorized immigrants in the United Kingdom, November 2019](#)
- [8] Ibid
- [9] [Migration Observatory, Migrants in the UK: An overview, November 2020](#)
- [10] [Migration Observatory, Not settled yet? Understanding the EU Settlement scheme using the available data, April 2020](#)
- [11] [JCWI, When the clapping stops: EU care workers after Brexit, January 2021](#)
- [12] [Mayor of London, London’s children and young people who are not British citizens, January 2020](#)
- [13] 243 callers whose length of residence in the UK is known. Of these, 187 have lived in the UK 5 years or longer, including 144 who have lived in the UK 10 years or longer.
- [14] [Pew Research Centre, Unauthorized immigrants in the United Kingdom, November 2019](#)
- [15] [ONS, Population of the UK by country of birth and nationality, January 2021](#)
- [16] Top ten countries of origin for migrants in our survey in order are Nigeria, Ghana, Jamaica, India, Pakistan, Gambia, Afghanistan, Philippines, Iran, South Africa. Top ten countries of origin for migrants calling our undocumented migrants helpline in order are Nigeria, Afghanistan, India, Jamaica, Bangladesh, Brazil, Ghana, China, Philippines, USA.
- [17] [International Migration Institute, University of Oxford, The determinants of international migration, April 2011](#)
- [18] [Home Office, Family migration: Evidence and analysis, July 2011](#)
- [19] [Women’s Aid, Nowhere to Turn, 2017](#)
- [20] [Step Up Migrant Women, Right to be Believed, May 2019](#)
- [21] [ONS, Domestic abuse victims characteristics: England and Wales, March 2019](#)
- [22] [Legislation.gov.uk, Legal Aid Sentencing and Punishment of Offenders Act, 2012](#)
- [23] [Gov.uk, Tribunal stats quarterly: January to March 2019](#)
- [24] [JCWI, Migrants deterred from healthcare during the COVID-19 pandemic, February 2021](#)
- [25] [NHS, Visitors who do not need to pay for NHS treatment, January 2021](#)
- [26] [JCWI, Fee waivers for human rights applications, February 2021](#)
- [27] Ibid
- [28] [They Work for You, Immigration and nationality application fees, Westminster Hall, March 2021](#)
- [29] [Coram children’s legal centre, The fee barrier: Can you afford the place you call home?, March 2018](#)
- [30] [Free Movement, £1,012 child citizenship fee confirmed unlawful by Court of Appeal, February 2021](#)
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# ABOUT JCWI

JCWI is an independent national charity, founded in 1967 to defend the rights of Britain's migrant communities and fight for a fairer immigration system.

For more than half a century, we have challenged policies that lead to discrimination, destitution and the denial of rights. We have provided accessible, high-quality legal advice and support to tens of thousands of people, helping them to secure their immigration status, keep their families together and escape poverty. And we have consistently been one of the leading voices calling for a fairer, more just immigration system that works for everyone.

Support our work by becoming a member today, by visiting:

[jcwi.org.uk/join](https://jcwi.org.uk/join)

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Joint Council for the Welfare of Immigrants is a registered charity (number: 1117513).