

Written evidence submitted by UNISON (IB10)

Introduction

1. 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 as a result of this proposed legislation.

Executive Summary

2. 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.
3. We have significant concerns relating to:
 - Clause 1 and the lack of key safeguards for EU/EEA 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, particularly the social care sector;
 - the ability of the Home Office to manage millions more people being placed within an already dysfunctional immigration system.
4. The Bill gives the Secretary of State sweeping delegated powers to make changes to the Immigration system in the UK. Clause 4(2)(a) arguably gives the Secretary of State the power to modify by regulations any prior piece of immigration legislation, 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.
5. This Bill also gives the Secretary of State powers to bring an end to freedom of movement within the European Union and create a new immigration system, which looks set to close a general route to migration for work and to overseas recruitment for roles with salaries below a £25,600 threshold.
6. 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. **UNISON supports amendments that would allow greater**

parliamentary scrutiny of any legislation brought forward by the Government by to creating a new immigration system.

7. The COVID-19 pandemic has left many migrant workers in precarious situations when renewing visas and processing ILR applications. These workers have been on the frontline tackling COVID-19, whether as health and social care workers, school staff, social workers supporting vulnerable children and adults, cleaners, key workers in transportation, environmental services, delivery services and more. Many of these workers are from ethnic minority groups at heightened risk of dying from COVID-19. They are being asked to bear an enormous level of stress and anxiety – Home Office processes should not be an additional anxiety or worry.
8. UNISON strongly supports **extending the scheme to give one-year visa extensions to all workers in health and social care whose visas elapse before January 2021. We support Amendment NC17 which include all NHS and social care workers currently left out of the Government’s visa extension scheme.**
9. Members have told us of heightened stress and worries about their visa and ILR applications while also working to tackle COVID. Many have been kept in limbo with cancellation after cancellation of the Life in England test. With the suspension of expedited ILR application services, they are faced with the additional worry of surrendering their passports for 6 months, cut off from vulnerable loved ones overseas. **UNISON is calling for the Home Office to give Indefinite Leave to Remain to all key workers who are working on the COVID-19 frontline.**
10. Many migrant workers on the COVID-19 front line are also subject to ‘No Recourse to Public Funds’ (NRPF) which has led to additional financial worries and stress. In addition, NRPF leads to children living in poverty, cuts off those suffering domestic violence from vital support and leads to migrant workers feeling forced to work even if they show symptoms of COVID-19. **UNISON is calling for the suspension of NRPF.**
11. We also believe that in order to safeguard the position of EU/EEA citizens and rebuild confidence in the Home Office after the Windrush Scandal, the Bill should be amended to:
 - safeguard the position of EU/EEA citizens
 - suspend the hostile environment
 - restore key civil rights to data protection

- allow access to legal aid for those caught up within the hostile environment;

Northern Ireland

12. 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. UNISON is also concerned about the situation facing 'frontier' workers. For EU/EEA citizens in Northern Ireland the end of freedom of movement presents serious challenges, linked to the fact the Northern Ireland will be the only part of the UK sharing a land border with an EU member state. A frontier scheme was promised but there has yet to be any progress or timetable for its development or implementation.
13. That these issues have not yet been resolved with 6 months left to go is highly concerning, given the implications for people living and working in Northern Ireland.

A new immigration system

14. UNISON believes that parliamentary scrutiny and oversight is needed over the creation of a new immigration system. Current proposals pose serious problems to public services, including the 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.
15. 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. Minimum salary thresholds for Indefinite Leave to Remain applications also force skilled workers to leave public services. While the ILR salary threshold has risen every year, public service salaries have experienced a decade of pay freezes and caps. This means 'highly skilled' workers either leave the country or move to the private sector, leaving public services with recruitment, retention and training costs. The UK's immigration rules therefore militate against 'high skilled' migrants too. The impact of the immigration system on public services works to place barriers to recruitment at any skill level and to dissuade migrant workers from integrating into UK society.

16. 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.

Migration, COVID-19 and public services

17. Migrant workers in the UK are finding it difficult to renew visas during the pandemic. UNISON welcomed the recent one-year extension to migrant workers in the NHS and social care whose visas elapse before October. However, this was very limited. Many working in social care and for the NHS were not covered. **UNISON strongly supports including all workers in health and social care to this visa extension scheme. We further believe that all migrant workers who have played such a vital role on the COVID-19 front line should be given Indefinite Leave to Remain.**

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 childcare have been historically undervalued as women's work and hence badly paid but are not lower skilled or dispensable. Nor are these jobs which require limited training or are easily recruited to.

19. The indispensable and critical nature of so called 'lower skilled' work was brought into sharp relief during the onset of the coronavirus pandemic. Low paid workers whose labour is not valued as it should be are the very same people doing critical work on which we all depend. This was the case long before a public health crisis came along.

A crisis in the social care sector

20. Long standing problems with recruitment and retention in key areas of public services are set to be exacerbated further by the Government's plans for a new immigration system. UNISON has deep concerns about the immediate impact of these new proposals on the social care sector. Migrant workers are a key part of the social care workforce, but the sector already suffers from an overall lack of staff: there are currently shortages of around 122,000 staff, with projections from think tanks estimating this could double to 250,000 by 2030.

21. Demand is already projected to rise - because of demographic changes in UK society we will require an extra 1 million care workers by 2025. Social care

workers have still not been added to the Government's Shortage Occupation List. Ending freedom of movement would therefore have an immediate impact on the care sector. Closing off any general route for workers for salaries below £25,600 would compound the damage.

22. Vacancy rates in the care sector now stand at 8%, up from 6.6% in 2017 and equating to 110,000 jobs¹. There is also a high turnover, with more than 30% of care workers now leaving their jobs each year, equivalent to 390,000 workers; and staff retention rates improve when staff are paid more (and receive more training)². This high rate of turnover is contributing to a decline in standards in the sector. The poor terms and conditions experienced by care workers are the main drivers of the shortages in the sector. Estimated average earnings in the adult social care sector range from £16,400 to £18,400 across the four countries.³

23. 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.

'High skilled' immigration

24. The Government has argued that their plans will enable the UK to recruit 'highly skilled' workers more easily. Yet they put barriers for public service recruitment at either end of the points-based system. UNISON has been contacted by 'highly skilled' members working in hard to recruit occupations who have faced pay freezes and capped salaries. There has been no freeze on the minimum salary threshold for Indefinite Leave to Remain applications – which has gone up each year. One UNISON member working for local government in highway services who has a PhD in engineering and a young family faces the prospect of having to leave the country or leave public services and work for the private sector. The minimum salary threshold is £36,200 and he earns £31,371. He has turned down lucrative job opportunities in the private sector because he is committed to using his skills for public services - and he made a commitment to the UK because he did not realise that immigration controls would eventually force him to leave.

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

2 *ibid*

3 Skills for Care, *the economic value of the adult social care sector in the UK (individual country reports)*

EU/EEA citizens and settled status

25. UNISON shares the concerns of **the 3million** 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 should they fail to apply by the 30 June 2021 deadline or forget to apply/fail to meet the requirements for settled status having first acquired pre-settled status.
26. Covid-19 has negatively impacted available support services, preventing many vulnerable EU/EEA citizens from applying. The Home Office have restricted application processes, for example, preventing third country national family members from applying. UNISON members may also be outside the UK and unable to recommence or restart their continuous residence in the UK. For these reasons alone the 30 June 2021 application deadline should be extended for first time applicants for at least one year. For those with pre-settled status, we recommend the deadline to apply for settled status be set at five years after 31 December 2020 to ensure that no one is disadvantaged due to absences and breaks in continuous residence due to Covid-19.
27. We share the concerns of the 3million for these EU/EEA citizens and believe that the Government should remove the threat of deportation and time given for EU/EEA citizens to regularise their status after the deadline of 30 June 2021. **UNISON supports amendments that will safeguard the position of these citizens.**

Northern Ireland

28. This Bill has significant consequences for the citizenship provisions of the Good Friday Agreement that are of major importance to the peace process in Northern Ireland. Under the Good Friday Agreement 'the people of Northern Ireland' have birthright entitlements to be British or Irish or both and to equality of treatment regardless of that choice. In practice the legal underpinning of equality of treatment for British and Irish citizens in Northern Ireland has been provided almost entirely by EU free movement law. Whilst Irish citizens will retain EU citizenship after Brexit, the Government position has been that Irish citizens do not need to apply to the EU Settlement Scheme but instead can rely on the provisions of the Common Travel Area (CTA).
29. UNISON shares the concerns of the Committee of the Administration of Justice (CAJ) that there are number of gaps within the CTA arrangements that have not yet been clarified or resolved. We share the CAJ's concern that the 'reciprocal rights' of the CTA barely existed at all in UK law across key areas. Whilst a non-

binding MoU has been entered into since, with the exception of social security, CTA provision remains vague and in the words of Human Rights Commission reports 'written in sand'. The CTA can be characterised by loose administrative arrangements or provisions that can be altered at any time.

30. With the Settlement Scheme scheduled to close in 2021, it is therefore not possible for Irish citizens at present to make an informed choice, as it is unclear what ultimately the associated CTA rights will cover and if they will be enshrined in a legally binding manner. UNISON endorses the CAJ's briefing on the problems with the CTA and **supports any amendments that would oblige Ministers to provide a report that draws out the scope of CTA 'associated rights' with cross reference and contrast to the rights under the EU settled status scheme.**

31. In addition, tens of thousands of people cross the border on a regular basis for work. A separate frontier worker scheme for those working in the UK, but residing outside of the UK (and therefore ineligible for settled status) forms part of the Withdrawal Agreement but has yet to emerge. The CTA provides Irish and British citizens with a reciprocal right to work, though as with other aspects of the CTA this right has largely been superseded by EU law. When freedom of movement ends, the continued right to work for Irish and British citizens under the CTA will be solely based on domestic law which could be subject to change. No substantive details of the Frontier workers scheme have been published.

Exploitation in the labour market

32. Proposals for a short-term visa scheme to tackle labour market shortages in the agriculture sector are very concerning. It will 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

33. UNISON believes that skills shortages and recruitment problems require a holistic solution. 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 have had a major impact on staffing. The welcome 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.

34. The Government's decision to abolish the NHS bursary and to bring in tuition fees for healthcare students has also had a damaging effect. (So much so that the Government announced a partial u-turn in December 2019 by bringing back a maintenance grant for healthcare students, but keeping tuition fees in place). 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, with UCAS data for 2020 showing that the number of applicants for nursing degrees is down 25% on 2016, the last year student nurses' tuition fees were covered by the Government⁴.

Ending indefinite detention

35. UNISON shares the concerns of migration rights campaigners that this Bill increases the numbers of people at risk of indefinite immigration detention. **UNISON supports amendments that would put a time limit on indefinite immigration detention.**

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⁴ <https://www.nursingtimes.net/news/education/second-rise-in-student-nurse-applications-very-encouraging-06-02-2020/>