

# SCOTTISH ANTI POVERTY REVIEW



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## LOCAL APPROACHES TO TACKLING POVERTY





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The views expressed in the Scottish Anti Poverty Review do not necessarily reflect those of The Poverty Alliance.

## ABOUT THE POVERTY ALLIANCE

The Poverty Alliance is a network of community, voluntary, statutory and other organisations whose vision is of a sustainable Scotland based on social and economic justice, with dignity for all, where poverty and inequalities are not tolerated and are challenged.

Our aim is to combat poverty by working with others to empower individuals and communities to affect change in the distribution of power and resources. To do this we:

- Work with people and communities experiencing poverty to empower them to address poverty
- Work with organisations to build a strong anti-poverty network in Scotland
- Support the development of policies which promote social justice and combat poverty
- Raise awareness about poverty and encourage debate

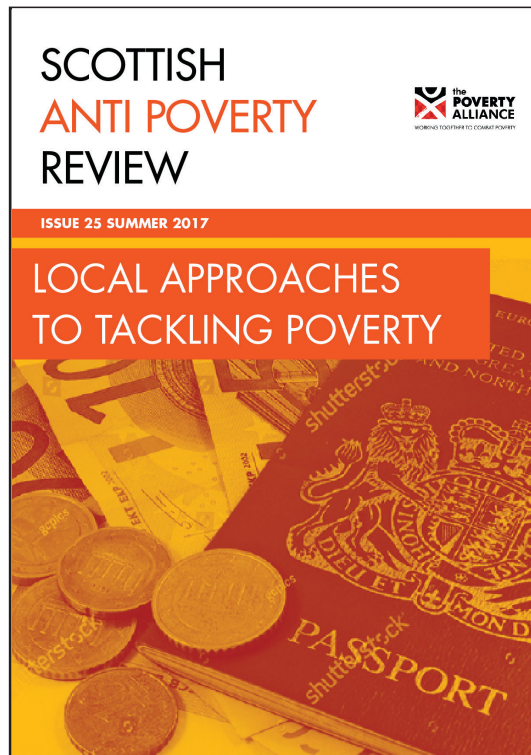
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## EDITORIAL

# Migration, Poverty and Solidarity

It is fair to say, as many of the authors in this edition of SAPR do, that questions of migration have come to domination much of the political debate in Scotland and the UK in recent years. The growth of support for anti-immigrant parties like UKIP and the referendum has ensured that questions of migration have been cast in an almost entirely negative light in these debates. These debates have also been mixed in recent years with the refugee crisis that has taken place in Europe, due in large part to conflicts in Syria, Libya and Afghanistan. For those of us who want to reduce poverty, and who want to ensure that Scotland becomes a fairer, more socially just place, it is essential that we address issues of migration.

One point that comes through the excellent articles in this edition of SAPR is that of the close connection between issues of migration and poverty. As Nathan Akehurst of Migrant Voice notes, the causes of poverty amongst migrants is similar to anyone else, but migrants are often over represented in poverty. This can be due to a range of reasons – becoming trapped in low paying insecure work, being unable to access welfare benefits, being unable to access decent services or being forced into inadequate overcrowded housing. As highlighted by Mridul Wadwha and the Unity Collective, the situation for many refugees is perhaps even more extreme, with many being forced into destitution due to both the lack of appropriate services and Government rules that deny people any recourse to public funds. It is clear that if we are to effectively address poverty and create a more socially just Scotland, then radically changing the way we help, support and protect migrants and refugees should be central.

This is the real impact of the scapegoating and stigmatising of migrants and refugees that has taken place over recent years, but which has a much longer history. Again, as many have pointed out in this edition, issues of migration are not unfamiliar to Scotland, or indeed the UK. Our countries have been built and shaped by the flows of people. Behind many of these movements have often been problems of poverty and inequality, as well as conflict and persecution. If we think of the movement of people

from Ireland to Scotland in the 19th century, or of Scots to the Americas in the 20th century, we can see the profound impact that migration has had on so many lives in Scotland.

However this shared experience of migration, between those who have been settled here for generations and those who have arrived more recently, has not lead to a necessarily more supportive reception for people coming here. There have, of course, been many examples of communities welcoming new migrants and refugees to Scotland. However, it is important to be clear that we are not insulated against the racist and xenophobic that has marked much of the debate about refugees and migrants. Scotland may have voted to remain in the EU as a whole, but more than a million people did vote to leave. Of course, that is not to say that these people are anti-immigrant xenophobes, but there is little doubt that much of the debate around the referendum was marked by these kinds of ideas.

As we negotiate our way out of the EU, questions of migration will continue to dominate the political debate. There will be pressure to further diminish the rights of people who wish to live and work here, and who seek safe and protection here. As an anti-poverty organisation it is our responsibility to show our support and solidarity. We would do well to remember that the forces that drive so many people to seek a better life outside their country of birth, inequality and social injustice, are the same ones that we fight against here. We may act locally in Scotland against poverty, but our struggle truly is a global one. Standing in solidarity with refugees and migrants is therefore not an optional extra, but an obligation.



## ACADEMIC COMMENT

# A land of milk and honey? Migrant poverty in Scotland

*Professor John McKendrick looks at the research done on migrant poverty in Scotland*

### What we know

We know much about migration and migrants in Scotland. Our National Records for Scotland inform us that after almost four decades of being a net 'exporter' of people every year (almost 900,000 more people left Scotland than moved to Scotland between 1951 and 1991), the late 1980s were a decade of transition and flux: the early part of the 1990s were characterised by more movement to Scotland than departure from it, only for the 1990s to register a return to the years of net out-migration from Scotland. Then came the millennium: we are now approaching two full decades of more people moving to Scotland than leaving it.

We also know that more people move to Scotland every year from the rest of the UK than from overseas (47,200, compared to 37,800 in 2014/15), but that when we account for out-migration the net flow of people to Scotland is greater from overseas than the rest of the UK combined (19,600, compared to 8,400 in 2014/15). Scotland's Census 2011 advises us that almost equal proportions of international migrants came from within and outwith the European Economic Area between 2001 and 2011. The Census also allows us to profile migrants by age, sex, English language skills, household composition, economic activity, educational qualifications, health, tenure and industry (for those in employment).

Of course, migration is not only international. Our National Records for Scotland also inform us about (i) net migration totals for administrative areas in Scotland (ii) the flow of people between administrative areas in Scotland and (iii) the relative contribution of migration to local population change in administrative areas. Although more people come to Scotland than leave it, net out-migration was reported for four areas in 2014/15 (Argyll and Bute, Eilean Siar, Inverclyde and the Shetland Islands). Out-migration has been particularly characteristic of Inverclyde with more people leaving Inverclyde than moving into it,

every year since 1981/82.

### Why we don't know more

We don't know how many migrants live in poverty in Scotland.

Although the data that are used to generate estimates of the number of people living in poverty in Scotland (the Households Below Average Income dataset) allow us to profile the risk of living in poverty for a wide range of populations, migration status is not one of them, and is not likely to be added to the list anytime soon. So, we are provided with robust annual estimates of the distribution of poverty for key age stages (children, working age adults and people of pensionable age) and we have sufficient data to provide updates every few years of the distribution of poverty according to gender, ethnicity, tenure, urban/rural status, disability status and family/household status, but not migration status.

It would be possible to use the Scottish Household Survey to estimate the risk of poverty among migrants in Scotland, although these estimates would be less reliable than those based on the Households Below Average Income dataset and would require technical expertise in the analysis of migrant and income data. To date, the potential of the Scottish Household Survey to better understand migration and poverty in Scotland has not been realised.

A wide-ranging Scottish Government report published in 2016 on *The Impacts of Migrants and Migration into Scotland* provided no estimate of the prevalence of poverty among migrants.

### New research insights

The experiences of migrants in adapting to life in Scotland has been explored by a number of key studies in recent years. The Centre for Russian, Central and Eastern European Studies has documented



the challenges faced by CEE migrants in Scotland, with findings recently made available in the form of short briefing report for the Greens (Experiences of welfare within Glasgow's central and eastern European community), which is drawn from a larger project exploring experiences of social security for this particular group of migrants in eight locations spread across four local authority areas in Scotland (Experiences of Social Security and Prospects for Long Term Settlement in Scotland amongst Migrants from Central Eastern Europe and Former Soviet Union).

The experiences of Roma community in Glasgow have also been documented in a report by academics working as part of the Scottish Universities Roma Network (Report on the Situation of the Roma Community in Govanhill). Similarly, Daniella Sime's work on young people, ethnicity and poverty will enhance our understanding of the challenges of low income living for children who have recently moved to Scotland.

### **A call to action for numbers that matter**

Everyone experiencing poverty (including migrants) is more than just a number. However, numbers matter as without a clearer understanding of the prevalence of poverty among migrants (and different groups of migrants) then it becomes difficult to evidence the need for the wider anti-poverty sector to pay more attention to the particular challenges that poverty presents to migrants. The immediate priority must be to exploit the potential within the Scottish Household Survey. However, the merits of administering well-designed small-scale community studies (or even censuses) of local poverty among particular migrant groups or in localities with a high proportion of migrants must also be considered.





## THIRD SECTOR COMMENT

### The Empire Strikes Back?

*Rebecca Marek from the Coalition of Racial Equality and Rights writes about the issues facing BME migrants in Scotland today*

If someone were to drop into Scotland these days and catch a bit of the news or political rhetoric, it might be assumed that migration is a relatively new issue in Scotland and that problems for migrants have been spurred by Brexit.

This would be a fair assumption, as discussions about hate crime, employment, and discrimination are seemingly limited to EU migrants who will be affected. Indeed, these are significant issues for these groups, but restricting discussion of these issues to recent EU migrants ignores the lived experience of BME groups, a high proportion of whom have lived in Scotland for multiple generations.

More than fifty years on from the first Race Relations Act in 1965, racist hate crime has remained the most reported type of hate crime since reporting began in 2003, with over three times as many criminal charges levied as the 2nd most reported type of hate crime. The employment rate in Scotland is considerably higher for white groups (72.0%) than for BME groups (55.2%) aged 25-49, despite school leavers from all BME backgrounds having considerably higher levels of attainment than white groups. Research from the Department for Work and Pensions (which included employers in Scotland) demonstrated that a person with a 'BME name' had to send an application away 16 times to achieve a successful response, compared to 9 times for someone with a 'white name' – even though they were submitting the same application. The Scottish Social Attitudes Survey 2015 found that 35% of people believe Scotland would begin to lose its identity if more Black and Asian people came to live in Scotland.

Ignoring these realities and believing that issues that affect migrants – including those groups who have lived in Scotland for multiple generations, but are still wrongly considered by some sections of the community to be migrants – are limited to white EU migrants only sets Scotland back on its journey to be the inclusive place oratory indicates it would like to be.

This is not to say that the struggles affecting migrants don't matter: rather, it is clear that immigration policy that respects the human rights of migrants is long overdue in

Britain. However, it is important to make a distinction between issues that are related to migration and immigration, and issues that are directly related to the racism experienced by BME groups – recent migrants and long-established communities – daily.



Migration has taken place in Scotland for centuries, often tied to the rise and fall of the British Empire, and the effects of this empire – and the mentality behind it – continue to strike back. And as long as decision-makers view established BME communities as migrants and conflate migration and racial discrimination, neither issue will be resolved.

Rather, we will continue to see public sector bodies put forward translation and ESOL policies as their only actions to tackle racial discrimination, political leaders speak about hate crime against migrants without addressing race and racism, and employability and language support put forward as the 'solution' to the underemployment of Scotland-educated BME young people.

Indeed, for BME communities in Scotland, one of the most important migration issues may be recognising that migration is not the only issue.



## TRADE UNION COMMENT

### Pay & The Political Agenda

*Drew Smith, campaigns officer at the GMB, outlines the unions concerns and priorities for the coming months*

After years of stagnating, and often real-terms decline in wages, pay is firmly back on the political agenda. The period since the UK General Election may have been dominated by the terms of Brexit, but for many people what seems to matter more is not what is going around the European negotiating table, but rather putting food on their own kitchen tables.

Of course the two issues are linked. Brexit has become an often jargon filled argument about whether “membership” or “access” to the single market might be on offer and the truth is that whatever is agreed will set the course for our economy for many years to come. That’s why the opposition, and the trades unions, have called for a “jobs-first Brexit”. Safeguards for existing employment, however, risk being overshadowed by the issue of free movement of people, which remains as controversial as ever, and threatens to become the central tension in a balance between migration and trade.

For workers, the issue of migration usually ties closely back to perceptions and aspirations around pay. Trades unions, must firmly champion the rights of migrant workers and our campaigns against undercutting of pay and social dumping, which is currently a major issue in a number of Scottish public sector construction sites, must be seen alongside our longstanding work and support for anti-racism and against discrimination in any form.

Pay is then both the backdrop and the link between all of these issues as the increasingly biting reality of declining standards of living, and poor economic prospects, seeps through into the world of politics and the media. The harsh reality is that economic growth is slowing again, inflation is on the rise, and wage austerity has lasted longer than is tolerable. Where jobs are being created too many are insecure or precarious, in the gig economy or on 0-hours.

In-work poverty is reaching a point of critical mass and for those workers in union organised workplaces pay claims are increasingly contentious. Workers on poverty wages know that neither the burden of our economic challenges, nor the weight of austerity, are being shared fairly across society

and are no longer willing to see their incomes fall, whilst the costs of living goes up and up.

Pressure has been brought to bear on the UK Government over the public sector pay cap and the Scottish Government has now also had to concede their support for it. Trades unions have throughout the long freeze prioritised the interests of those at the very bottom of the pay scale, often using tools, such as the living wage, which have been developed alongside anti-poverty campaigners. The next period will be crucial to determining what pay policy replaces the cap, and who benefits.

It is vital that this does not become a debate between those who are out of, or can’t, work and those who are in work, but struggling. In-work poverty simply shouldn’t be pitted against poverty experienced by people who aren’t working and other marginalised groups including disabled people, recent migrants or ethnic minorities.

The question cannot be who is most, and therefore who is least, deserving amongst the poor. Instead, both UK and Scottish governments need to prioritise jobs and growth; and face up to realities on tax, and incomes. Scotland cannot pretend a more progressive approach without being willing to use devolved taxes alongside other policies.

Equally, there should be no contradiction between arguing for better benefits and increasing wages. The reality is that many of the lowest paid workers, for example, women working part-time for a local council, are also reliant on benefit payments to meet their responsibilities. The social security system should be something in which we all have a stake but just as the experience of those in receipt of benefits should be shaping a new approach in Scotland, so should those in work be empowered to negotiate their pay claims through collective bargaining.

Pay stands to become a bigger and bigger political issue over coming months. Workers’ representatives and anti-poverty campaigners should find themselves united in demanding greater fairness for all, not competing for the crumbs from anyone’s table.



## POLITICAL COMMENT

### Reawakening the migration debate.

*Pauline McNeill MSP writes about the positive benefits of immigration rarely highlighted in the media.*

The issue of migration has been high on the agenda before and after the UK's decision to leave the European Union. No one can deny that immigration was one of the key factors for many of those voting to leave the EU. Although voting to remain, one million Scots voted leave, that is not an insignificant figure given Scotland's relatively low immigration compared to the rest of the UK.

During the EU referendum Nigel Farage and the Vote Leave campaign unveiled a poster depicting a long line of people of middle eastern appearance trying to get into the UK. I have no idea where the image was taken from, but it would not surprise me if it was of Syrian refugees. I have been to the camps at Calais in France and I have seen similar images of desperate people searching for a better life. Immigration from out-with the EU was deliberately conflated with immigration from within the EU. It has almost become accepted that supporting more immigration is a politically unpopular position to take. In Scotland there is a strong case to be made for supporting more immigration. Without immigration we'd have an ageing and declining population. We need immigration to grow the economy and support public services.

The shameful failure of the Conservative government to confirm the status of the 3 million EU nationals in the UK for over a year has not shown this country in a positive light. It was unacceptable that people were used as pawns and ahead of brexit negotiations. It wasn't even a clever strategy as it has cost us goodwill in advance of negotiations. The spike in racially-aggravated crime in the aftermath of the referendum result can in part be blamed on the toxic rhetoric that typified much of the debate.

In a time of austerity and stretched public services it is almost inevitable that people will be vulnerable to accepting a narrative that says that public services are failing because of the additional number of people using them. That migrants from the EU have provided

a net economic benefit to this country is something we should be willing to argue more strongly. It is also true that Scotland needs immigration to avoid population stagnation.

Immigration is likely to slow down as a result of new government policy post brexit.

Due to our different immigration needs, Scotland should have a say on what that new policy is to ensure we have access to the people and skills we need to support our public services and the economy. We should also highlight that it has been a failure to invest in our public services which has led to them being stretched rather than immigration. We should have a more rounded needs assessment for areas which experience high immigration to identify where money is needed for health, education and infrastructure.

Immigration should not only be determined by the economic argument. The Syrian refugee crisis is in its sixth year and is the defining conflict of our time. Britain has been involved in the series of events and circumstances that have created the conditions for this crisis and as such we have a responsibility to provide refuge for at least some of the great many people displaced by the conflict. The Dubs amendment, tabled by the Labour Peer Lord Dubs, a former child refugee himself, was created to help a small portion of the 90,000 unaccompanied migrant children currently spread across Europe. Lord Dubs suggested that the UK could assist 3,000 of the most vulnerable children.

In February, the Government voted to close the scheme after only 350 children had been taken. As Lord Dubs himself noted, "I believe in arbitrarily closing down the scheme, without any good reason for doing so, the government is in breach of its own commitments."

Using cost as a justification for taking relatively few refugees is both spurious and disgraceful. We are one of the richest countries in the world and can afford





to offer refuge to more people who need it than we currently are. Refugees, like immigrants bring societal benefits to the host country such cultural diversity. Many aspects of our lives have been enhanced due to immigration. Music, the arts and eating out have all been enhanced by immigration.

We would be a culturally poorer country without the generations of people who have arrived here from all over the world.

Happily the picture is not purely one of scepticism on immigration. I am proud that Glasgow and Scotland have adopted a welcoming approach to refugees and that much has been done to help, support and integrate the people who have arrived here. All across the country local authorities have offered housing and support through the Syrian Refugee Resettlement Programme. Communities across the country have come together to provide the new arrivals with what they need to start their new lives. This response has represented what is best about people and if we make sure that the debate on all immigration is informed we can address the issue in a more honest and serious way.



# CHILD POVERTY ACTION GROUP

## Migration & Welfare

*Henri Krishna from the Child Poverty Action Group writes about the links between Welfare Reform and Migrants*

### Welfare reform and migrants

The welfare reform programmes of successive governments since 2010 has seen a range of measures which directly impacted on the social security rights of migrants and their families making it much harder for migrants who are not working to access benefits. Many of the general reforms may also have a disproportionate impact because of the particular social, economic or cultural circumstances of migrants and their families.

The social security law encompassing the rights of migrants is particularly complex, overlapping with UK immigration, human rights and EU law, and often poorly understood by even experienced welfare rights advisers and those responsible for the administration of the social security system. Challenges to the specific welfare reforms which most directly impact on migrants and their families have been subject to challenge, which are often highly technical. For the rest of this article, I will describe some of the most significant of these reforms, the impacts and some of the challenges.

### Compelling evidence and the 'GPoW'

One of the most significant reforms has not been directly to the social security legislation but the UK's interpretation of rights of free movement of European Economic Area (EEA) nationals under EU law. However, the intent of the reform was clearly to limit EEA migrants benefit entitlement. All means-tested and benefits for children require most EEA nationals to have a 'right to reside' (RtR).

The amendments imposed a requirement to show 'compelling evidence' that a person is looking for and has a genuine chance of getting work on certain EEA nationals after a 'relevant period'. If you cannot provide compelling evidence you may lose your RtR and therefore your access to benefits. This is better known as the 'genuine prospect of work test' (GPoW). The GPoW test applies if the EEA national has a RtR as either a jobseeker only or as someone who retains worker status immediately following a period of work while unemployed and seeking

further work<sup>1</sup>. The 'relevant periods' are now 91 days or 6 months for jobseekers or those with retained worker status respectively. The GPoW is carried out at the end of the relevant period by inviting affected claimants of income-based jobseeker's allowance (JSA) to an interview. In the original form of the test, there were only two ways to pass it:

- You have an offer of a job starting within the next 3 months;
- You have had a change of circumstances which significantly improves your chances of getting a job in the next month

In the first case this would lead to an extension of RtR to the day before the job started. In the second, for a month from when the change took place. After that, or if neither condition was met at the end of the relevant period, the EEA national loses their RtR.

All means-tested benefits<sup>2</sup> as part of the 'habitual residence test' (HRT), and child tax credit (CTC) and child benefit as part of the ordinary residence requirement, (plus effectively those benefits which these passport entitlement to) require most claimants to have a RtR. For child benefit and CTC this is in the UK. For means-tested benefits, in the 'common travel area' of the UK, Ireland, Isle of Man and Channel Islands. Other groups of migrants with rights of residence are not as directly affected by the RtR requirement: those with refugee, humanitarian protection or discretionary leave are exempt from the HRT altogether; those with other forms of leave to remain may be excluded by other rules concerning 'persons subject to immigration control' instead. In any case these reforms only effect the rights of EEA nationals and their families (although CPAG has seen cases where they have been applied erroneously to non-EEA nationals). Not every EEA RtR provides access to any or all of the benefits for which such a right is required (for example see Housing benefit and universal credit below) but these reforms remove an affected EEA national's RtR after a period of time and so their access to the relevant benefits.



EEA nationals with a jobseeker or retained worker status while unemployed will primarily be claiming income-based JSA, child benefit and CTC as appropriate. Those with retained worker status also have access to housing benefit (see below). Family members, depending on their circumstances, may be claiming other means-tested benefits. However, if their RtR is lost, so is entitlement to any of these benefits (plus passported benefits such as free school meals). The DWP have taken the lead role by imposing the GPoW via income-based JSA entitlement, with those responsible for administering the other benefits (HMRC for child benefit and CTC or local authorities for housing benefit) often following their decision – this practice in itself is incorrect as each benefit requires a separate decision and to be able to justify it should the decision be appealed, as recently reiterated by the Upper Tribunal.<sup>3</sup>

Following a number of challenges (some on-going via further appeals), the DWP's original GPoW guidance has been changed (although in many cases it appears practice has not). The challenges were directed against the legality of the 'compelling evidence' requirement, particularly in light of the relevant EU law on the rights of workers. While this has not led to the amended UK legislation being struck down or revoked, it was held that 'compelling evidence' can mean no more than 'on the balance of probabilities' and the 'relevant period' is only one factor to be taken into account when deciding whether someone has a genuine chance of getting a job.<sup>4</sup> As such, the DWP's amended GPoW guidance now lists the two original ways of passing the test as examples only of how it might be passed but goes on to say that other factors should be taken into account when deciding whether, on the balance of probabilities, a claimant can be said to still have a genuine chance of finding work and so more EEA nationals in these circumstances should be found to have a RtR for longer.<sup>5</sup>

In CPAG's experience, the compelling evidence requirement is frequently applied to the wrong EEA nationals. The DWP's guidance was clear that the GPoW should only be applied where an EEA national's only

RtR is as a jobseeker or someone with retained worker status while unemployed. This is because those with other RtR under the EEA Regs are not subject to a compelling evidence requirement in relation to those. So provided that other RtR is sufficient to claim the required benefit, it can be relied on. These may include a RtR via a family member, as the primary carer of a worker's child in education, a permanent RtR or women who have to leave work due to the physical effects of pregnancy.<sup>6</sup> However, this guidance no longer appears in the most recent version and in any case was frequently overlooked with the consequence that many EEA nationals and their family members are being refused benefit erroneously due to failing the GPoW when it should never have been applied.

### Extension of the past presence test

The past presence test restricts entitlement to disability and carers benefits until people have been in the UK for a specified period of time. With the introduction of personal independence payment (PIP) in 2013, disability living allowance (DLA), attendance allowance (AA) and carer's allowance (CA) all had their past presence tests extended from 26 out of the last 52, to 104 out of the last 156 weeks. Shorter periods apply to children under 3 and those with a terminal prognosis. The reform was justified on the grounds that claimants should show a strong connection to the UK before being able to get help.

The reform was at least in part inspired by a European Court of Justice case which found that a young British woman living in Spain could still claim certain benefits under EU law from the UK provided she demonstrated a 'genuine and sufficient link' to the UK. This exemption from the past presence test, which appears in the amended regulations, applies to EEA nationals claiming in the UK as well as British nationals claiming from elsewhere in the EEA. The meaning of 'genuine and sufficient link' is emerging via caselaw but could include where the claimant or another member of the family gets other benefits from the UK, is paying tax or national insurance in the UK, or has previously worked or lived in the UK. Recent caselaw suggests periods of presence of less than 104 weeks may be



one factor to consider in whether someone has established such a link. However, there are otherwise no exemptions to the past presence test. EEA nationals can potentially use 'aggregation' rules under EU legislation to have periods of residence in other EEA states added to presence in the UK for the purposes of meeting the test but the exact nature of such residence is subject to on-going appeals, although periods when someone lived in and paid tax, and/or the equivalent of national insurance, in another state should count.

Like other reforms, the extension of the past presence test applies to all claimants. CPAG has encountered a number of cases where British nationals returning from living outside the EEA have been unable to claim DLA, AA, PIP or CA due to this reform. While challenges in such cases have been made, so far none have reached the Upper Tribunal where they could set a binding precedent, instead they are often settled before the appeal is heard.

CPAG did mount a successful challenge to the application of the past presence test to refugees and their family members. Following this case, new guidance has been issued by the DWP and the past presence test should not be applied to refugees, those granted humanitarian protection and their family members.<sup>7</sup> However, the legislation has not yet been amended to reflect this and CPAG still hears of cases where the DWP are not applying the exception.

### **Housing benefit and universal credit**

In tandem with restrictions on how long EEA jobseekers have a right to reside (RtR) in the UK, the housing benefit regulations were amended from April 2014 to exclude anyone with only EEA jobseeker status, and their family members, from housing benefit. Prior to this, EEA jobseekers had been excluded from housing benefit but if they made a successful claim for income-based JSA this bypassed the exclusion. The amendment qualified the regulation such that if income-based JSA is only awarded on the basis that the claimant is an EEA jobseeker, they are still excluded.

Attempts to challenge this reform have been unsuccessful.<sup>8</sup> In CPAG's experience implementation of the amendment has been problematic. For income-based JSA, RtR as an EEA jobseeker is sufficient for an award to be made and so the DWP frequently do not investigate whether the claimant has another RtR, at least until the GPoW is applied. As the correct award has been made, the claimant has no way to challenge the DWP's RtR decision via appeal. Therefore, while the claimant may in fact have another RtR (eg retained worker status or permanent RtR) which would allow them to be awarded housing benefit, if housing benefit accept the DWP's decision they will reject the housing benefit application and the claimant's rent will not be paid. As indicated above in relation to the GPoW, such practice by local authority housing benefit departments is arguably wrong; the housing benefit department is not bound by the DWP's decision and while it might be taken as evidence of the claimant's status, should other evidence be presented or available to it, it should consider whether to make a different decision and in any case is required to make its own decision.

CPAG has also come across cases where non-UK nationals have simply been told that housing benefit is no longer available to them following this reform. This is despite the fact that they might be EEA workers, have been awarded income-based JSA on a basis other than as an EEA jobseeker or that they are non-EEA nationals with access to benefits. For every case that CPAG hears about, there are no doubt many more which we do not.

With the introduction of universal credit (UC), the benefit rights of EEA jobseekers who might currently get income-based JSA and CTC change. UC will replace both these benefits. Those whose only RtR is as an EEA jobseeker or their family members are completely excluded from UC. Until recently this has not directly affected EEA nationals as they have been excluded from UC by the 'gateway' conditions which still apply in most areas of the country and so they continue to claim the old benefits instead. However, the gateway conditions are removed in areas where the UC 'full service' has been introduced and there is no option to claim the old benefits instead.



As such, the continued roll-out of UC will see more EEA nationals excluded from the means-tested benefit system.

### Minimum Earnings Threshold

A further change in policy in 2014 saw the introduction of the 'minimum earnings threshold' test (MET). The MET was introduced as guidance for DWP, HMRC and local authority decision makers when dealing with claims from EEA nationals whose current status depends on them being or having been a worker or self-employed person. It is not a change in legislation.

EU caselaw has established that someone is a worker for EU law purposes if they are engaged in 'genuine and effective activity'. As the classification as a 'worker' is for EU law purposes, it is not dependent on the employment legislation of individual states. Factors to be considered in determining whether any work is 'genuine and effective' include whether it is done in expectation of payment, the rate of payment, the regularity and duration of activity, the number of hours worked and whether the purpose is primarily economic. No one of these factors on its own should be determinative and the fact that the worker's income is supplemented by benefits does not prevent it being genuine and effective. Numerous cases have gone before tribunals and courts, the outcomes of which are very fact specific, so that in some cases claimants undertaking work such as as Big Issue sellers but earning very little, have sometimes been found to be engaged in genuine and effective activity, in others not. 'Cash in hand' or work as someone who has been trafficked can still be genuine and effective.



Given the possible complexities of the above definition, the MET's aim was to make decision making easier. As such, it uses a two stage test. The first is to determine whether the claimants is, or has been, in work, earning on average the gross amount at which they would start paying national insurance (currently £157 pw) for 3 months. If so, they are automatically considered to have been in genuine and effective activity and so a worker. However, if they do not pass this first stage, then a full investigation of their circumstances should be undertaken considering the factors mentioned above and in light of the caselaw. Unfortunately, it appears that in cases that CPAG has seen frequently claims are rejected if the first stage is not passed without proper application of the second.

### Devolution and Brexit

The powers devolved under the Scotland Act 2016 allow the Scottish Government to take control of the disability and carer's benefits to which the past presence applies. The draft Social Security (Scotland) Bill and accompanying documents give little detail on residence, presence or immigration conditions, other than the power to make regulations relating to residence and presence. Westminster retains control of immigration for the UK as a whole, so the Scottish Government may be able to do little about whether its new benefits are available to those subject to immigration control. Residence and presence rules did form part of the questions during the initial consultation to which CPAG provided an extensive response.<sup>9</sup> No direct powers are currently devolved over means-tested or benefits for children, so there is no scope for the Scottish Government mitigating RtR tests. There are powers to top-up reserved benefits but a top-up implies entitlement in the first instance.

A further complication is of course Brexit. It is hard to say anything definite about the future of EU citizen's rights until negotiations are complete, although it seems likely that some EU citizens will retain their current rights, albeit through transition to those based purely on UK immigration law. For those entering the UK



after the completion of Brexit, only UK immigration law will determine their rights such that EEA nationals and those from elsewhere will all be subject to the conditions specified on their visa, with greater reference to any individual reciprocal or international agreements between states.

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<sup>1</sup> EEA nationals can have a right to reside under EU and UK law in a number of circumstances but primarily these are as a jobseeker, worker or self-employed person. Those who have had a right to reside as workers can 'retain' that status in a number of circumstances including where they are 'involuntarily unemployed' and 'without delay' register as such with the 'relevant office'; this is a distinct category from those who were not working immediately prior to unemployment who may be jobseekers instead. Worker status can also be retained in other circumstances

<sup>2</sup> Income support, housing benefit, income-based JSA, income-related ESA and pension credit

<sup>3</sup> EP v SSWP (JSA) [2016] UKUT 445 (AAC) but see above DWP guidance at paragraph 073140

<sup>4</sup> See 'GPoW Kapowed?', Welfare Rights Bulletin 254, CPAG October 2016, also available at: [www.cpag.org.uk/welfare-rights-bulletin-articles](http://www.cpag.org.uk/welfare-rights-bulletin-articles)

<sup>5</sup> See: [www.gov.uk/government/collections/decision-makers-guide-staff-guide](http://www.gov.uk/government/collections/decision-makers-guide-staff-guide), volume 2, chapter 7, part 3, paragraphs 073080 - 073139

<sup>6</sup> For the rights of EEA workers who leave work due to pregnancy see: [www.cpag.org.uk/content/upper-tribunal-extends-pregnancy-right-reside](http://www.cpag.org.uk/content/upper-tribunal-extends-pregnancy-right-reside)

<sup>7</sup> Memo DMG 20/16 available here: [www.gov.uk/government/publications/decision-makers-guide-memos-staff-guide](http://www.gov.uk/government/publications/decision-makers-guide-memos-staff-guide). Memo ADM 21/16 available here: [www.gov.uk/government/publications/advice-for-decision-making-staff-guide](http://www.gov.uk/government/publications/advice-for-decision-making-staff-guide)

<sup>8</sup> IC v GCC and SSWP (HB) [2016] UKUT 321 (AAC)

<sup>9</sup> See: [www.cpag.org.uk/content/cpag-scotlands-full-response-scottish-governments-consultation-social-security-scotland-0](http://www.cpag.org.uk/content/cpag-scotlands-full-response-scottish-governments-consultation-social-security-scotland-0)



## THE MIGRATION FACTOR

### Migrants, poverty and public debate in Scotland and beyond

*Nathan Akehurst, Migrant Voice, explores the issues faced by migrants in Scotland and the UK today*

#### Overview

Our history and our society today are built, irrevocably, on the movement of people. People who move from place to place bring with them new ideas, new skills, new art and culture, and form new communities around them. In the UK, the NHS, engineering and key sections of our social and economic infrastructure are dependent on migrant labour. Today there are nearly a billion migrants - domestic and international - with the largest flows of people being between countries in the Global South. Scotland's past three decades has been characterised by both largescale emigration and a recent surge of newcomers. Yet the migrant - perhaps forced to move by war or persecution or extreme deprivation, perhaps looking for new opportunities to study and work, or perhaps simply having fallen in love with someone far from home - all too often falls through the cracks of the society they have helped create.

Migrants are overrepresented in UK-wide poverty figures. The causes are generally analogous to the wider causes of poverty, but there are additional contributing factors that range from language barriers to the greater likelihood of isolation from any social support networks. Asylum seekers that survive their harrowing trip to Britain are banned from working, corralled into otherwise unrentable housing,<sup>1</sup> and provided allowances far lower than mainstream benefit payments. Once they achieve refugee status, there is a cliff-edge for access to even those services.<sup>2</sup>

Meanwhile migrant workers are routinely paid less, treated worse and in some cases deliberately segregated from their British counterparts by employers. Those that lose their papers all too easily vanish into an exploitative informal economy. At the same time even more generally-privileged migrants, such as white collar professionals from the EU or international students now face rising uncertainty about their futures and livelihoods, ahead of the Immigration Bill which is due in this term of Parliament and the current administration's commitment to reducing numbers at all costs. The

Westminster government's "hostile environment" strategy has ramped up tensions by rolling out immigration control duties to landlords and public servants in a bid to make life more difficult for migrants.

There are widespread misconceptions around the amount of support offered to migrants, and crucially misconceptions that there is necessarily a competition for resources between migrants and citizens. We have consistently argued that the causes of resource shortages and low-paid jobs are underinvestment, weak labour power and a lack of proper enforcement of wage laws.

At the same time there is often cultural anxiety about how migrants might change the shape of a place - although hostility to migration is highest in areas where migration is lowest<sup>3</sup> and people in mixed communities broadly have positive experiences. Hate crime has also spiked at key points in the last years, hitting 1900 reported incidents in just one week across the UK in July 2016.

Not all migrants experience poverty, of course - and most migrant groups contribute more to revenues than they withdraw in service use. But those who do fall on difficult times meet a unique set of challenges.

#### Migrant Voice

The problems facing migrants continue because they are ignored. Our own research shows nearly 90% of news stories concerning migration do not feature a migrant voice. Our aim at Migrant Voice is to provide migrants with the skills, connections and confidence to present the case for fairer treatment in their own voices. We are a migrant-led organisation who listens to the concerns of our membership base and translates those concerns into high-impact media campaigns using personal stories and research, including recently around the Dublin Regulation<sup>4</sup> and rights for EU nationals. We have an organised membership in three British cities - London, Birmingham and Glasgow.



Our work in Glasgow, which involves a base of 200+ people and a range of organisations, has painted a Scottish migration landscape that is separate, but not entirely dissimilar, to the rest of the UK (rUK). At our meeting prior to the recent general election we asked what members' campaign priorities would be before and after the polls

Matters arising from Brexit were raised frequently, chiefly the retention of EU rights, and the desire for a unilateral guarantee of rights for EEA nationals resident in the UK and their dependents, and for UK nationals overseas - but also ongoing access to schemes like Erasmus. The importance of the guarantee being either automatic or through a simple process was stressed.

There was also demand for family migration reform; including rolling back the spousal visa cap that prevents people from marrying and living with a foreign national if the domestic spouse earns less than £18,600 (which includes millions of working people in Britain.) There were more general demands for a system that supports families who want to stay together.

Refugee and asylum seeker issues also remain prominent. Reform of the Dublin Regulation is still seen as a priority by our membership. This EU policy instrument provides a mechanism for refugees to be returned to the first EU country they arrive in (and may be extended to non-EU countries in an ongoing review) even where that country has been alleged to have abused or tortured them. The Regulation should also be reformed, said respondents, to allow families to stay together, with more flexible definitions of family for refugees.

The extreme hardship experienced by those fleeing persecution, even within our shores, is a recurring theme. New refugees who have come through the asylum system, even after achieving status, find accessing basic utilities such as a home or a bank account difficult or impossible. Many unexpectedly lose their security and become undocumented, disappearing into a dark economy of exploitation and abuse.<sup>5</sup> There was a wider recognition of the impact of cuts, underinvestment and an austerity-

hit welfare state in preventing migrants from accessing support and services.

Many more issues were raised, but the situations facing EU nationals, asylum seekers and refugees and separated families appear prominent in all discussions we have - in England as well as Scotland, and both inside our own network and in wider cross-sector forums.

Our meetings focus on solutions as well as analysing the problems. Among migrant groups, there is a strong desire to organise and speak out. People recognised the need to build networks, engage and reach out - in their own circles and communities, but also with politicians, influencers and groups that may be hostile. The picture that emerged in our Glasgow meeting was different from others in the sense that there was a feeling more progress has been made in Scotland in both public attitudes and policy. But the issues raised were similar, and the hopes and aspirations were similar. Our networks are keen to use their own voices and stories to bring about change. To do so requires policy solutions, but critically, a reassessment of the rhetoric on migration.



### A Scottish context?

There are signs that immigration did not come to dominate the 2017 General Election debate in the way that may have been expected. Tabloid front pages continued to raise the spectre of "open-door immigration", and immigration questions featured during the televised leaders' Q&As, but there is no evidence it stood at the top of voters' priorities





in the UK at large (even less so in Scotland.) It is surprising – and in many ways relieving – that attempts to exploit this sentiment for political gain were relatively muted during the campaign.

But the anti-migrant mood music has not gone anywhere. Our networks are aware that this mood has to be challenged head-on in order to achieve policy change as well as a more welcoming society, and older tactics like myth-busting fail to be effective.

The Scottish dimension to this is distinct. Political leadership has argued consistently that Scotland faces a distinct set of immigration challenges compared to the rUK, based on its demographic spread and labour market conditions. For a long period, the Scottish net migration figure was negative. Immigration has filled key labour gaps across the UK, but in Scotland there is open political recognition of how labour shortages have been offset.

This said, Scotland still returns majorities in favour of reducing migrant numbers across the board, although these are substantially smaller than the rUK. There is also a popular consensus in Scotland on devolving immigration control, although it is worth noting that a proportion of respondents in these cases believe a Scottish-run system should be stricter. According to the Migration Observatory at Oxford, nearly half of respondents (45%) believe that if the Scottish government did control immigration policy it should be made less open than the rest of the UK.<sup>6</sup>

However only 22% believe that if the Scottish government were to take charge of immigration policy they will make it less open. And the past years have been marked by some clashes between Holyrood and Westminster over national migration policy, in cases such as the controversy over the UK Government reneging on a commitment to closing Dungavel detention centre.

While migrant numbers in Scotland remain low both in raw numerical terms and proportionally when compared to England, Scotland's migrant population

has experienced a boom, almost doubling over a ten year period. A8 migration in particular has also radically changed the makeup of the foreign-born population. To a large extent migration remains concentrated in urban areas, some of which have had long and durable mixed communities.

Glasgow is a key example here. Over a fifth of its population belong to an ethnic minority, and Glasgow contains the largest asylum seeker population in Britain. Since 2000, the city's integration networks have seen the city voluntary and charitable sector play a vital role in helping asylum seekers adjust to life in Glasgow. The town hall highlights its work on education and integration with the Roma community, saying, "Enhancing skills is regarded as the route out of poverty for one of the most marginalised ethnic groups in Europe." Glasgow has been described as a model of integration for other European cities and was built on long and deep understanding of how to best welcome new arrivals to the city. Glasgow has achieved this improvement alongside gradual increases in the city's prosperity - although almost half of Glaswegians residents reside in the 20% of most deprived areas in Scotland.

It is important, therefore, to stress the similarities and differences between Scotland and the rest of the UK. The Scottish context – both social and political - is overall more welcoming and more strategic - with a more developed integration strategy than the rUK, and more refugees accepted overall. However it is subject to the same pressures as everywhere else – the hostility of UK-wide policy, public opposition to migration, and a lack of resources which sees migrants, and particularly vulnerable migrants, overrepresented in deprivation indices.

Dr Holly Porteous' (Glasgow University) fieldwork, involving interviews with 75 largely Eastern European migrants in rural communities, highlights a further range of challenges outside metropolitan Scotland. Language barriers, her work argues, become additionally limiting when coupled with a welfare system that provides patchy service coverage, sometimes incomplete translation



services and is often geographically difficult to access. A lack of understanding of the system, combined with a culture of feeling ashamed to seek help, was also reported by Porteous' respondents.<sup>7</sup> The Refugee Survival Trust has outlined a range of reforms, including a point-of-contact surgery, more supported accommodation and one-to-one advice to prevent refugee homelessness in the West of Scotland.<sup>8</sup> A 2012 investigation found asylum seekers in Scotland living on less than 77p a day.<sup>9</sup>

The overall picture is patchy and incomplete, with excellent practice in some areas and room for advance in others - notably in less connected areas. Migrant issues now need to be considered and responded to in all large scale attempts to combat poverty. For this to happen, the tone of the conversation on migration must continue to change.

### What next?

It is both possible and necessary to gain popular support on migration questions. The Glasgow Girls who highlighted poor treatment of asylum seekers captured Scottish opinion years ago. A more recent and UK-wide example - in March a grandmother from Ouston, County Durham, was marched onto a flight by a squad of border officers. Between Dungavel detention centre and Edinburgh Airport, they gave her a few minutes on the phone to say goodbye to her sick British husband, a retired electrical engineer who she met in the 1980s. Irene Clennell was then flown out of Britain, potentially permanently.

The situation struck a deep chord of unfairness when we highlighted it. Within hours, the Clennells' quiet Durham village was besieged by a media scrum usually reserved for celebrities. Politicians from multiple parties were rallying to her cause. Rolling coverage was sustained for several days, until a YouGov poll put sympathy for Irene's case at 63 per cent. This included majorities in every section of British society - even 50 per cent of Ukip voters.

Similar outbreaks of sympathy - and subsequent attempts to contain them - can be tracked throughout the refugee situation in recent years, and linked directly

to outcomes for the most vulnerable. The discourse of ultra-securitisation represented by Trump in the US, by Marine Le Pen in France, and by Ukip in the UK has had real, measurable and dangerous impacts on migrants in recent years. In the UK, government attempts to be seen to be "tough" has led to showboating efforts such as "right to rent" checks on tenants' immigration status, or vans blazoned with "Go Home" posters being dispatched across the streets. They have been ineffective on their own terms (these two schemes led to no more than 40 deportations between them) but they have made life difficult for many, and increased mistrust and hostility. Newcomers struggling already with the cost of housing find they are unable to rent, sometimes even with the correct papers.<sup>10</sup> Restaurant workers find border staff raiding their workplaces and dragging them out. The quality of our migration debate is worth assessing because of what it can lead to on the ground.

Social and economic injustice is multifaceted. Poorer migrants face an additional set of challenges, and deserve further attention in a joined up analysis of, and response to, poverty and deprivation. Across migrant organisations, there has been a growing trend in joint working and capacity-sharing in recent years, that we could see more of in Scotland and across the UK. Our work in highlighting migrant stories and migrant voices can strengthen our understanding of often-overlooked but absolutely integral sections of our community. As the Brexit process begins in earnest, UK migration policy is likely to be radically altered, putting the issue back on the table. There will be a need for engagement in a national conversation.

The extent to which migrants and migrants' rights groups can organise, campaign and intervene in public debate has the potential to help determine the future in Scotland and the rest of the UK. We believe that the voices of migrants should lead the intervention in that debate. By empowering migrants, we help build a stronger, richer and more united community for all.

For more information or to get involved, contact us at [info@migrantvoice.org](mailto:info@migrantvoice.org)



- <sup>1</sup> Migrant Voice, 2017 <https://www.scribd.com/document/338008732/Asylum-Housing-in-Birmingham-Final>
- <sup>2</sup> Guardian, 2017 <https://www.theguardian.com/world/2017/apr/25/two-tier-refugee-system-leaves-many-destitute-and-homeless-say-mps>
- <sup>3</sup> Telegraph, 2015 <http://www.telegraph.co.uk/news/politics/ukip/11539388/Mapped-where-is-Ukips-support-strongest-Where-there-are-no-immigrants.html>
- <sup>4</sup> Migrant Voice, 2017 <https://www.scribd.com/document/341947352/Roads-to-Nowhere>
- <sup>5</sup> LSE, 2016 <http://blogs.lse.ac.uk/politicsandpolicy/exploitation-of-migrant-domestic-workers-in-the-uk/>
- <sup>6</sup> Migration Observatory, 2014 <http://www.migrationobservatory.ox.ac.uk/resources/reports/scottish-public-opinion/>
- <sup>7</sup> Gramnet, 2015 <https://gramnet.wordpress.com/2015/11/16/challenges-faced-by-central-east-european-migrants-welfare-and-support-services-in-rural-scotland/>
- <sup>8</sup> RST, 2013 <http://www.infosource.org.uk/uploads/5/5/0/8/55086457/cis-rst-pdh-report-june-2013.pdf>
- <sup>9</sup> Guardian, 2012 <https://www.theguardian.com/uk/2012/oct/01/failed-asylum-seekers-scotland-poverty>
- <sup>10</sup> Guardian Housing Network, 2017 <https://www.theguardian.com/housing-network/2017/feb/01/right-to-rent-immigration-checks-vulnerable-people-risk>



## MIGRANT RIGHTS

### No recourse to public funds: a violation of rights.

*Mridul Wadwha from Rape Crisis Scotland looks at the experience of migrants through a Human Rights perspective*

The anti-immigration debate has consistently misrepresented the financial entitlements and rights of migrants living in the UK. All migrants not deemed permanently resident or settled in the UK are subject to some form of restrictions in their access to public funds. Within this group, EU migrants have more rights and access than Non EU migrants.

Following Brexit and the Refugee crisis, the debate on migrant rights has brought to the forefront and rightly so, the needs of EU migrants and refugees and asylum seekers and the Westminster response to them. However, the gross injustice of the debate on the rights of immigrants is the deafening silence on the experiences of non EU migrants subject to immigration control. Earlier this year there were mass protests on Trump's travel ban, yet when the UK government has systematically undermined the travel rights and family life of those from those very countries and others outside of the EU, the public has remained largely silent. In fact a recent article in *The Atlantic*, Trump has a message for poor immigrants, 1 February 2017 suggests that his government wishes to adapt a treatment of migrants to the US in much the same way as the UK already does its non EU migrants (and increasingly through various changes in rules its EU migrants).

We have an immigration system that values immigrants only for their financial benefit to our society where all applications to migrate are dependent on the financial value of the migrants skill and/or their ability to meet unrealistic income thresholds. The failure to meet these financial criteria will lead to a demand from the home office to make arrangements to leave the country, deportation or forced separation in the case of family members intending to join a sponsor spouse/parent living in the UK. There are of course other criteria that can disqualify someone's continued right to stay in the UK such as criminal behaviour or a relationship breakdown with your partner or the inability to pass an English test amongst others.

Essentially, we have a state that places immigration rules over the Human Rights of migrants.

The cornerstone of the UK's policy of immigration control is the status of "No Recourse to Public Funds". A status assigned to non EU citizens moving to work, study and/or join family in the UK. This ominous phrase stamped on residence permits/visas determines that these individuals have no access to financial benefits and housing support. You can find out a full list of what benefits and services are deemed public funds by following this link

<https://www.gov.uk/government/publications/public-funds--2/public-funds>

We find ourselves with a government that has bowed to anti-immigration sentiment and one which has progressively restricted ease of access to public services for those with no right to reside in the UK, yet it hasn't taken any real responsibility to ensure that public servants who are meant to check someone's entitlement are actually doing this responsibly. We now have a situation where frontline service providers are proxy immigration officers who are expected to assess the entitlement of an individual to a service by asking them to demonstrate their right to that service; often wrongly believing that a service is not available to someone with NRPF and/or only British citizens. These judgements are often made on personal biases rather than fact and disproportionately impacting people with the status of NRPF or those who are simply perceived as foreign has come to mean that you are not entitled to a service even where someone is entitled. These everyday bordering judgements when made incorrectly can often with some negotiation and argument be challenged and corrected but the fact that they happen is a reflection on the everyday lived experience of a migrant and more specifically someone subjected to immigration control, especially where they are unable to prove their right to a service immediately.

Some examples that I have come across are of women with NRPF being denied an interpreter, denied access to register with a GP, denied access to support from support agencies because some funders have said that the funding received by the support agency is a public fund and therefore they can no longer support women and children



with no recourse to public funds. All of these decisions are in my view incorrect and are not explicitly stated as inaccessible in the government's own definition of what is a public fund. I now wish to highlight more specifically the experiences of women with NRPF who have experienced gender based violence in the context of austerity and systematic racial prejudice.

It is common knowledge that accessing state welfare does not make you rich, it is not a profitable experience except possibly for those with criminal intent. Welfare in the form of out of work and in work benefits, is by its design meant to keep the wolf from the door and limit destitution and poverty and hopefully in the long term create opportunity to thrive and improve quality of life. Even in these aims, the welfare system is failing. Simply put, people rely on public funds because they are in need and those subject to NRPF are also at risk of experiencing that need for the same reasons as any other citizen. But they are denied that welfare assistance not because they have no need but because they are deemed not qualified for it. When the need to access welfare arises possibly due to loss of work, disablement or what I have most experience of dealing with gender based violence the door is firmly shut on those with NRPF and those public services that can help hide behind this state policy to justify their non-involvement, even where they have the legislative ability and responsibility to get involved.

Women subject to immigration control who have experienced domestic abuse are reliant on the same domestic abuse services as any other woman living in the UK, yet they are consistently being denied support because of their immigration status. We are currently living in an environment where domestic abuse services are expected to ask a migrant or minority ethnic woman and her family what her immigration status is before they can inform her of what assistance she can be offered, so these feminist services too haven't been spared the role of immigration officer. Women subject to immigration control living with domestic abuse are consistently denied refuge and subsequently safety from their abusers despite their abuse being recognised as true and dangerous. They are being

forced to stay in these abusive situations only because of their immigration status and increasingly even the space for emotional support that they might have been able to access have been shuttered due to funder interpretation of charity funding as NRPF.

The general expectation of the state where women with NRPF are living with domestic abuse or end their relationship because of domestic abuse is to return to their home country. Their view on someone who is subject to no recourse to public funds being here is that they contribute and if they are unable to do so and need state assistance then they have broken the conditions of their visa and they must leave and go back to where they come from. This may be possible for some but is not possible for many, as migration is not a working holiday, it is a serious decision that requires loosening or completing severing of economic and social ties to the home country.

A return to the home country is not straightforward and can lead to homelessness, unemployment and poverty for many. And for those leaving because of domestic abuse and other forms of gender based violence experienced in the UK, then there is the additional risk of murder either by the perpetrator and or by his supporters such as his and sometimes her extended family. Also, it may be impossible for a woman to leave, even if she wishes to, because of family court requirements here in the UK or the local laws in her home country which may penalise her for ending a relationship or take her children away from her; amongst a host of other reasons.

I argue that the condition of NRPF apart from being negatively prejudicial to women and therefore sexist is fundamentally structural racism as the reality is that women with NRPF are most likely to be women of colour. It is very jarring when policy makers, politicians and others involved in dealing with gender based violence talk about Scotland and more widely the UK taking positive and strong steps and investing in ending violence against women and girls, and yet in this discourse any conclusive action to end the denial of support to women with NRPF does not feature unless raised by feminist activists directly



working with women with NRPF.

It is also important to note the fact that children are not subject to the conditions of no recourse to public funds but despite this children are disadvantaged if their main carer or parents have no recourse to public as they are not eligible for free school meals, free school uniforms and other benefits that can be claimed by their carer such as child benefit, child tax credit.

There are however, some opportunities for action for women experiencing domestic abuse who have no recourse to public funds. Under the domestic abuse rule, any woman (or man) who is in the UK on a spouse/partner visa provided they can give evidence to the home office apply for permanent residency as a survivor of domestic abuse and if they are destitute they can apply for a temporary residence permit that lifts the restriction of NRPF under the DDVC rule. It is imperative that in these cases that a woman is absolutely sure that advice is sought from an OISC recognised immigration advisor.

The existence of this concession for spouses of UK citizens or those with permanent residency did not happen organically, it is the result of years of campaigning by mainly black women activists. However, women with NRPF who are on visas other than spouse visas do not benefit and their options for seeking safety are restricted; they do not benefit from this rule; so many a times the only option for them is to live with the abuse or leave the country.

If they have children, they may be supported by the local authority under Application for accommodation and support costs using 22 & 25 of Children (Scotland) Act 1995. However the use of this piece of legislation to offer support to women and children by local authorities i.e. social work teams is patchy and inconsistent, some local authorities are efficient and consistent in offering financial support and accommodation and others consistently refuse to offer any support at all, as the requirement under the legislation is a power and not a duty. I think that if there is any immediate space for action to offer any support to

women and children is through the use of this piece of legislation and it would be wonderful if we could focus our activism and pressure in getting local authorities in Scotland to use this legislation to benefit women and children in need.

While there may be some options available and we could possibly ask for local authorities respond better to women with children, the issue of discrimination and disadvantage will persist until we value the rights of all people living in the UK to access welfare and abolish the hierarchy that has been created where some people are seen as less than and/or less deserving than others.



## THE UNITY COLLECTIVE

### Investigating purposeful Impoverishment

*Beth Frieden, Yvonne Blake and Ali Salim of the Unity Collective look at the purposeful impoverishment: the cumulative effects of Home Office policy on people in the asylum system in Glasgow*

We are three volunteers at the Unity Centre, a migrant solidarity centre in Glasgow. The Unity Centre is open 9-5 Monday to Friday and runs a 24-hour emergency helpline. We do not give legal advice, but we share information, help people negotiate the dehumanizing and byzantine systems run by the Home Office and do casework on destitution and detention. We are writing from personal experience, and also from the experiences that have been shared with us in our work at Unity. This article will address the devastating effects of the Home Office's policy of impoverishment and "hostile environment" on people without papers in Glasgow, and the poisonous combination of No Permission to Work and No Recourse To Public Funds. We also recommend consulting the recent Freedom From Torture report on the effects of poverty on survivors of torture for more data analysis. The substance of both articles is basically a list of the many, many problems that accumulate to deprive people of their dignity and ability to provide for themselves. We have organised this article into sections, which include food, housing, travel, and health.

#### Food

People in the asylum system who do not have independent means to support themselves without working can be on either Section 95 support, for those whose initial asylum claims are being as-sessed, and those with children, or Section 4, for those whose claim has been refused, but who ostensibly are unable to leave the country, or are in the process of doing so.

A person on Section 95 receives £36.95 per week, which they can withdraw in cash from their Aspen card, a sort of Home Office debit card (each family member would receive the same amount). A single person on Section 4 receives £35.70 per week (approximately £5 per day, it should be pointed out), which they cannot withdraw in cash from the Aspen card. They must use the Aspen card like a voucher, in the limited number of stores that accept it. This causes huge problems, for example for Muslims needing to buy Halal food. It is also simply not enough money to feed someone in a healthy way.

Because the Home Office has created this problem of chronic hunger and malnutrition, Unity sees a large number of people every week who would like to be referred to foodbanks. Trussell Trust foodbanks in Glasgow operate a system of vouchers, and their banks are intended to be for "emergency use only", which means that they prefer that people not return on a long-term basis. This means that even foodbanks are not a long-term reliable source of food. Unity usually runs out of food vouchers for our local foodbank and have to turn people away or direct them to foodbanks that are much less accessible for them. People spend hours walking the city to reach whichever free food points are available on a particular day. Over the long term, malnutrition and low-quality food have a cumulative negative effect on people's physical and mental health.

#### Housing

Housing for people in the asylum system in Glasgow is provided by Serco, who took over from Orchard and Shipman. The housing stock provided is of extreme low quality, and even though people living in it are by definition destitute in order to qualify for it, it is not properly furnished. It is important to acknowledge the extreme vulnerability of so many of the people using this housing; people who have survived torture and imprisonment, trafficking, abuse, and war.

Women who have been trafficked, and have had to live in dirty, tiny spaces, are placed by Serco in Glasgow in similar dirty, tiny flats, with dirty walls, dirty carpet. This has a terrible effect on their mental health and can exacerbate PTSD, bring back memories that people are trying to deal with and move on from. People here have asked repeatedly for mop buckets, and are given only one to use for both toilet and kitchen use. They can't afford to buy more with the tiny amount of money they are given per week, and Serco will not reimburse anyone who buys essential household equipment. You have to wait for them to buy it, which can take months. If your machine isn't working, they give you £5 to do your washing but no money to do drying, so you have to carry wet clothes



back from the laundromat and then hang them up in your house. That can make people unwell. They only give you one sheet set, which means that when you wash your sheets, you have no dry sheets.

£35.70 per week is not enough to either properly feed people or equip a household even reasonably (toilet brushes, curtains, paint, etc). Flats provided by Serco do not come with toilet brushes, curtains, or other presumably basic equipment. As detailed in the Freedom from Torture report, people do not have enough money to properly clothe themselves for Glasgow weather or even to purchase necessary hygiene products, for example menstrual towels or tampons. And of course, because people are almost never given permission to work, they are unable to provide for themselves without working illegally and are forced to rely entirely on the Home Office and charity to survive.

When a person is refused asylum, their Section 95 Support is cut off, and they can be evicted by Serco. This results in widespread homelessness, particularly for single men without families. Options are very limited for men without recourse to public funds. If they present as homeless at the Hamish Allen Centre, they will be turned away. Some friends of Unity run a Men's night shelter on an entirely voluntary basis, open 8pm to 8am and including an evening meal. Because the night shelter is only able to open from 8pm to 8am, people staying there have no home during the day, and often have to be walking around all day. They sit in the Mitchell Library.

People fall asleep there until someone wakes them up. There are no heaters at the Night Shelter. People sleep on the floor on mattresses. Most of the food is donated, and sometimes there is not enough or it isn't of good quality. There are no facilities to have a shower, and people need to walk to the Marae Trust, which is only open for showers at certain times. The neighbours are not welcoming. Men leaving the shelter in the morning are not allowed to walk past a local school. Some people who use the Night Shelter cannot walk. One man receives post at Unity Centre but lives at the Night Shelter. He struggles to come pick up his post.

What about women who find themselves homeless? Their options are, shockingly, even more limited. There is no Women's night shelter in Glasgow, and without recourse to public funds, women are equally unable to access normal homeless accommodation in Glasgow. What's more, even specialised women's refuge shelters for survivors of abuse are not accessible to destitute women with no recourse to public funds, because places are funded with housing benefit. When women become homeless in Glasgow, they are forced to rely entirely on friends, or, if they are fortunate, Positive Action in Housing's Room for Refugees scheme.

This scheme is very useful, but is heavily oversubscribed, and people can only be referred by an organisation that has known them for three months or more, meaning that if someone is engaging with Unity or another organisation for the first time because they are becoming homeless, they might have to wait up to three months before they can be considered for hosting. The scheme is therefore not for emergency use. Women with severe mental health problems or epilepsy are also not eligible for hosting for risk reasons. The Red Cross provides Bed and Breakfast accommodation only if Unity is able to provide an exit plan inside of three days when we refer a homeless woman. Emergency accommodation is urgently needed in Glasgow for women.

### Travel

The Home Office does not account for any travel expenses in the money it provides for people in the asylum system. Those on Section 4 are not allowed to withdraw any of their allotted money in cash, so are completely unable to access public transport. This is incredibly difficult even for young, able-bodied people, not to mention anyone who is disabled (and ineligible for ordinary disabled bus cards, because of No Recourse to Public Funds), pregnant, or a parent with children.

For those who are non disabled, an organisation called Bikes for Refugees refurbishes bicycles and gives them to people on their waiting list. It can take some time to get a





bike from them, because the list is long. People often face very long cycles into town for appointments, with Home Office accommodation in Easterhouse and Springburn, but at least cycling from Easterhouse is better than walking. We have spoken to people at Unity who have walked there from Easterhouse, and faced a long walk back afterwards.

Lack of childcare also causes massive logistical problems for families who need to travel for appointments, signing in at the Home Office, meeting lawyers. With zero money to pay for childcare, parents have to bring children everywhere with them, walking for miles with a pram or borrowing money for bus fares. Parents often leave their children at Unity when they are signing in at the Home Office, because the Home Office is so unaccommodating for parents, and in order to safeguard against being detained.

One of the first challenges that people newly arriving in Glasgow often face is the necessity of learning English to survive and negotiate the asylum system, and a complete lack of support from the Home Office for this important project. People in the asylum system are only allowed to attend college part time, which is often one day per week. The Home Office can stop someone from studying if something changes in their case.

Glasgow Kelvin College checks the support they provide for students every two months with the Home Office. The Home Office are constantly arguing with them because if a student lives over two miles away from the college, the college gives £61/62 per month for travel, depending on attendance. The Home Office does not approve of this sum because they say that bus passes only cost £46. Many community ESOL classes are very friendly, but unable to provide bus pass money, which is a huge advantage to enrolling on college courses. College courses are therefore very oversubscribed.

## Health

When people initially claim asylum and are dispersed to

Glasgow, they have a paper with a temporary address and they can then register at a local GP. However, if they get moved on, or become destitute and need to stay in the night shelter, then they can't change their GP, because they don't have proof of address. A friend of ours had an initial accommodation address in Springburn, in North Glasgow. Now he is destitute, sleeps at the Night Shelter and has a heart problem but cannot get to Springburn to visit his GP. He is counting on his friend studying in a college nearby so that he can pick up pre-prescriptions for him. It's been over a year of this now.

We have already mentioned the effect on mental health that poor housing has, but it is worth focussing more on how serious the mental health effects of poverty and homelessness in the asylum system are. We have a number of friends who have tried to commit suicide, and treatment, as discussed above, can be very difficult to access. Mental health treatment for survivors of torture comes with a huge waiting list. A need for interpretation adds a layer of difficulty.

Some Herbalists in Glasgow have started a Herbal Clinic at Unity, and are able to provide consultation and herbs as complementary health treatment for anyone who wishes to attend. Unity Sisters provides emotional support and mutual aid for women in Glasgow, and LGBT Unity does this, and also helps with casework, for anyone in the asylum system identifying as Lesbian, Gay, Bisexual, or Transgender. Migrants are organising every day in Glasgow to support each other, and we draw strength from each other and those who show us solidarity. No thanks to the Home Office.

We would like to close this article with a poem written by one of our friends at Unity, which we think expresses some of what it feels like to be on the receiving end of the Aspen card system.

(Continued Overleaf)



### Essential goods by \*Etza\*

“I’m having problems with my eating “  
 They say.  
 The doctor looked up and down  
 and says  
 “I can see what you mean”

“Your BMI is over 30.  
 You’re overweight,  
 work out, eat better”  
 (better?)

I live on £35 per week.  
 Put on a voucher,  
 “azure card”.  
 No cash withdraw.  
 Essential goods only.  
 No access to public funds.

All of this because  
 I AM  
 what is called a  
 “refused asylum seeker”  
 “failed asylum seeker”  
 illegal, alien, bogus, undocumented,  
 marauding migrants, monkey, swarm, crockaches

I’m NOT a person,  
 I’m NOT human enough  
 The colour of my skin says so  
 The accent of my voice says so  
 The government says so.

I have become plainly and simply  
 a refusal,  
 a failure,  
 a crack in the system,  
 I’m just  
 an \*adjective\* qualifying my existence

The doctor says again:  
 “So do we agree?  
 You need to eat better,  
 And start going to the gym  
 That’s all,  
 you just need to invest in you,  
 there’s no other way”

In their mind,  
 they can only think of:  
 I live on 35£ per week  
 Put on a voucher  
 No cash withdraw  
 5£ a day,  
 Essential goods only.

I see it clear now:  
 There’s no investment in me  
 Because I’m not essential



# MEMBERSHIP: JOIN US!

The Poverty Alliance is a national anti-poverty development agency for Scotland which seeks to combat poverty through collaborative action, bringing together workers and activists drawn from the public sector, voluntary organisations, community groups and other agencies.

The Alliance's wide range of activities provide many opportunities for members to exchange information and expertise which benefit the anti-poverty movement.

The benefits of membership include regular mailings, Scottish Anti-Poverty Review, opportunities to become involved in working groups and access to a wide range of organisations and activists who have the potential to influence the direction of anti-poverty policy in the future.

## MEMBERSHIP APPLICATION

Name and designation of contact person: \_\_\_\_\_  
\_\_\_\_\_

Name and address of organisation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### MEMBERSHIP FEES:

FULL MEMBERSHIP: OPEN TO CIVIL SOCIETY ORGANISATIONS: INCOME LESS THAN £50K: FREE | £50,000-£75,000: £50 | £75,000-£175,000: £75 | £175,000-£500,000: £100 | MORE THAN £500,000: £200

ASSOCIATE MEMBERSHIP: OPEN TO INDIVIDUALS, VOLUNTARY AND STATUTORY BODIES, AND PRIVATE SECTOR ORGANISATIONS\*: UNWAGED INDIVIDUALS: FREE | INDIVIDUALS: £25 | VOLUNTARY ORGANISATIONS: £25 | STATUTORY BODIES: £300

\*PLEASE CONTACT THE POVERTY ALLIANCE FOR DETAILS

I/We wish to apply for \*Ordinary/Associate Membership for the year: \_\_\_\_\_

\* Please delete as appropriate. NB Membership of The Poverty Alliance runs from 1st April to 31st March. Applications for new membership received after April 1st are charged on a pro rata basis.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please send the completed application form to the address below - thank you.