

# MIGRANT WOMEN AND SOCIAL SECURITY

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Policy paper for the Commission on a Gender-Equal Economy

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*Disclaimer: This paper was written by a Women's Budget Group staff member to inform the Commission on a Gender-Equal Economy. An input to the Commission, it should not be taken to represent the views of the Commission on a Gender-Equal Economy. It is based on extracts from a full report on migrant women the Women's Budget Group will be publishing in spring 2020.*

## SUMMARY

Migrants from the EU have not required visas and will not do so until after December 31 2020, the end of the transition period. Migrants from other countries have required visas. The future shape of the visa system and how it will apply to migrants from EU countries is not yet known.

Most migrants are barred from accessing public funds under the 'no recourse to public funds' (NRPF) condition stamped on their passports. (This has included EU nationals who are not working or seeking work, are not self-sufficient and are not students.) This creates problems for many women who are on family visas and are financially and economically dependent on their partners, who may face destitution if the relationship breaks down. They also risk becoming undocumented as their visa depends on the relationship.

The majority of people who are destitute with NRPF are employed and trying to support themselves through work but are in insecure low-paid jobs like cleaning and in the care sector.<sup>1</sup> Many will be on zero-hours contracts with no guaranteed wage.

If a relationship breaks down, women are more likely to take on the role of primary and sole carer. If a woman is a stay-at-home mother previously, she may not have the skills and experience, including language, for employment.<sup>2</sup> Having no recourse to public funds will leave many women in this situation with no income at all.

There is some support for destitute migrants but these only cover families with children and asylum seekers / refugees and it is not easy to apply for.

The disproportionate impact of the NRPF policy on women, disabled people, pregnant women and elderly people was found to amount to indirect discrimination against these groups.

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<sup>1</sup> A Woolley (2019) Access Denied: The cost of the 'no recourse to public funds' policy (<http://bit.ly/2QjN8pK>) p. 30

<sup>2</sup> A Woolley (2019) Access Denied: The cost of the 'no recourse to public funds' policy (<http://bit.ly/2QjN8pK>) p. 31

## **1. Introduction: A visa system that fosters women's dependency**

Women and men have different patterns of migration. These are a result of the gender norms that permeate our world and that to some extent shape women's and men's lives, their employment trajectories, their caring responsibilities, and their role in the family.

An immigration system designed without taking these differences into account will have distinct impacts on women and men.

Social unsettlement and unfamiliarity with a new state and societal system are expected when someone migrates to a new country. But immigration rules make an absolute difference in migrants' living conditions and experiences in the UK.

Women are more likely than men to be the dependants of other immigrants (women are two-thirds of migrants on family reunification visas). Such women come into the UK to follow partners who have settled or who are British citizens, come to form a new marriage, or come as dependants of male asylum seekers, workers or students. This places women in a precarious situation of dependency: her immigration status and her income will more likely depend on a partner than men's.

Dependency in turn increases the likelihood of migrant women becoming victims of coercion, control or physical violence.

Limits on who can work (in which jobs), the 'no recourse' policy and hostile attitudes to immigrants, fostered by strict and punitive rules from public authorities, make migrant women highly vulnerable to exploitation in relationships, in the labour market, in private housing, and other social settings.

## **2. Women and the immigration system**

Government estimates put EU citizens living in UK at 3.6m (1.8m women) but there is no data on the total number of migrants currently living in UK who are subject to immigration control. The government has data on the total foreign-born population (9.4m) and on how many people entered and left on a given year, but not on how many stayed over the years and how many of those settled / acquired citizenship, and so are not subject to immigration control anymore.

### **Family visas**

Women are the vast majority of immigrants who are dependent on another person for their right to be in the UK: either to another immigrant, a settled person or a British citizen.

Women are nearly two-thirds (63%) of immigrants on family visas.

There is an important distinction in family-related visas between 'family unification' visas: immigrants who come to live in the UK with family members who are UK citizens or settled

residents, mostly via spouse or partner visas; and ‘dependants’: family members of immigrants who have permission to stay temporarily (for example on work or student visas).

This distinction has important implications for women who are victims of domestic violence: only women in the ‘family unification’ category (on spouse or partner visas) are eligible to apply for Indefinite Leave to Remain in the UK under the Domestic Violence rule.

Immigrants with family-related visas are allowed to work in most circumstances but they have no recourse to public funds and have to pay an annual health surcharge to have access to secondary (i.e. hospital) treatment in the NHS.

### **Work visas**

Only 19% of migrant women who have visas are in the UK on work visas. However, migrant women with all sorts of immigration statuses contribute to the labour force.

Immigrants on work visas cannot access public funds such as social housing, most benefits and most government-funded childcare, and have to pay an annual health surcharge to access NHS secondary care (i.e. hospital treatment but A&E is free for everyone).

Depending on national insurance contributions through employment, migrant women can be entitled to contributory benefits such as Jobseeker’s Allowance, Employment and Support Allowance and Maternity Allowance, and to statutory payments such as sick pay, statutory maternity, adoption, paternity and shared parental pay.

### **Student visas**

Over a third (36%) of migrant women in UK on a visa are on student visas, nearly double the number on work visas.

Student visas are temporary visas that only cover the period of the course being done. There are restrictions in place on the number of hours a week and type of jobs a person on a student visa can do. Just like immigrants on family and on work visas, immigrant students cannot access public funds, a condition on their visas known as ‘no recourse to public funds’ (NRPF) (see section 4 below for more details on NRPF).

### **Asylum seekers and refugees**

In 2019, 25% of asylum applications were made by women. This varies by nationality (from 8% of Sudanese asylum seekers to 52% of Nigerian asylum seekers).

People seeking asylum who can prove that they are destitute are offered accommodation, usually to dispersal sites across the UK, and £5.39 of subsistence support per day. This is called Section 95 (of the Immigration and Asylum Act 1999) support. Asylum seekers are barred from work while they await a decision on their application. They can access free healthcare.

Asylum seekers whose application for protection is accepted are formally granted refugee status. Refugees have the same rights as British citizens including to work, to access public funds and to free healthcare. However, the transition period from asylum seeker to refugee is a difficult one, as newly-granted refugees have a 'grace period' of only 28 days to learn how to navigate the UK's complex welfare system, find accommodation and a job before their previous support ends. This is clearly not enough, particularly if we take into account that the wait period for Universal Credit's first payment is five weeks. Refugees very often face financial hardship, homelessness and debt with their new status.

Asylum seekers who have their application refused are in a very precarious situation. In some cases they can apply for support, under Section 4 of the Immigration and Asylum Act 1999, if they can prove that they are destitute and that they can't go back to their home country on human rights grounds or because they can't travel for health reasons (this includes women in the late stages of pregnancy). Refused asylum seekers are also vulnerable to detention for purposes of immigration control and subject to deportation.

### **EEA nationals<sup>3</sup> and Brexit**

An estimated 3.6 million European Economic Area (EEA) & Swiss nationals live in the UK, half (1.8 m) of whom are women. The same rules apply to EEA as to EU citizens.

Access to social security and other public services is generally possible provided that EEA citizens are 'exercising their Treaty rights'. This usually means that the person is involved in the economic activity of the host country: as a worker or jobseeker, as a student or as a self-sufficient person. If the person fails to prove that they are engaging in these activities, they can be subject to No Recourse to Public Funds (discussed below).

These rights extend to their (close) family members irrespective of nationality. In certain cases, the primary carers of EEA-citizen children are also included in the scope of free movement, although their immigration status is more precarious because it is dependent on someone else's right to reside (and usually ends when the child becomes independent). Women, as they are more likely to be the primary carers of children, are the majority of people in this situation.

Under the new EU Settlement Scheme to register EEA nationals living in the UK before Brexit is completed (end of transition period: 31 December 2020), applicants receive either pre-settled or settled status (if less or more than five years of residence respectively). Settled status is equivalent to Indefinite Leave to Remain, which means having the same rights as British citizens, including permanent right to reside, access to public funds and services, and right to work and study. EEA citizens granted pre-settled status have restricted access to social security and will need to re-apply once they have lived for five years in the UK.

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<sup>3</sup> The current and changing immigration rules in this section affect citizens from the European Economic Area which include the European Union member states, Iceland, Liechtenstein and Norway. The same rules also apply to Switzerland nationals.

The registration period ends on 30 June 2021. After that, EEA citizens will be subject to immigration control just like immigrants from other parts of the world. There are concerns that women will slip through the net in the new system to register EU citizens resident in the UK: women are less likely to have the continuous employment contributions to prove residence that the automated system requires, and some will have trouble registering because of domestic abuse.

### **Undocumented migrant women**

Migrants without a formal immigration status are one of the most vulnerable groups in society. They are usually people who overstayed their visas, who were refused asylum or people who were trafficked.

Undocumented immigrants are forced to live at the margins of society as they can't get a job, can't access public funds, housing or other services. Their only option is often to engage in the informal economy to earn a living and for that they are at a high risk of exploitation, both labour and sexual in the case of undocumented migrant women. Their undocumented status means they are at constant risk of immigration detention and deportation, including if reported by landlords, employers, police or healthcare staff.

People with no immigration status face exorbitant bills to access NHS hospitals and treatment. This is especially serious for pregnant women who are sometimes wrongly refused care or avoid treatment for fear of charges, and who will face huge debts with little chance of payment at a very vulnerable stage of life.<sup>4</sup>

### **3. Key economic challenges**

#### **Financial cost of visas**

High fees for visa application and renewal and a flat-rate minimum income requirement for family visas disadvantage women as well as black and minority-ethnic (BME) people, disabled individuals and younger people. These groups face higher financial hurdles to secure their immigration status and to bring their loved ones under family reunification rules.

#### **Social and cultural barriers**

Language barriers and unfamiliarity with the new system makes it harder for women to know their rights, seek support or simply navigate healthcare, utility bills or job hunting.

A system that actively aims to create a 'hostile environment' for immigrants makes integration and engagement with authorities harder. Race intersects with immigration status and places BME immigrants as easier targets of suspicion by public authorities, and harassment and hate crime by wider society.

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<sup>4</sup> Maternity Action (2018) What Price Safe Motherhood? Charging for NHS Maternity Care in England and its Impact on Migrant Women (<http://bit.ly/2QyIQd4>)

## **Work and study**

The gender pay gap is virtually non-existent overall between the average migrant women and men in the UK in full-time employment, but for migrants from different parts of the world it varies significantly (between -25% and 28%).<sup>5</sup>

Fewer migrant women overall work part-time than UK-born women but there are wide variations by country of birth, ranging from 26% to 54% of total working women in those groups.

Low-paid and low-skilled sectors like cleaning, domestic work and hospitality have a disproportionate number of migrant women working in them; for instance, a quarter of workers in the cleaning sector are foreign-born.<sup>6</sup> These sectors are characterised by low pay, few opportunities for career advancement and precarious working conditions like zero-hour contracts and self-employment.

## **No recourse to public funds**

Most migrants cannot access public funds under the 'no recourse to public funds' (NRPF) condition. This includes most benefits, social housing and most childcare. NRPF leaves many women on family visas financially and economically dependent on their partners and facing destitution if the relationship breaks down.

The majority of women with NRPF who are destitute are employed and trying to support themselves through work but are in insecure low-paid jobs like cleaning and care.

There is some support for destitute immigrants but it only covers families with children and asylum seekers / refugees and it is not easy to access.

## **Access to public services for non-EEA migrants**

The new healthcare surcharge takes the total costs of visa application and renewal to unsustainable levels to many immigrants. If undocumented, women are liable to pay for their healthcare (hospital) treatment, which includes pregnancy-related care and can amount to several thousands of pounds. New mothers are saddled with unpayable debts that have a severe impact on their health. These debts limit women's future immigration regularisation.

Many migrant women can only access free childcare for 15 hours a week if they have three- or four-year-olds. Childcare restrictions pose a serious barrier to migrant women to earn a living through paid work.

Migrant women with NRPF cannot access social housing. Housing support is only available for destitute children or women asylum seekers. Undocumented women face detention and

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<sup>5</sup> Calculations by the Migration Observatory, University of Oxford, based on the Labour Force Survey 2018 (<http://bit.ly/39Dk7gj>)

<sup>6</sup> British Cleaning Council (2017) Industry Trends Report (<http://bit.ly/35oxqOu>)

deportation if their landlord (who has a legal duty to check their immigration status) reports them to the Home Office.

Legal aid is available for asylum cases but no longer for other areas of immigration. This leaves a very large number of migrant women unprotected.

#### **4. Migrant women and public funds**

The 'no recourse to public funds' (NRPF) is a condition attached to most visas granted by the immigration system. It means that immigrants with limited leave to remain will not have access to public funds, which include most social security benefits and student loans, and public services like social housing and homelessness assistance, and most government-funded childcare.

The Home Office has calculated that 92% of people who were granted limited leave in 2014 on the ten-year route to settlement on family visas had 'no recourse to public funds' stamped on their passports.<sup>7</sup> Two-thirds (63%) of people on family visas are women so they are disproportionately affected by this policy.

Women with NRPF can access work-related benefits including maternity allowance, sickness pay or jobseeker's allowance if they have been in employment and contributed long enough. However, many women will not qualify for these because they will be in low-paid and insecure jobs in the cleaning and care sector, where zero-hours contracts are widespread. Their options for earning a decent living are very limited and without any additional support from the social security system they can become trapped in unwanted and abusive relationships.

'No recourse to public funds' reinforces the dependency of women on their husband/partner. This is particularly true of women who are the primary carers of children: the restrictions on access to childcare coupled with strong gender roles will make it nearly impossible for these women to engage in paid work and have their own financial income.

There are some policies of support for migrants who find themselves destitute, although it is not always easy to navigate the system and apply for them.

The main one is targeted at poor children and their families. Section 17 of the Children Act 1989 places a duty on local authorities (LAs) to provide support in the form of housing and subsistence payment if needed to safeguard the welfare of a child in need, even if the family has no recourse to public funds. Most immigrants are entitled to apply for Section 17 support, except EEA nationals, most refused asylum seekers and undocumented migrants. The majority of migrants benefitting from Section 17 are women as they tend to be the primary and sometimes sole carer of children and the 'no recourse' condition will often throw them into destitution.

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<sup>7</sup> This also includes people on a parent visa to someone settled in the UK. Home Office (2015) Policy Equality Statement (<http://bit.ly/2ST5lwe>)

Local authorities have a duty to report to the Home Office ineligible families who apply for Section 17 support. This puts undocumented people at risk of detention and/or deportation.

Migrants who are seeking asylum in the UK have specific programmes of support if they are destitute, namely support from Section 95 and Section 4 of the Immigration and Asylum Act 1999.

Asylum seekers who are waiting for a decision and are destitute can apply for support under Section 95. This may include accommodation and a card to pay for essentials (£37.75 per week). They are usually dispersed across the country. Pregnant women about to give birth can apply for a £300 one-off maternity payment and £3 more per week (on top of the £37.75 card per week). Newly-granted refugees however are not eligible for this support anymore and so they face a cut-off between asylum-seeking support and new settlement status where they are expected to apply for mainstream benefits.

Asylum seekers who see their application refused and can't go back to their country of origin on human rights grounds or for health reasons (including pregnant women) can apply for support under Section 4. Grantees get a card to buy essentials (£35.39 per week) and accommodation.

The NRPF policy has a disproportionate impact on women, low-income families, disabled people, pregnant women, and BME British children (who are more likely to be children of immigrants). Through statistical data and experiences of destitution, a report from a wide range of migrant support organisations, academics and legal practitioners found that these disproportionate impacts amount to indirect discrimination for people who share these protected characteristics.<sup>8</sup>

'No recourse' indirectly discriminates against women on account of their sex because it limits their access to full-time employment due to curtailments to free childcare entitlements (including childcare element of tax credits and free childcare for two-year-olds).<sup>9</sup>

Disabled people, pregnant (and early-maternity stage) women, and elderly people are often unable to work and in addition face higher living costs, which means the impact of NRPF is greater.

For disabled people, additional costs like travel, medication, etc mean that they are more severely affected by destitution because of their NRPF status. Additionally, immigrant disabled individuals are not able to access DWP's work-related programmes that support disabled people into employment<sup>10</sup> so they are even less likely to be able to work than UK citizens who are disabled.

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<sup>8</sup> A Woolley (2019) Access Denied: The cost of the 'no recourse to public funds' policy (<http://bit.ly/2QjN8pK>)

<sup>9</sup> A Woolley (2019) Access Denied: The cost of the 'no recourse to public funds' policy (<http://bit.ly/2QjN8pK>) p. 6

<sup>10</sup> A Woolley (2019) Access Denied: The cost of the 'no recourse to public funds' policy (<http://bit.ly/2QjN8pK>) p. 34

## **5. Violence against women and girls (VAWG) and immigration**

Abusers use immigration status as a tool of control; abusive partners use threats of reporting to the home office and deportation to coerce and abuse women.

The Destitution Domestic Violence Concession (DDVC) gives women on spouse visas suffering domestic abuse a few months of support and time to apply for Indefinite Leave to Remain but many migrant women who suffer domestic abuse are stuck. Women on dependant visas can't access most benefits, have no entitlement to housing support from their local authority and are ineligible for the DDVC.

Most refuges can't accept women with NRPF as they depend on Housing Benefit to fund their services, leaving women with NRPF limited housing options.

Many women who seek asylum have suffered some form of VAWG in their country of origin, in their journey or in the UK but stigma and cultural barriers often prevent them from disclosing it and seeking support.

### **Recommendations**

#### ***Lift restrictions on work for asylum seekers***

The UK should lift the restrictions on work for asylum seekers to reduce asylum seekers' financial hardship and vulnerability to exploitation. This would also benefit the UK economy.

#### ***Extend 30 hours free childcare to all children***

Free, good quality childcare is crucial to ensure women can earn a living and be financially autonomous in the context of 'no recourse to public funds' and ensure children from deprived backgrounds can have the best start in life.

#### ***Social housing available to those who need it***

Social housing and homelessness support from local authorities should be available to everyone who need it regardless of immigration status.

#### ***Maternity care should be exempt from charging***

Pregnancy and maternity care is essential healthcare with enormous repercussions for women's and children's health and well-being, and charging for it is discriminatory, since only women are liable for payment.

#### ***Extend the Destitution Domestic Violence Concession (DDVC) to all migrant women victims of VAWG***

The DDV concession should be extended to migrant women with insecure immigration status to protect and support all women who are victims of violence.

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**Annex 1 – Tables on employment and earnings broken down by gender and country/region of birth**

**Table 1. Distribution of part-time and full-time UK-based workers by gender by country/region of birth, 2018**

Region/country of birth:	WOMEN		MEN	
	Part time (%)	Full time (%)	Part time (%)	Full time (%)
UK	40	60	10	89
EU-14	28	72	9	91
EU-8, EU-2, EU Other	26	74	6	94
MENA & Central Asia	54	46	27	73
East & Southeast Asia	36	64	14	86
India	29	72	7	93
Pakistan & other South Asia	52	48	23	77
Sub-Saharan Africa	38	62	13	87
Other countries	32	68	10	89
<b>Total</b>	<b>38</b>	<b>62</b>	<b>11</b>	<b>89</b>

Source: Calculations by the Migration Observatory, University of Oxford, based on the Labour Force Survey 2018

**Table 2. Annualised median earnings (rounded to nearest 1000), by country of birth, 2018 (Full-time employees aged 16 to 64)**

Region/country of birth:	WOMEN	MEN	Gender Pay Gap %
UK-born	£24K	£30K	20%
EU-14	£28K	£36K	23%
EU-8, EU-2, EU Other	£19K	£22K	14%
MENA & Central Asia	£35K	£28K	-25%
East & Southeast Asia	£28K	£32K	13%
India	£26K	£36K	28%
Pakistan & other South Asia	£18K	£24K	25%
Sub-Saharan Africa	£26K	£28K	9%
<b>All foreign-born</b>	<b>£26K</b>	<b>£26K</b>	<b>0%</b>

Source: Calculations by the Migration Observatory, University of Oxford, based on the Labour Force Survey 2018 (<http://bit.ly/39Dk7gj>)