

Witness Name: Caitlin Boswell

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UK COVID-19 INQUIRY

WITNESS STATEMENT OF CAITLIN BOSWELL OF THE JOINT COUNCIL FOR THE WELFARE OF IMMIGRANTS

I, Caitlin Boswell, will say as follows: -

1. I am the Policy & Advocacy Manager at the Joint Council for the Welfare of Immigrants ("JCWI"). I make this statement in response to the Request for Evidence by the Chair of the UK Covid-19 Inquiry under Rule 9 of the Inquiry Rules 2006 (Reference: M1/TJCWI/01).
2. In accordance with the request, my statement will speak to the extent to which the government factored pre-existing inequalities and vulnerabilities into emergency preparedness, resilience and pandemic planning.
3. JCWI understands that no organisation has been appointed as a Core Participant in Module 1 of the Inquiry which is able to speak to the interests of migrants or racialised communities in the UK. In this evidence I have provided as much information and context as possible in relation to the preparedness of the systems of the UK and their resilience to emergency events, particularly looking at inequalities with respects to migrant communities. However, in the absence of disclosure as to steps taken by the government in the run up to the pandemic, our ability to engage with the issue of preparedness is more limited than it otherwise would have been.

Brief overview of the history, legal status and aims of the organisation

4. JCWI is a national independent charity established in 1967 (charity number 1117513). Since our inception, JCWI has been challenging laws and policies that lead to discrimination, destitution and the denial of rights whilst providing much-needed legal and advice services to the migrant communities who require them most.
5. Working across the UK, we promote justice, fairness and equality in British immigration and asylum law and policy through supporting and empowering migrant communities. This is done via a combination of policy research, parliamentary advocacy, campaigning and communications; community organising; legal casework; and strategic litigation relating to all areas of migrants' rights.
6. Around half of JCWI's staff are immigration advisors and solicitors who provide high-quality, free legal advice and representation to migrants. The organisation also employs a support worker who provides holistic support and signposting to clients to meet their housing, welfare, and mental health needs. JCWI's advocacy draws from the experiences of the organisation's front line legal work to produce research and evidenced policy documents on the impact of the UK's immigration system; to make recommendations for policy change; to shape the narrative on migrants' rights; and to campaign and build progressive coalitions on and around migrant justice at a national and local level.
7. The organisation regularly leads the sector in coordinating joint actions and networks related to migrants' rights and has strong links with a wide range of stakeholders and communities in and outside of the migrant sector at a national and grassroots level.

The state of the UK prior to the pandemic

8. In the view of JCWI, a combination of anti-migrant policies including the Hostile Environment (or "Compliant Environment" as it is officially referred to), as well as austerity measures substantially reduced the UK's preparedness to respond to

emergency events by the beginning of the Covid-19 pandemic. When Covid-19 spread to the UK those policies resulted in an increased risk from Covid-19 for migrant communities, particularly those who are racialised and/or undocumented, undermined public health efforts, and pushed individuals and families into poverty.

9. The key areas of preparedness and resilience relevant to the experiences of migrants in the UK are: the presence of NHS data sharing and charging; the No Recourse to Public Funds policy (“**NRPF**”); the availability and quality of housing; the availability of legal aid; the functioning of the home office; and the long-term prioritisation of immigration enforcement measures over other considerations including public health.

Government pandemic planning in respect of immigration policies and migrant communities

NHS Data Sharing and Charging

10. Section 175 of the National Health Service Act 2006 allowed for regulations to be introduced to charge people who are not ‘ordinarily resident’ in the UK for NHS services. The relevant regulations for charges are The National Health Service (Charges to Overseas Visitors) Regulations 2015, SI 2015/238 (as amended) (“**NHS charging regulations**”). These regulations introduced charges of up to 150% of costs for secondary health care services.
11. The implementation of NHS charges also results in data sharing between the NHS and the Home Office. When migrant patients access secondary healthcare data may be shared with the Home Office by NHS trusts as part of an attempt to determine whether the treatment given is chargeable. This may include personally identifiable patient data, including a patient’s full name, date of birth, nationality and current address. This data can result in migrants being targeted by immigration enforcement.
12. Where patients have unpaid NHS debts, these can also be communicated to the Home Office. Unpaid debts can form a ground for a refusal of a future application for leave to enter or remain in the UK.

13. By January 2020, NHS charging and data-sharing had engendered a climate of fear that was deterring migrants from seeking healthcare and making it more difficult for medical professionals to do their jobs [CB/1 - INQ000142279]. Additionally, as the NHS does not collect or monitor data on healthcare outcomes based on immigration status, the impact of these policies was ill-understood by policy makers in the runup to the pandemic. In the absence of clear and functional data, it ought to have been obvious that the NHS would struggle to respond in an effective way once a crisis emerged.
14. Preparedness and resilience in national emergencies are undoubtedly going to be tied to public trust in state institutions. It is JCWI's understanding that there were no emergency preparations in place to address the lack of trust in government and healthcare institutions – particularly by communities of colour and migrants with precarious immigration status – fostered by hostile immigration policies in the event of a pandemic.
15. Unfortunately, the lack of consideration and preparedness by the government both in respect of the public health consequences of their immigration policies and of the impact of those policies on reducing trust in the NHS had devastating consequences. There is now clear evidence that Black and Brown communities have experienced higher rates of serious illness, hospitalisation and death from Covid-19.¹ Despite further evidence that Hostile Environment policies worsened the impact of Covid-19 for migrants, government data does not disaggregate by immigration status and therefore does not allow us to fully understand the impact of the virus on migrants. We would hope that the Inquiry will do everything it can to access data that might enable them to capture the specific impacts of Covid-19 on migrant communities. In examining the impact of Covid-19 it is vital that the Inquiry recognise migrants – including those who are undocumented - as an independent demographic group disproportionately impacted by the pandemic.
16. In February 2021 we produced research “Migrants deterred from healthcare during the COVID-19 pandemic” [CB/2 - INQ000142281], which showed that 43% of

¹ BMJ, *'Ethnic health inequalities: turning evidence into action'*, June 2021, available at <https://www.bmj.com/content/373/bmj.n1450/rr-1>

migrants surveyed would be scared to access healthcare if they got sick during the pandemic. The figures are even more dramatic when looking at respondents from both Africa and the Caribbean (60% fearful of seeking healthcare) and Asia (56% fearful) compared with those from North America, Australasia and Europe (16% fearful). Among migrants who have a visa and are in the UK lawfully, 30% still reported being fearful of seeking healthcare [CB/2 - INQ000142281].

17. What is striking about these statistics is that, whilst immigration status does have an effect on fear of accessing healthcare, the effects of anti-migrant policies within the NHS extend far beyond simply those who do not have the right to free healthcare. Even people who are legally entitled to free healthcare still reported feelings of fear in accessing this support. This reflects JCWI's own experience of working with individuals trying to access essential services, such as healthcare, housing and state support, that the overall culture created by the Hostile Environment matters as much, if not more, than the technical rules as to whether people are or are not entitled to access such support.
18. In relation to the vaccine, a detailed study by the Migrant Health Research Group and others found that 72% of migrants felt hesitant about accessing the vaccine,² while the British Medical Journal reported that "the Hostile Environment has led to migrant uncertainty about free entitlement to the vaccine and a fear of data sharing of personal information collected for vaccination with the Home Office for immigration control purposes."³
19. Even in primary healthcare, which as a matter of law is still free at the point of delivery irrespective of immigration status, barriers prevented migrants from effectively accessing these services. An investigation by The Bureau of Investigative Journalism, for example, found that almost two-thirds (62%) of GP surgeries stated that they would not register a patient without proof of address, proof of ID or legal immigration status, with a further 14% saying they were unsure

² The Migrant Health Research Group, DPHP, DOTW et al, '*Strategies & action points to ensure equitable uptake of Covid-19 vaccinations: a national qualitative interview study to explore the views of undocumented migrants, asylum seekers and refugees*', April 2021, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8154190/>

³ The BMJ, '*Covid-19 vaccine confidence in UK refugees, asylum seekers, and undocumented migrants*' 29 September 2021, available at <https://blogs.bmj.com/bmj/2021/09/29/covid-19-vaccineconfidence-in-uk-refugees-asylum-seekers-and-undocumented-migrants/>

whether they could⁴. Such surgeries are legally required to register patients regardless whether they meet any of these criteria.

20. As well as resulting in reduced access to healthcare generally, the failure to properly register migrants with GPs had very a real detrimental impact on the NHS's ability to roll out a vaccination programme that strategically relied on people being registered and as well as them accessing hospital care when needed. [CB/1 - INQ000142279]
21. The UK's Covid-19 strategy relies on people being registered with GPs to access vaccinations, on everyone being willing to go to hospital when sick and on people being willing to share key personal information with hospital staff without fear of reprisal or future punishment. This cannot occur while the health system and government communications discourage migrants from interacting with healthcare institutions. Government statements that all residents were eligible to access the vaccine and that no data would be shared with the Home Office do not provide an effective countermeasure to these long-standing policies. The government does not have figures showing how many undocumented people have been vaccinated, however it is clear that Hostile Environment policies within healthcare ensure that this remains an extremely hard to reach community. [CB/1 - INQ000142279]

No Recourse to Public Funds

22. Section 115 of the Immigration and Asylum Act 1999 excludes those 'subject to immigration control' from recourse to public funds. This prevents those affected from accessing most state benefits including Universal Credit, Disability Living Allowance, Child Benefit and Housing Benefit.
23. The policy affects both those who require leave to remain but have not obtained it (often referred to as 'undocumented' migrants) and those that have been granted leave to remain with an 'NRP condition' attached. As a result of this statutory

⁴ The Bureau of Investigative Journalism, '*Most GP surgeries refuse to register undocumented migrants despite NHS policy*', 15 July 2021, available at: <https://www.thebureauinvestigates.com/stories/2021-07-15/most-gp-surgeries-refuse-to-register-undocumented-migrants>

requirement most migrants in the UK are subject to an NRPF condition until they have obtained a permanent settled status called Indefinite Leave to Remain (“ILR”) or have naturalised as citizens. As applicants for ILR will often be expected to have either five or ten years of leave prior to applying, many migrants can expect long periods without access to public funds.

24. Citizens Advice in partnership with the Migration Observatory at the University of Oxford estimates that nearly 1.4 million people are affected by this policy⁵.

25. It is important to understand the long-term impacts of the government’s NRPF policy in order to address its impact on the UK’s preparedness for Covid-19. The effects of the NRPF restrictions have been long-standing and widespread. For more than 20-years in the run up to the pandemic, migrants across the UK have been pushed into poverty, unsustainable debt, destitution, homelessness, and unsafe and overcrowded housing. A June 2019 report by The Unity Project found that the NRPF condition disproportionately impacts women, low-income families, disabled people, pregnant people and black and minority ethnic British children⁶. At the start of the of the pandemic almost half of all children living in the UK with foreign-born parents lived in poverty⁷.

26. By removing the state support and ‘safety net’ from this portion of the population, the NRPF condition has produced an economic situation in which many migrants struggle to survive. One group experiencing particularly serious effects as a result of NRPF are migrant survivors of domestic abuse. Survivors with NRPF were (and remain) excluded from life-saving refuges and homelessness support, with the result that they are more likely to find themselves trapped in abusive situations for lack of alternative accommodation. Further, there is evidence to suggest that

⁵ Citizens Advice, *Citizens Advice reveals nearly 1.4m have no access to welfare safety net*, 26 June 2020, available at <https://www.citizensadvice.org.uk/about-us/about-us1/media/press-releases/citizens-advice-reveals-nearly-14m-have-no-access-to-welfare-safety-net/>

⁶ The Unity Project, *Access Denied: The cost of the ‘no recourse to public funds’ policy*, June 2019, available at <https://www.unity-project.org.uk/research>

⁷ The Children’s Society, *A lifeline for all: children and families with NRPF*, May 2020, <https://www.childrenssociety.org.uk/sites/default/files/2020-11/a-lifeline-for-all-report.pdf>

insecure immigration status is exploited by some perpetrators as a means of control.⁸

27. It is possible for those with NRPF to make an application to the Home Office to have the condition lifted. However, JCWI's experience of making such applications is that they are not straightforward and often require significant documentary evidence to prepare. As a result applicants regularly require legal assistance.
28. In light of the abundant evidence available about the long-term impacts of this policy, it is the view of JCWI that it ought to have been clear that the impacts of NRPF were going to be severe in the context of a pandemic, both in terms of the impact on migrants' health outcomes and with respect to preventing the spread of the virus in the event of a pandemic. We do not believe the government factored in any consideration of the impact of the NRPF policy into emergency planning for a pandemic prior to January 2020.
29. The lack of preparedness to mitigate the impacts of this policy had severe consequences on migrant communities in the UK. The Migrants Rights Network conducted a study into the impacts of Covid-19, which found that 14% of people subject to NRPF were unable to pay their rent or mortgage on time (compared to 2% of those with recourse to public funds) and 64% of those with NRPF saying they couldn't afford to miss work (compared to 46% of the rest of the population).⁹
30. For undocumented migrants the situation was even more severe [CB/3 - INQ000142282]. The 'Right to Work' checks and Illegal Working Offence had produced a situation by the beginning of 2020 in which undocumented workers lacked any power to challenge employers who refuse them sick pay, forced them to work whilst sick, treated them unfairly, or who otherwise exploited them. These workers were also barred from accessing the Furlough Scheme meaning that

⁸ The Domestic Abuse Commissioner, '*Safety Before Status: Improving pathways to support for migrant victims of domestic abuse*', October 2021, available at <https://domesticabusecommissioner.uk/wp-content/uploads/2021/10/Safety-Before-Status-Report-2021.pdf>

⁹ Migrants' Rights Network, Kanlungan Filipino Consortium, The3million and Migrants at Work, '*The Effects of Covid-19 on Migrant Frontline Workers and People of Colour*', December 2020, available at <https://migrantsrights.org.uk/wp-content/uploads/2020/12/THE-EFFECTS-OF-COVID-19-ON-MIGRANT-FRONTLINE-WORKERS-AND-PEOPLE-OF-COLOUR.pdf>

when industries in which they were employed closed due to Covid-19 restrictions, many were immediately pushed into severe destitution. At the same time, international travel become close to impossible, trapping many people in extreme poverty in the UK.

31. The government justifies the NRPF condition on the basis that it 'saves the taxpayer money'. However, in reality individuals – particularly those with children - who would otherwise access central government public funds are pushed into support from local authorities. As local authorities have a much diminished ability to raise funds during a crisis, excluding large groups of people from centralised state support diminishes the capacity of local institutions to respond to the crisis more generally. This is more expensive than if central government had provided basic support earlier.¹⁰

The availability and quality of housing

32. The Immigration Act 2014 contained provisions that barred individuals who did not possess the 'Right to Rent' as a result of their immigration status from entering into a private residential tenancy agreement. Combined with constraints on the Right to Work, the effects of the NRPF condition described above, and low wages in key sectors, the Right to Rent checks had resulted in a large number of migrants, as well as Black and Brown Britons, living in substandard accommodation at the start of the pandemic.
33. As outlined in our research "No Passport Equals No Home" dated 3 September 2015 [CB/4 - INQ000142283] the right to rent checks had resulted in wide spread discrimination in the housing sector for both migrants and Black and Brown Britons. For example, in our survey of landlords, 42% said that the Right to Rent requirements have made them less likely to consider someone who does not have a British passport and 27% are reluctant to engage with those with foreign accents or names [CB/4 - INQ000142283]. This had a negative impact on the quality of housing available to these groups.

¹⁰ LSE, 'Social Cost Benefit Analysis of the no recourse to public funds (NRPF) policy in London', March 2022, available at: <https://www.lse.ac.uk/geography-and-environment/research/lse-london/documents/Reports/GLA-report-on-NRPF-FINAL-to-send-March-7.pdf>

34. The Migration Observatory at the University of Oxford has noted that households where at least one of the adult members was foreign born were more likely to be in statutorily overcrowded conditions, according to 2019 - 2020 data from the UK Housing Longitude Study. The figures were most severe for non-EU born households. Nationally, 11% of households with non-EU born adults were considered overcrowded, compared to 2% for UK born households. In London the overcrowding rate was substantially higher than in the rest of the UK, with 18% of households with non-EU born adults considered overcrowded, compared to 7% of for UK born households.¹¹
35. JCWI are not aware of any planning that occurred in respect of overcrowded accommodation in a pandemic scenario prior to the onset of Covid-19. This, again, had serious consequences for migrant communities. Many people did not have any space in their home where they could safely isolate if they caught Covid-19 or had contact with someone who had the virus. In March 2021 we conducted research into the experiences of migrants with NRPF during Covid-19 which found that 50% of respondents with NRPF said they would be unable to isolate if necessary. [CB/5 - INQ000142284].
36. Conditions in asylum accommodation is a further area of serious concern for JCWI in respect of the government's pandemic preparedness. It is our understanding that the government failed to make any emergency plans in respect of public health measures including the need for increased capacity in Home Office accommodation that would inevitably result from a public health crisis.
37. Following the start of the pandemic, the need for asylum accommodation increased as a result of travel restrictions and increasingly extensive delays in decision making at the Home Office. [CB/1 - INQ000142279]
38. The increased demand, coupled with a lack of any previously thought-through planning, resulted in extremely concerning practices emerging to house asylum seekers. Policies were made off-the-cuff under emergency circumstances and

¹¹ The Migration Observatory, '*Migrants and Housing in the UK*', 2 September 2022, available at <https://migrationobservatory.ox.ac.uk/resources/briefings/migrants-and-housing-in-the-uk/>

without any regard to public health or the fundamental rights of the individuals being housed. The Home Office expanded their existing harmful practice of housing asylum seekers in overcrowded hotels and, of even greater concern, they began using former military barracks to be used as contingency asylum accommodation. These arrangements fuelled the spread of the virus, leaving vulnerable people trapped inside overcrowded, inadequate housing conditions, at high risk of contracting Covid, unable to follow government guidance needed to protect both individual and public health.

39. Shortly after the opening of Napier Barracks for asylum housing, Public Health England released a damning interim report stating that virtually no public health planning had occurred in respect of the use of these barracks¹² and the Home Office's policy of housing individuals in Napier was later found to be unlawful by the High Court and in breach of Article 5 ECHR¹³. The number of deaths in asylum accommodation grew ninefold from 2019 to 2020¹⁴.

The availability of and access to legal aid

40. A decade of austerity in the run up to the Covid-19 pandemic had stretched the legal system close to breaking point. Legal aid funding cuts had also reduced the availability and quality of legal advice in advance of the pandemic. Since the introduction of the Legal Aid, Sentencing & Punishment of Offenders Act ("LASPO") in 2012, demand for accessible legal advice has far outstripped capacity across the immigration legal advice sector¹⁵. The immigration advice sector according had no resilience to cope with an emergency at the start of 2020.

¹² Independent Chief Inspector of Borders and Immigration, *'An inspection of the use of contingency asylum accommodation – key findings from site visits to Penally Camp and Napier Barracks'*, 8 March 2021, available at <https://www.gov.uk/government/news/an-inspection-of-the-use-of-contingency-asylum-accommodation-key-findings-from-site-visits-to-penally-camp-and-napier-barracks>

¹³ *NB & Ors v Secretary of State for the Home Department* [2021] EWHC 1489 (Admin)

¹⁴ Liberty, *"95 died in asylum seeker accommodation in five years amid fears Home Office downplayed toll"*, 24 October 2021, available at <https://libertyinvestigates.org.uk/articles/95-died-in-asylum-seeker-accommodation-in-five-years-amid-fears-home-office-downplayed-toll/>

¹⁵ Jo Wilding, *'Droughts and deserts: a report on the immigration legal aid market'*, 30 June 2019, available at <https://www.jowilding.org/assets/files/Droughts%20and%20Deserts%20final%20report.pdf>

41. It is clear from our own practice that at the start of the first national lockdown in Spring 2020, there was a marked increase in demand for free immigration advice services, particularly among vulnerable migrants. We understand this resulted in part from people who had previously been too scared to seek advice, being left with no choice when Covid-19 struck, as well as travel restrictions trapping many in the UK [CB/1 - INQ000142279]. As demand increased, Covid-19 restrictions within legal practices and members of the public made it increasingly difficult for individuals to practically access legal advice.
42. JCWI was are not aware of any planning for increased capacity or continuity of accessibility of immigration advice during a pandemic or emergency prior to January 2020. The result was that the increased need went unmet, with significant consequence for access to justice for vulnerable migrant communities. In particular, many people unable to access timely legal advice will have become undocumented during Covid-19, exposing them to Hostile Environment policies, detention and removal.
43. As an indicator of the issues in access to immigration advice, the Public Law Project has conducted research that found that the number of Exceptional Case Funding Legal Aid immigration applications reduced considerably, by 23% at the beginning of the pandemic as compared to the previous year. Further, they found that 60% of legal aid providers stated that the pandemic had a direct impact on their ability to make ECF applications¹⁶.
44. Inside Immigration Removal Centres (IRCs) there were similar issues in the provision of legal aid advice.
45. Issues with the Detention Duty Advice Scheme, the scheme for provision of immigration advice inside detention centres, were already apparent before the pandemic. Serious concerns about the functioning of the scheme were raised with the Joint Committee on Human Rights in the course of its inquiry into legal advice

¹⁶ Public Law Project, *'Improving Exceptional Case Funding: Responding to COVID-19'* October 2020, available at <https://publiclawproject.org.uk/content/uploads/2020/10/201001-FInal-Improving-Exceptional-Case-Funding-1.pdf>

in immigration detention in February 2019.¹⁷ Following a survey of detainees, Bail for Immigration Detainees came to the conclusion in February 2020 that there had been a “severe depletion” in the quality of advice provided under the scheme.¹⁸

46. The problems that existed before Covid-19 were then exacerbated during the crisis. This included the decision to make the Detained Duty Advice Scheme a remote service delivered by telephone and the failure to properly adapt the service to the changing detention estate [CB/1 - INQ000142279]. The government is now facing a legal challenge to its failure to provide in-person legal advice at the new women-only detention centre at Derwentside.

The functioning of the Home Office

47. After a decade of funding cuts the Home Office was already clearly overstretched and under-resourced in the run up to the Covid-19 pandemic and unable to sustain a crisis or swell of increased demand.

48. There appeared to be no effective plan in place to allow for the efficient functioning of the Home Office in the event of a pandemic. This resulted in the emergence of chronic delay and an overwhelming back-log leaving the immigration system in a state of ongoing crisis.

49. Case study 1: JCWI worked with one client who was suffering from cancer and was extremely vulnerable during the pandemic. He was supposed to attend a biometrics appointment, but this would mean a huge risk to his fragile health condition. Despite multiple requests for the Home Office to provide flexibility or access to a biometrics system without endangering our client, they refused to make any adjustments or offer him an alternative appointment in light of the exceptional circumstances. It took two years for him to be granted a special appointment. The delay in regularising his immigration status produced serious

¹⁷ Joint Committee on Human Rights, *Report on Immigration Detention*, 7 February 2019 <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/1484/148406.htm>

¹⁸ Bail for Immigration Detainees, *Research Paper: Autumn 2019 Legal Advice Survey*, February 2020, available at https://hubble-live-assets.s3.amazonaws.com/biduk/redactor2_assets/files/1140/BID_Legal_Advice_Survey_.pdf

consequences in respect of the subsistence support, including food, being provided to him by the local authority.

50. Case study 2: A similar situation was experienced by another of our client's, who was seeking asylum during the pandemic, and her family. Our client was pregnant, and her husband had a terminal illness and was undergoing chemotherapy. She was unable to attend her biometrics appointment as this would have involved travel on public transport. JCWI wrote to the Home Office explaining that the family was shielding under medical advice and requesting that adjustments be made in light of this. The Home Office never issued a response to our request and subsequently refused her application for asylum support on the basis that she had failed to satisfy the UK Visas and Immigration that she was an asylum seeker, leaving the family unprotected and highly vulnerable.
51. The impact of lack of contingency planning in the Home Office was immediately clear when Covid-19 hit. In the first quarter of 2020, over 30,000 people waited longer than six months for a decision on their asylum claim, with this figure increasing to well over 50,000 in the third quarter of 2021 [CB/1 - INQ000142279]. This reflects our own experiences, as we found that most of our clients who claimed asylum in 2020 ended up waiting well into 2021 for their substantive asylum interviews. The backlog has become ever worse since the pandemic with close to 110,000 people now waiting for longer than six months for a decision on their asylum claim¹⁹.
52. As asylum seekers are not generally permitted to work, rent accommodation or access mainstream state support, the impact of these delays is far-reaching and severe. Asylum seekers receive a weekly asylum support payment of £45 to cover food, toiletries, travel and clothing²⁰, and are frequently housed in cramped, inadequate and unsafe accommodation. Living in such conditions is extremely challenging, particularly over an extended period of time. The ongoing uncertainty caused by delays is also itself often harmful to mental health.

¹⁹ House of Commons Library, *'Delays to processing asylum claims in the UK'*, 20 March 2023, available at <https://commonslibrary.parliament.uk/research-briefings/cbp-9737/>

²⁰ Gov.uk, *'Asylum support: What you'll get'*, available at <https://www.gov.uk/asylum-support/what-youll-get>

Immigration enforcement

53. JCWI are not aware of any planning for a pandemic style emergency in the immigration detention estate or the immigration removal system occurring prior to January 2020. Given that detention and immigration enforcement involves holding and moving large numbers of potentially extremely vulnerable people around the country, the need for this planning ought to have been clear to the government.
54. When the absence of any emergency planning for detention centres and prisons became clear to us, JCWI wrote to the government on 16 March 2020 urging them to “release everyone detained under immigration powers to reduce the risk of COVID-19 entering the detention estate and causing avoidable harm” [CB/6 - INQ000142285].
55. In a joint press release on 31 March 2020, the Office of the High Commissioner for Human Rights, the International Organization for Migration, the United Nations High Commissioner for Refugees and the World Health Organization urged governments that, “considering the lethal consequences a COVID outbreak would have, [immigration detainees] should be released without delay.”²¹ Similarly, in a global statement on migrant health at the beginning of the pandemic, Lancet Migration called for the “[urgent] transfer of migrants & refugees held in overcrowded reception, transit and detention facilities to safer living conditions.”²²
56. Despite these clear warnings, and despite the risk of Covid-19 transmission in detention being entirely obvious without the need for any specialist advice, the Secretary of State for the Home Department failed to respond so as to safeguard detainees.

²¹ OHCHR, IOM, UNHCR and WHO, *The rights and health of migrants, refugees and stateless persons must be protected in Covid-19 response*, 31 March 2020, available at <https://www.unhcr.org/uk/news/press/2020/3/5e836f164/rights-health-refugees-migrants-stateless-must-protected-covid-19-response.html>,

²² Lancet Migration, *Leaving no one behind in the Covid-19 Pandemic: a call for urgent global action to include migrants & refugees in the Covid-19 response*, March 2020, available at https://1bec58c3-8dcb-46b0-bb2a-fd4addf0b29a.filesusr.com/ugd/188e74_c8dc2b23d5f647d28c5e2dae14c96baa.pdf,

57. It was only after a legal action brought in March 2020²³, that the government was forced to release almost one thousand immigration detainees, update guidance on the detention of people under immigration powers to include Covid-19 considerations, and publish new guidance on hygiene standards in detention. Effective planning prior to the onslaught of Covid-19 would have allowed for a much quicker and more effective response from the government, without the need for legal action from those impacted. This would have protected public health more broadly as well as the lives of the individuals held in immigration detention.

JCWI's engagement with government

58. JCWI continuously engages substantively with the government and the courts on issues of equality and social justice, particularly where they relate to migrants' rights, via our advocacy, legal and communication work. We have a long history of engagement in legislative and policy changes which would make the UK's immigration system fairer and safer for migrant communities. However, prior to January 2020 we had not engaged with government specifically on the subject of emergency preparedness and pandemic planning in the United Kingdom.

59. As such, there was not any active engagement with our organisation from either national or local government in relation to emergency preparedness prior to **January 2020**. However, following **January 2020** we engaged extensively with the government regarding their response to the pandemic.

60. As described above, we wrote to the Secretary of State for the Home Department on 16 March 2020 [CB/6 - INQ000142285] calling on her to:

- a. Immediately suspend all NHS Charging and data-sharing with the Home Office for the purposes of immigration enforcement and mount a public campaign to communicate that decision.
- b. Immediately suspend 'no recourse to public funds' conditions to ensure that everyone can access the support they need to stay safe and self-isolate.

²³ *Detention Action v SSHD* [2020] EWHC 732 (Admin)

- c. Make assurances that migrants unable to attend reporting appointments, court dates, or interviews whilst self-isolating will not be penalised.
- d. Make provision to extend or modify visas where necessary to prevent people being forced to 'overstay' their visa due to being self-isolated or unable to return to a country that is not safe to travel to.
- e. Release everyone detained under immigration powers to reduce the risk of Covid-19 entering the detention estate and causing avoidable harm.
- f. Provide specialist support for those housed in shared Asylum Accommodation to enable safe access to medical services, testing, and where necessary, re-housing for particularly vulnerable people.

61. This was followed by a further open letter to the Prime Minister on 28 May 2020 urging him to lift NRPF restrictions [CB/7 - INQ000142286].

62. On 30 June 2020 we wrote and coordinated a joint letter from 28 leading migrants' rights campaigners to the Home Secretary, calling for reforms to the EU Settlement Scheme to protect EU citizens against the harmful impacts of Covid-19 [CB/8 - INQ000142287].

63. On 14 January 2021 we wrote to the Home Secretary to raise ongoing concerns about lockdown, the vaccination and lack of government action to protect migrants, despite numerous calls for change [CB/9 - INQ000142288].

64. On 14 January 2021 we wrote to the Scientific Advisory Group for Emergencies (SAGE), urging them to examine the ways in which Home Office policies were putting migrants' lives in danger during the pandemic. In that letter we called for: (1) a vaccination programme that was accessible to everyone; (2) the ending of NRPF and access for all migrants to the social safety net; and (3) for a suspension of detention and deportations in order to prioritise public health over immigration enforcement. [CB/10 - INQ000142280]

Failures in planning for this pandemic and planning for future pandemics

65. The government ignored strong warnings by JCWI and many other organisations, experts and campaigners, to end Hostile Environment policies (particularly in respect of NHS charging and data-sharing and NRPF), as well as releasing all immigration detention residents, in order to protect migrant communities from Covid-19. The suspension of these policies would have ensured all migrant communities could have accessed vital healthcare, state support, decent housing and safer working conditions throughout the pandemic, without fear of immigration enforcement action. These measures, if enacted, would have protected migrant communities from Covid-19 and slowed the spread of the virus, therefore also protecting public health more broadly.
66. Our recommendations in planning for future pandemics remain broadly the same as our recommendations made in March 2020, at the start of the Covid-19 pandemic. They require a political shift in governmental attitudes towards migrant communities, away from criminality, exclusion and punishment, and towards rights, inclusion and support.
67. We make the following recommendations in relation to planning for any future pandemic:
- a. The Home Office must engage meaningfully with external advice and scrutiny, including from the third-sector.
 - b. The Home Office needs radical reform to ensure quick, effective decision making and the prioritisation of fundamental rights throughout the system. There must be effective systems in place to manage crises within the system effectively.
 - c. Legal Aid provision should be expanded and provision should be made to increase capacity in the event of a future emergency.
 - d. Hostile Environment policies which caused significant harm to migrant communities and public health during the Covid-19 pandemic should be repealed.

- e. Asylum housing practices must be reformed to ensure safe, sanitary and dignified conditions. The government must immediately suspend the use of hotels or prison-style asylum accommodation centre, and instead asylum seekers should be housed in the community. Contingency planning must be introduced for asylum accommodation in the event of future pandemics to ensure effective isolation and social distancing can occur, whilst fundamental rights of asylum seekers are maintained.
- f. The government should put an end to immigration detention and forced immigration removal.

Other organisations with relevant material

68. We believe that the following organisations may hold relevant information or material: Kanlungan, the Hackney Migrant Centre, the Status Now Network, Migrants at Work, Regularise, Project 17, the No Accommodation Network (NACCOM) and the Greater Manchester Immigration Aid Unit (GMIAU).

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed: Personal Data

Dated: 5 May 2023

Witness Name: Caitlin Boswell

Statement No.: 1

Exhibits: 10

Dated: 5 May 2023

UK COVID-19 INQUIRY

INDEX OF EXHIBITS

Exhibit	Document
CB/1 - INQ000142279	Report from Joint Council for the Welfare of Immigrants and Public Interest Law Centre titled "Unequal Impact": How UK immigration law and policy affected migrants' experiences of the Covid-19 pandemic, dated May 2022
CB/2 - INQ000142281	Report from the Joint Council for the Welfare of Immigrants titled Migrants deterred from healthcare during the COVID-19 pandemic, dated February 2021
CB/3 - INQ000142282	Report from the Joint Council for the Welfare of Immigrants titled We also want to be safe, Undocumented Migrants facing Covid in a hostile environment, dated January 2022
CB/4 - INQ000142283	Report from the Joint Council for the Welfare of Immigrants titled No passport Equals No Home: An independent evaluation of the 'Right to Rent' scheme, dated 03/09/2015
CB/5 - INQ000142284	Report from the Joint Council for the Welfare of Immigrants titled Migrants with No Recourse to Public Funds' Experiences During the COVID-19 Pandemic, dated March 2021

CB/6 - INQ000142285	Letter to Priti Patel MP regarding Protecting migrants from COVID-19, dated 16/03/2020
CB/7 - INQ000142286	Letter from the Joint Council for the Welfare of Immigrants to the Prime Minister regarding No Recourse to Public Funds, dated 28/05/2020
CB/8 - INQ000142287	Letter to Priti Patel MP regarding Protecting EU citizens and families members from COVID-19, dated 30/06/2020
CB/9 - INQ000142288	Letter from the Joint Council for The Welfare of Immigrants, to Priti Patel MP, dated 14/01/2021
CB/10- INQ000142280	Letter to Patrick Vallance regarding Impact of the Hostile Environment on the UK's vaccination programme, dated 14/01/2021