

Written evidence submitted by UNISON (ISSB24)

House of Commons Public Bill Committee for the Immigration and Social Security Co-ordination (EU Withdrawal) Bill

Introduction

UNISON is the UK's largest union with 1.3 million members. Our members are people working in the public services, for private contractors providing public services and in the essential utilities. They include frontline staff and managers, working full or part time in local authorities, the NHS, the police service, colleges and schools, the electricity, gas and water industries, transport and the voluntary sector. UNISON welcomes the opportunity to present the serious concerns we have for public services, the communities we serve and our migrant worker members, both from the EU and beyond as a result of this proposed legislation.

Executive Summary

- This Bill gives the UK Government significant powers to implement the proposals set out in its White Paper, with none of the reforms or safeguards UNISON believes is urgently needed.
- We have significant concerns relating to:
 - Clause 1 and the lack of key safeguards for EU citizens living in the UK;
 - Clause 2 and the arrangements for citizens in Northern Ireland
 - the sweeping Henry VIII powers set out in Clause 4 for a new immigration system
 - the impact on public services, in particular the NHS and social care sector;
 - the ability of the Home Office to manage millions more people being placed within an already dysfunctional immigration system
- The Bill gives the Secretary of State sweeping delegated powers to make changes to the Immigration system in the UK. **Liberty** has pointed out that clause 4(2)(a) arguably gives the Secretary of State the power to modify by regulations any piece of immigration legislation passed prior to 2019, as long as the Secretary of State can argue it is in connection with ending free movement. Virtually any change could be justified with this argument.
- UNISON therefore urges the Committee to amend this Bill to limit the power of the Secretary of State and to require higher levels of scrutiny from both houses of Parliament. We also believe that in order to manage EU settled status and rebuild confidence in the Home Office after the Windrush Scandal, the Bill should be amended to:

- safeguard the position of EU citizens as the settled status process commences
 - suspend the hostile environment
 - restore key civil rights to data protection
 - allow access to legal aid for those caught up within the hostile environment;
 - a right of appeal for EU citizens who have been refused settled status.
- UNISON has concerns that the process of EU exit and this Immigration Bill will create new categories of migrant statuses and identities that the hostile environment has struggled to accommodate. This includes highly sensitive issues in Northern Ireland, outlined below.
- As a result UNISON believes the whole points based immigration system will come under severe strain – along with a serious crisis in the health and social care sector. Social care would already be in crisis without the impact of EU exit, but the Government are proposing to increase the size of the crisis. Unless positive steps are taken, the care sector will continue to hover on the brink of collapse, and the people who rely on vital social care services will be the ones to suffer. UNISON has had to campaign and negotiate for better pay, better training and better resourcing for UK workers from a Government that is both reluctant to invest in these, and similarly reluctant to operate a fair and dignified immigration policy. This will start to have serious consequences not just for migrant workers, but for public services and everyone who depends on them.
 - The significance of these concerns means that parliamentarians should not give the secretary of state a blank cheque on immigration policy. It is vital that the Bill must be amended to ensure that safeguards and parliamentary scrutiny be enhanced.

EU citizens and settled status

1. UNISON shares the concerns of **the3million** and **JCWI** about the settled status scheme. The scheme itself makes vulnerable groups of people, such as the elderly, children in care, victims of trafficking and domestic violence at heightened risk of becoming undocumented.
2. We agree that the Government should introduce a declaratory approach to protect all EU nationals resident in the UK on or before 29 March 2019 and the Government should remove the threat of deportation and time given for EU citizens to regularise their status after the deadline of 30 June 2021.

3. Given the problems caused by non-recognition of valid status documents in the Windrush scandal, UNISON also shares the 3million's concerns about the reliance on an electronic-only system. We also support the call for a right of appeal against decisions made under the settlement scheme. This is vital in building confidence amongst EU citizens applying for settled status.
4. UNISON's members from the EU are extremely concerned about the prospect of falling within the bounds of the 'hostile environment'. The Windrush scandal has demonstrated that Home Office's hostile environment policies discriminates against documented migrant people. Those without a British Passport, but legally in the UK, have been presumed to be undocumented and refused access to a slew of services and rights.
5. UNISON believes the Government needs to suspend the 'hostile environment' as part of a major review of our immigration system.

Northern Ireland

6. UNISON shares the concerns of the Committee of the Administration of Justice (CAJ) that there are number of gaps within the Common Travel Area (CTA) arrangements that have not yet been clarified or resolved. There are significant gaps in relation to social welfare, health service access and other CTA listed areas. This Bill will enable the repealing of EU law that in practice the exercise of CTA rights currently depends on. This would have major implications for the rights of British and Irish citizens.
7. There are also sensitive issues raised by this Bill for Northern Ireland. Equality of citizenship – a right to choose British, Irish or both forms of citizenship on an equal basis, guaranteed by the Good Friday Agreement – is also threatened by Brexit. Parity of esteem, or equal treatment was promised irrespective of the identity chosen. Post EU exit, there is the potential for many different identities and rights in NI, ranging from Irish citizen, UK citizen, dual Irish-UK (from Northern Ireland) dual Irish UK (non-NI), non-EU, non-UK, frontier workers, non-Irish EU nationals. This has serious implications for public services and the 'hostile environment'¹. An increase in identity checks post exit, a host of different identity papers and rights and the impact of the hostile environment in an already sensitive political situation raises very difficult issues that parliamentarians need to consider before problems arise.

¹ <https://blogs.lse.ac.uk/brexit/2018/09/11/a-windrush-in-waiting-post-brexit-categories-of-citizen-in-northern-ireland/>

The Hostile Environment

8. Over the past decade public services, employers and migrant workers have had to cope with a byzantine immigration system which has steadily grown in complexity and unwieldiness. It has also led, in the form of the 'hostile environment' to a profoundly unfair set of rules that has rendered non-EU migrant people into second-class citizens in this country.
9. As a public service union, many of our members have been caught up in the delivery of the 'Hostile/Compliant' environment. Immigration controls are now embedded in everyday interactions between trusted public sector workers and the people they are supposed to serve: nurses and patients, police and victims of crime and teachers and their pupils. This has come at a time when public services have already been under immense resource, workload and time pressures. Trust must now be urgently rebuilt between public services and the communities they serve – instead the Government proposes to increase the number of people who will be affected.
10. This is deeply concerning because the Windrush Scandal exposed a shocking level of tolerance within the Government to poor quality, badly evidenced immigration decision making. Earlier this year the Law Society warned that nearly half of the Home Office decisions that go to appeal in England and Wales are overturned². UNISON believes that this masks the true extent of the problem as many vulnerable migrants may not have the resources to appeal the Home Office's decision and this is precisely what the Government relies on.
11. We have yet to see any resolution to the systemic problems that have led to the denial of lifesaving NHS treatment, deportations, loss of employment and housing to those who have been affected by the Windrush scandal - and many others who have been mistreated.

A crisis in the social care sector

12. Ending Freedom of Movement and extending the Tier 2 system to EEA nationals would have a very damaging effect on the care sector. IPPR modelled the impact on EEA nationals currently living in the UK and working in social care and found that four in five (79%) of EEA employees working

² <https://www.bbc.co.uk/news/uk-politics-43737542>

full-time in social care would have been ineligible to work in the UK under the skills and salary thresholds proposed by MAC³.

13. Vacancy rates in the care sector now stand at 8%, up from 6.6% in 2017 and equating to 110,000 jobs⁴. There is also a sizeable number of staff leaving the sector each year with currently 31% of staff leaving their job each year.
14. The poor terms and conditions that care workers are subjected to are the main drivers of the shortages in the sector. A survey by UNISON in summer 2018, which took in responses from 2,751 careworkers in England from across the sector found that almost half (49%) of care workers said they are currently thinking of leaving their job; 73% said one of the reasons for this was low pay. Almost half (44%) also said that they could earn more money in other sectors; the second biggest factor was the lack of time they have to deliver care, with half (53%) reporting this as an issue.
15. Because of demographic changes in UK society we will require an extra 1 million care workers by 2025. It will be impossible to meet this target whilst care workers continue to be paid so poorly and treated so badly creating continuous churn and turnover of staff. This high rate of turnover is contributing to a decline in standards in the sector. Removing EEA care workers from the sector will clearly make the situation worse .
16. The Government has based its immigration proposals on the Migration Advisory Committee's recommendations. However, MAC has specifically highlighted the impact of its own proposals on the social care sector: "*The combination of rising demand, downward pressure on public spending leading to relatively low wages making many jobs relatively unattractive to resident workers and the absence of a non-EEA work-related route for the lower-skilled roles in the sector mean that this is a sector that could face even more serious problems if EEA migration was restricted.*"

Impact on public services

17. It is deeply concerning that the government plans to have a threshold of £30,000 p.a for 'medium skilled' workers. For example, a newly qualified nurse at Band 5 earns £23,023 - nurses do not reach the threshold of £30,000 till mid-way through Band 6.

³ P15 <https://www.ippr.org/files/2018-11/fair-care-a-workforce-strategy-november18.pdf>

⁴ Skills for Care 'The state of the adult social care sector and workforce in England' (2018)

18. UNISON has consistently argued that Government policy around immigration mistakenly uses 'salary' to mean 'skill' and that salary thresholds and language around high/low skill is deceptive. Low-status and badly paid work is not synonymous with low skill. Many important sectors such as social care and child care have been historically undervalued as women's work and hence badly paid, but are not low skilled or dispensable.
19. Furthermore, the recently doubled NHS surcharge for non-EU migrant people has meant that workers in the NHS who already pay taxes as well as directly providing healthcare, also have to pay an extra surcharge on top. This is causing considerable financial hardship.

Exploitation in the labour market

20. Reports that supposedly 'low-skilled' workers would be given one year visas to plug the problems caused by the rigid immigration system we have now will simply create a highly vulnerable, easily exploitable workforce at the mercy of the most unscrupulous of employers. This will create a race to the bottom in parts of the economy that will leave decent employers stranded and workers exposed. This creates even greater incoherence within government policy, given that much of its current work on tackling exploitation has been distorted by a focus on immigration status rather than improving labour standards.

Public sector pay/training

21. The major obstacle to improving pay and training for workers of all backgrounds has been the Government. Seven years of pay freezes, caps and wage increases well below the cost of living had a major impact on staffing. The welcome recent breakthrough on NHS pay only goes some way to restoring the value lost during the years of pay austerity. During this period the NHS struggled to hold onto experienced staff or recruit many of those needed to fill vacancies.
22. Since August 2017, no healthcare students have received the bursary in England. The impact has been felt in both falling applicant numbers for nursing degree courses in England and falling numbers of those eventually taking up the courses. In the current academic year, applications for nursing degrees plummeted by almost 5,000 compared to last year and by around a third in the two years since the bursary was scrapped.⁵ Of those that applied, even once additional students entering through clearing was factored in, the

⁵ "Nursing course applications have crashed by third in two years", www.nursingtimes.net/7025246.article

number that began a nursing course in September was still down by 570 on last year.⁶

23. A significant longer-term impact of bursary abolition and the imposition of fees is the fact that it hinders the ability of the NHS to plan for future student numbers: the government no longer commissions training places directly, depending instead on universities in the free market creating extra places and recruiting the students to take them up. The government's draft health and care workforce strategy recently acknowledged that "the new funding system adds a challenge to planning for future numbers".⁷ While there is this level of uncertainty it will be hard to guarantee the staffing numbers the NHS needs. The new system is also a self-defeating one for the Treasury: nursing and other healthcare students in England are incurring huge debt that on current projections they will never repay.

Ending Indefinite detention

24. UNISON shares Liberty's concerns that this Bill will increase the numbers of people at risk of indefinite immigration detention. We join them in urging parliamentarians to amend this bill to introduce a 28-day time limit for all on immigration detention.

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⁶ "Number of nursing students in England down by 500 this year", www.nursingtimes.net/7026080.article

⁷ Facing the Facts, Shaping the Future, www.hee.nhs.uk/our-work/workforce-strategy