



Home Office

A review of external evidence of the compliant environment:

Literature synthesis of external evidence and best use of international examples

Home Office Analysis and Insight (HOAI)

Contents

Background.....	3
Recommendation 7	3
Reading this report	5
Part 1: Literature synthesis	7
Scope	7
Undertaking research with irregular migrants.....	7
Key findings	9
The compliant environment	9
Individual measures.....	10
Evidence gaps.....	15
Part 2: Understanding practices in other countries	17
Approach.....	17
Overall legislation	18
Proving status.....	19
Access to healthcare	20
Access to private rental market.....	21
Right to work	23
Informing the evaluation of the compliant environment	26
References	27
Appendix A: Search terms	31
Appendix B: References for the literature synthesis	32

Background

In March 2020, Wendy Williams published the Windrush Lessons Learned Review. Commissioned on 2 May 2018 by the former Home Secretary, the review examined “the key legislative, policy and operational decisions that led to members of the Windrush generation becoming entangled in measures designed for illegal immigrants” and aimed to “identify the key lessons for the Home Office going forward (Williams, 2020).”

The review resulted in 30 recommendations which were accepted by the Home Secretary in June 2020. Following this, in September 2020, the Home Office published its Comprehensive Improvement Plan setting out how the recommendations would be taken forward (Home Office, 2020a).

Recommendation 7

Recommendation 7 of the Windrush Lessons Learned Review stated, *“The Home Secretary should commission officials to undertake a full review and evaluation of the hostile/compliant environment policy and measures – individually and cumulatively. This should include assessing whether they are effective and proportionate in meeting their stated aim, given the risks inherent in the policy set out in this report, and its impact on British citizens and migrants with status, with reference to equality law and particularly the public sector equality duty. This review must be carried out scrupulously, designed in partnership with external experts and published in a timely way (Williams, 2020).”*

The compliant environment is a series of administrative and legislative measures that aim to deter immigration offending. The compliant environment aims to: discourage those who may be thinking of coming to the UK unlawfully from doing so; secure compliance and support the enforcement of UK immigration laws; protect taxpayers’ money; and protect vulnerable migrants from the risk of exploitation by unscrupulous employers and landlords (Williams, 2020).

As set out in the Comprehensive Improvement Plan, there are six strands which make up the compliant environment:

- **Work** – employers should make sure prospective employees have the right to work in the UK. An individual will not be able to work if they do not have permission to live in the UK **and** to work here.
- **Housing** – landlords should make sure prospective tenants have the right to rent a property in England. If an individual does not have permission to live in the UK, they will not be able to rent a privately owned property.
- **Public Funds**– An individual must have permission to live in the UK **and** to access public funds to claim most benefits, like Universal Credit or Child Benefit. If the permission to stay ends, payments for existing benefit claim(s) will also be stopped. If someone has paid National Insurance contributions, they may still be able to claim contributory benefits.
- **Health** – an individual may be asked to pay for some types of healthcare if they are not lawfully living in the UK on a properly settled basis. Whether someone pays may differ depending on location in the UK, but treatment considered to be immediately necessary or urgent will always be provided, even if someone has not paid in advance

- they will be asked for payment afterwards. If someone does not pay for the cost of treatment, future applications for permission to enter or stay in the UK may be refused.
- **Banking** – an individual must have permission to live in the UK to hold a current account. If they do not, they will not be able to open a current account. If someone stays in the UK without permission and already has an account, it will be closed.
- **Driving** – an individual must have permission to live in the UK to hold a UK driving licence. Someone's application will be rejected if they do not have permission. If someone stays in the UK without permission and already have a licence, it will be revoked.

Various governments have put in place the legislation underpinning the six measures, as shown in List 1.

The purpose of Recommendation 7 is for the Home Office to examine the impact of these measures both individually and cumulatively.

List 1: Timeline of policies to restrict access to work, benefits and services in the UK

- **1982:** First NHS treatment charges for overseas visitors and irregular migrants.
- **1996:** First controls restricting asylum seekers' access to benefits introduced in the Immigration and Asylum Act 1996 come into force.
- First controls of migrants' access to social housing assistance introduced in the Housing Act 1996 come into force.
- **1997:** First controls restricting asylum seekers' access to benefits introduced in the Immigration and Asylum Act 1996 come into force.
- **2000:** Comprehensive controls on temporary and irregular migrants' access to state benefits introduced in the Immigration and Asylum Act 1999 come into force.
- **2003:** Controls on irregular migrants', European Economic Area (EEA) migrants' and asylum seekers' access to local authority social care introduced in the Nationality, Immigration and Asylum Act 2002 come into force.
- **2007:** The Security Industry Authority introduces immigration status checks on all non-EEA nationals applying for a security licence.
- **2008:** New legislation introduced in the Immigration, Asylum and Nationality Act 2006 comes into force. This means that the offence of employing an illegal worker is replaced by a new system of civil penalties, with prosecution for knowingly employing

illegal workers, alongside a renewed campaign encouraging employers to conduct right to work checks.

- **2014:** Introduction of Immigration Act 2014. This introduces Right to Rent checks; measures to prevent those with irregular status from opening bank accounts and powers to revoke driving licences. It also increases employer fines for illegal working.
- **2016:** Introduction of Immigration Act 2016. This introduces new sanctions in relation to illegal working and strengthens legislation around preventing irregular migrants from accessing housing, driving licences and bank accounts.

Changes in response to the Windrush Review

In response to the Windrush scandal, the Home Office has made several policy and operational changes to prevent a similar scandal happening again. These include improving decision-making processes, introducing new safeguards in the data-sharing process, and improving guidance for employers and landlords undertaking right to work and rent checks.

This is part of the ongoing commitment to review the measures of the compliant environment individually and collectively. The changes have come into force gradually since 2018.

Reading this report

Evaluating the compliant environment is complex. A critical part of designing a full review of the compliant environment is to fully scope the remit of the evaluation through assessing the existing evidence base and identifying gaps. This report is part of the work to do that.

The report comprises two parts:

Part 1 is a rapid evidence assessment (REA) (HM Treasury, 2020) of existing academic and grey literature¹ on the compliant environment, exploring key themes and gaps coming out of the assessment.

Part 2 looks at how a few European countries manage access to public services, and how these compare to the UK compliant environment. This review aims to explore what lessons we can draw from other countries and how best to use international studies in evaluating the compliant environment.

Together, these two parts present initial steps in understanding the evidence base on compliant environment measures and their effectiveness.

This initial work also highlights key research gaps and intends to help form the basis for an evaluation strategy that can assess the effectiveness and proportionality of the compliant environment. This evaluation strategy will need to address a range of different measures, data

¹ A term used to describe a range of evidence and literature not published in a commercial publication, for example reports by charities or government.

sources and research questions. Future reports will set out our proposed approach in more detail and the learning from this initial research will inform the design of further evaluation.

Note that this report focuses on external literature and does not cover any Home Office publications or reports that are based on Home Office data such as Independent Chief Inspector of Borders and Immigration (ICIBI) or National Audit Office (NAO) reports. Including reports in this review does not mean that the Home Office considers the findings correct or robust.

Part 1: Literature synthesis

Scope

An REA methodology was used to review and synthesise evidence on the compliant environment and the measures within it. This approach provides a structured method for literature searches and quality assessment of the evidence. While not as exhaustive as a systematic review, it is quicker to conduct, and a widely used technique in government evaluation, included in the HM Treasury Magenta Book – evaluation guidance in government (HM Treasury, 2020). The REA was used to gain an overview of the volume of publications in the area and the quality of evidence, which helped choose which information to review in more detail. The scope of the review comprised:

Time period: Policies to ensure only those with rights to access work, benefits and services do so have been in place for decades and have been amended and developed by successive governments. However, in line with the approach adopted in the Windrush Lessons Learned Review, this review has focused on literature published between July 2014 and the end of 2020, when we completed the work².

Literature included: We used academic and grey literature in this review to draw on the widest evidence base possible.

Searches: We used search terms based on the six measures, the compliant environment; and the hostile environment (see Appendix A for details).

Once we identified relevant literature, we screened it against the following criteria:

- specificity to the UK (e.g., drawing on UK experience and policy).
- relevance to the policies comprising the compliant environment and their impact.
- use of primary or secondary research, whether original studies conducted by the authors or reviews of existing evidence (but not opinion or argumentation pieces), with a focus on independent analysis.
- methodology – robustness of approach and available methodological details.

Using the criteria set out above (i.e., specificity to the UK, relevance, use of original research and methodology), we assessed 125 studies and included findings from 29 papers in the literature synthesis, references for which are included in Appendix B.

Undertaking research with irregular migrants

We used a content analysis to extract key themes from the available evidence and identify gaps in relation to the effectiveness, proportionality, and impact of the compliant environment, and its six strands.

Several studies involve research with irregular migrants directly. Undertaking research with irregular migrants can be challenging due to the sensitivities of the topic area and the difficulties of identifying the size and composition of the irregular migrant population,³ which

² Note that while we have included published evidence for this specific time period, the synthesis does include some research where fieldwork took place prior to 2014.

³ See Walsh & Sumption (2020) for a discussion of recent external studies on the size of the irregular migrant population.

would help provide for a larger or more representative sample. This causes difficulties with evaluating policies that aim to reduce irregular migration as it is challenging to assess their true impact. As a result of the challenges of irregular migration research, many of the studies included have engaged small samples of irregular migrants with a variety of non-probability⁴ sampling methods used. These studies, while not statistically representative and therefore not generalisable to all irregular migrants, provide valuable insights into the lived experiences of those irregular migrants who are included, and those in the operational environment who are involved in implementing the measures, such as landlords and employers.

This review has not been stringent on the degree of methodological rigour required from research to include in this assessment, recognising the challenges involved in researching this topic area. Therefore, we have included some studies with relatively little information on methodology and/or sampling strategies where we believe they add additional insight.

⁴ Individuals are selected based on subjective non-random criteria which means that not everyone in a population has the same chance of being included.

Key findings

This section presents key findings both in assessing the impact of the compliant environment as a whole and by individual measure.

The compliant environment

Most of the studies found covered the compliant environment as a whole rather than individual measures, albeit from different perspectives. Authors differ somewhat in defining the compliant environment, which may not necessarily align with the Home Office definition used in the introduction to this report.

In terms of the literature reviewed, a summary of key themes from the analysis is presented below.

Complexity of immigration law

Multiple studies note the complexity of the measures and the challenges around co-ordination and communication between the Home Office and different stakeholders involved in enforcing compliant environment policies. Stakeholders involved include other government departments, landlords and banks (Karamanidou, 2019). An increase in legislation volume also reflects the complexity; Aliverti (2016) notes a drastic increase in actions being deemed immigration offences since 2009.

Studies also refer to difficulties faced in interpreting and carrying out the policies in practice by those with legal obligations to carry out checks (Leahy et al., 2020). They point out that complexities can lead to those tasked with enforcing the policies, such as landlords and employers, to act erroneously and refuse opportunities to those with legal rights, for example refusing EU nationals jobs or not accepting their documentation, such as ID cards, as valid⁵ (Yuval-Davis et al., 2018).

Attitudinal and behavioural changes among those enforcing the compliant environment

Several studies argued that the complexity of compliant environment measures led those enforcing policies to adopt cautious strategies relating to anyone without a British passport. For example, some studies suggested that people with the right to live in the UK who did not have a British passport were discriminated against in Right to Rent checks (Mykkanen et al., 2017). The Home Office has commissioned [additional research](#) looking into this issue within Right to Rent in more detail which found no evidence of systematic unlawful discrimination as a result of the scheme.

Some studies explored how employers deliberately take advantage of migrants' irregular status to exploit them by using excessively long hours, low pay, poor work conditions and coercion strategies to control workers (Bloch et al., 2015).

Overall, the research highlights how the compliant environment has had different effects on a range of different actors – from those enforcing the measures, to those who have been personally affected.

The studies suggest that the compliant environment has affected the behaviours of different groups. However, it is much less clear, drawing on the existing evidence base, the extent to

⁵ Note that this refers to before the UK's exit from the EU.

which the compliant environment has had its intended effects of deterring irregular migration or leading those with no recourse to regularising their status to leave the UK.

Routes into the compliant environment

Several studies identified that the compliant environment is complex, owing to the multiple different routes that lead migrants to be affected by the different measures. This includes not only those arriving without permission or documentation but also people who entered legally and have since seen their legal rights expire. One study (Düvell et al., 2018) identified three broad types of irregular migrants based on their motivations: those arriving in the UK intending to be non-compliant with immigration law, to better their personal situation; those who having originally visited the UK to travel, visit family or study before experiencing life events which made them decide to overstay; and those who became irregular unintentionally, for example, by being misled by others, such as employers, who had originally suggested their situation would be regularised. Other reasons to stay among these groups could include a changing political situation in their country of origin or personal reasons (e.g. starting a relationship).

Other studies examined this issue from the perspective of specific groups, for example, those who entered the UK as children and unknowingly ended up with an irregular status (Bawdon, 2014) and those who entered the UK knowing that they were irregular migrants (Bloch et al., 2015).

The compliant environment effect on migrant behaviour

Several studies highlighted how concerns regarding enforcement activities can drive migrant behaviour, such as fear of sanctions or inspections. (Düvell et al., 2018; Bloch et al., 2015). Migrants adopt strategies to avoid detection while within the UK, such as working in sectors where they think inspections are less likely (such as construction rather than catering); changing jobs frequently; or working outside big cities where they assume there are fewer inspections due to a perceived lower number of migrants living in these areas.

However, while studies outlined clear impacts of the compliant environment on migrants' everyday lives in the UK, they noted that these did not lead to irregular migrants leaving the UK or deter immigration offending. Instead, irregular migrants have remained in the UK and adapted their behaviours to try to avoid detection (Bloch et al., 2015). Studies noted that this can have a direct impact on service use, for example deterring someone from accessing health care when they need it (Nellums et al., 2018). This impact on service use is driven by perceptions of immigration enforcement, whether accurate or not.

Multiple studies also noted that these changes in behaviour resulting from compliant environment measures indirectly led to displacements of costs elsewhere within service provision. For example, in accessing healthcare, fear of being charged led to overreliance on A&E services, which are free to all, unlike secondary healthcare (Poduval et al., 2015).

Individual measures

In terms of individual measures, this review identified studies covering the areas of right to rent, access to public funds, right to work and access to healthcare. This review did not identify any reports looking at driving or access to financial services in detail within the search inclusion criteria.

Overall, the number of studies focusing specifically on individual compliant environment measures was relatively limited indicating that there are still important gaps in the understanding of the measures' impacts.

The Right to Rent Scheme

Under this measure, private landlords and letting agencies in England must not let a property to someone without lawful immigration status. They are advised to carry out a Right to Rent check on all prospective tenants before a tenancy commences to ensure they have lawful immigration status in the UK. They should then carry out follow-up Right to Rent checks if the individual's permission to be in the UK is time limited. There are penalties for non-compliance, including financial penalties or a custodial sentence in the most extreme cases.

Studies in this area have often attempted to use surveys as a way of achieving consistent and robust data on their perceptions around this measure. For example, the former Ministry of Housing, Communities and Local Government (MHCLG: now Department for Levelling Up, Housing and Communities) runs a regular survey with English private landlords and letting agents (MHCLG, 2019). The survey briefly explored the knowledge and uptake of Right to Rent checks with letting agents and landlords, with by larger landlords being most likely to be aware and undertake checks.⁶ The study also found that landlords and letting agents were less willing than agents to rent to certain groups, in particular those on housing benefits (with 52% of landlords and 37% of letting agents reporting unwillingness to let to this group) but also, to a lesser degree, those with non-British passports (with 25% of landlords and 10% of letting agents expressing unwillingness). However, the reasons for the disinclination to let to those with non-British passports were not explored in detail.

Another study (Mykkanen & Simcock, 2018) explored this policy in more detail via a survey with landlords, finding that fear of prosecutions had led landlords to become more reluctant to rent to anyone without a British passport.

Whether the Right to Rent policy encouraged discrimination was identified in multiple studies (Grant et al., 2017; Mykkanen & Simcock, 2018), which reported evidence of landlords preferring to rent to those with British passports, affecting not just irregular migrants but also those with lawful status in the UK. The Home Office's [publication on the Right to Rent Scheme](#) specially focuses on whether discrimination is a key factor in landlords and letting agents' decisions finding it is not.

Several studies (Crawford et al., 2017) argued that many landlords did not fully understand their Right to Rent Scheme obligations, and that Home Office guidance was unclear. For example, the studies found evidence of landlords' unwillingness to rent to EU or EEA nationals, highlighting general misunderstanding of the Right to Rent policy among this group. Evidence from one study found that landlords were more reluctant to engage with prospective tenants who were not British or did not have a British passport than those who did.⁷ Based on this study's findings, Britons without a passport were more likely to face rejection; however, Black, Asian and Minority Ethnic (BAME) Britons without a passport would also potentially be more likely to receive a negative response to a tenancy application than a White British citizen without a passport (Patel & Peel, 2017).

Access to public funds

Access to benefits will depend on the immigration status of a migrant. There are some benefits that are available to all (for example contributory or statutory benefits), but other benefits (such

⁶ Proportion of those who had carried out right to rent checks: 87% agents; 77% landlords with five or more properties; 65% with two to four properties; and 53% of landlords with one property.

⁷ A total of 316 survey responses were received from landlords and agents. The mystery shopping included seven fictional personal profiles sent to a total of 750 online adverts.

as child benefit, income support or housing benefit) are restricted by immigration status and having recourse to public funds.

Migrants with indefinite leave to remain can access benefits, but temporary immigration status generally comes with a No Recourse to Public Funds (NRPF) condition, i.e. the applicant accepts that, as part of the conditions of entering the UK, they cannot access benefits as it is expected that they can support themselves. Irregular migrants also cannot access public funds.

Where a migrant's legal status has lapsed, the Home Office shares data with the Department of Work and Pensions (DWP) or Her Majesty's Revenue and Customs (HMRC) to help prevent those who are not entitled to benefits from accessing them.

The limited research identified on access to benefits has tended to concentrate on the operation of the NRPF condition. The small number of studies in this area focus on the experiences of those with no recourse to state benefits who need assistance, and therefore rely on other sources of support. A study noted that NRPF could often disproportionately affect families with children (Jolly, 2018). Another study explored children and young adults' experience of NRPF, and the negative impacts brought on by limited access to services such as public housing or benefits (Dickson, 2019).

Another questioned the effectiveness of NRPF as, while it may halt some migrants from accessing public funds, the researchers asserted that in practice it simply displaces costs by leaving local authorities to provide support instead, often leaving those in need without an adequate standard of living (Jolly, 2019).

Further studies pointed to the complexity of the legislation, lack of guidance and varying level of subsistence rates among local authorities. This led to variation between different local authorities' levels of support to those with no access to public funds (Jolly, 2019). Another study noted that local authority support was not sufficiently advertised to families with NRPF (Dickson et al., 2020).

One study investigating the experience of a few families with NRPF highlighted a lack of awareness of the potential impact NRPF may have on those accepting this condition as part of the visa application process (Odumade & Graham, 2019).

Studies in this area did not cover the experience of benefits being withdrawn due to no longer being eligible to live and work in the UK.

The Right to Work Scheme

Employers conduct checks on prospective employees to ensure they have the correct status for the employment in question. Failure to conduct the correct checks can lead to civil penalties, or prosecution in the most serious cases.

The Home Office also exchanges data with other departments, including HMRC. These data-sharing arrangements alert employers to employees who may not have a regular immigration status, or those that have regular status that is due to expire, so that the employer can take appropriate action (i.e. nudge letters). The department also conducts enforcement operations against employers suspected of employing irregular migrants.

There were relatively few studies in this area, although some included information directly from migrants, outlining their experience of Home Office inspections and strategies for living with the threat of detection (moving often and avoiding sectors with frequent inspections). They also touched on potential abuse by employers exploiting their irregular status. (Bloch et al.,

2015). Findings were mixed in terms of how irregular status affected migrants' ability to find work. Some felt it reduced their employment choices, while others felt it was relatively easy to find a job as an irregular migrant.

Other studies focused on employers' perspectives (Yuval-Davis et al., 2018), arguing that it could be difficult for employers to assess someone's right to work, leading to potential negative outcomes for those without a British passport. One study (Bloch & McKay, 2015) noted the complexity around recruitment practices and employer preferences, drawing on interviews with employers who tended to recruit others from the same ethnic community. Low cost was not necessarily the key driver for employing irregular migrants; instead, a complex range of motivations which included social obligations, cultural preferences and availability of workers were considered alongside economic considerations. The study also noted a clear awareness among employers of the risks relating to employing irregular migrants, and implications of any fines on their business. However, awareness of risks did not necessarily act as a deterrent, as the other previously mentioned motivations also affected an employer's decision (Bloch & McKay, 2015).

To assess impacts, one study suggests that the barriers to legal work can lead migrants into vulnerable employment situations similar to enforced labour, arguing that the compliant environment measures are in tension with the Modern Slavery Act (Hodkinson et al., 2020).

The studies related to right to work focus on employer checks and Home Office inspections and do not cover other Home Office activities in this area, such as letters to employers encouraging them to check the immigration status of their employees.

Access to healthcare

The NHS is a residency-based healthcare system and so only people who are 'ordinarily resident' in the UK, or otherwise exempt from charges under the NHS (Charges to Overseas Visitors) Regulations (the Charging Regulations), are eligible for free care. Being ordinarily resident broadly means living in the UK on a lawful and properly settled basis for the time being, with individuals subject to immigration control also requiring 'indefinite leave to remain' in the UK.

Primary care and accident and emergency services⁸ are free for all in the UK. Primary care is defined as the first point of contact to the healthcare system and includes all general practice services and community pharmaceutical, dental and optometric services (NHS England, n.d.). The remainder of healthcare is defined as secondary care.

All temporary migrants coming to the UK for longer than six months pay the Immigration Health Surcharge⁹ at the point of visa application as a one-off payment (HM Government, n.d.a), even if they have private healthcare insurance (NHS England, 2021). This allows them to access NHS services without further charge.¹⁰ The charge does not apply for those seeking to come to the UK for up to six months or for those applying to stay in the UK indefinitely (HM Government, 2020). Since 2015, people who are not ordinarily resident in England and have not paid the Immigration Health Surcharge (irregular migrants, expatriates or visitors) have been charged 150% of any secondary healthcare treatment costs they incur, subject to certain exemptions, although note that healthcare charging regulations vary in the devolved administrations. Clinicians will always provide care that is immediately necessary or

⁸ As well as some specific other treatments.

⁹ With the exception of those on a Health and Care visa.

¹⁰ Though there are some exceptions, including assisted conception services.

considered urgent¹¹ without delay regardless of the patient's ability to pay. However, the treatment is not provided for free; if not yet recovered, the NHS will pursue charges after providing the treatment. Non-urgent treatment needs to be paid for upfront and should only be carried out after payment has been received.

As part of the compliant environment, debts are reported to the Home Office when they are for more than £500 and have been outstanding for more than two months with no repayment plan. Since 2011, people with outstanding NHS debts and no repayment plan can be refused new grants of leave to enter or remain in the UK. However, this is not a mandatory ground for refusal.

Studies of this measure focused on actual and perceived barriers to healthcare for various migrant groups, particularly asylum seekers. Several of the studies referenced the policy to charge failed asylum applicants for healthcare.

A selection of studies focused on access to healthcare by exploring the impacts of NHS charging regulations using interviews with undocumented migrants and stakeholders in the healthcare sector. Experts, including government officials, healthcare providers and charity workers, expressed concerns that charging regulations could severely affect access to healthcare and that migrants already faced barriers in culture, language and GP registration (Britz & McKee, 2015).

Another study specifically explored the impact of a data-sharing agreement between the Home Office and the NHS. The agreement, in place from January 2017 to November 2018, allowed the Home Office to request personal demographic information from NHS Digital about irregular migrants who were previously known to the Home Office but had lost contact with the immigration system. Medical professionals participating in the research argued that awareness of this data-sharing agreement could lead to behavioural changes such as avoiding seeking healthcare in a timely manner or giving false contact information to avoid detection. Some medical professionals felt that the data-sharing agreement contradicted the ethical principles of confidentiality and consent. The study suggested that the lack of awareness of the agreement among many migrant patients could also be problematic (Papageorgiou et al., 2020).

At a community level, risks of migrants facing barriers to accessing healthcare also had negative implications for public health; for example, in one study, healthcare staff spoke about the possibility of infectious diseases spreading further if primary care became chargeable in the future. Barriers to healthcare access and lack of understanding of eligibility also led to increased use of other parts of the NHS instead, such as accident and emergency services (Poduval et al., 2015).

Interviews with asylum seekers (Kang et al., 2019) further highlighted barriers to access, such as awareness of services, language and affordability. Some of the asylum seekers interviewed also reported a feeling of being treated differently due to their immigration status or foreign background by staff at GP surgeries. Another study also highlighted fear and misconceptions around how data were shared between the NHS and the Home Office, and how this, coupled with unpaid healthcare bills, would discourage those interviewed from seeking hospital care (Nellums et al., 2018).

¹¹ Urgent treatment is defined as treatment that cannot wait until someone returns home – for irregular migrants this timeframe is decided on a case-by-case basis but is often six months.

Evidence gaps

This literature synthesis has highlighted some important research across many of the policy areas that make up the compliant environment. However, it has also highlighted some important gaps in terms of topics to be explored as well as the existing extent of research in specific compliant environment policy areas.

This section outlines some areas that may warrant further exploration and which the wider compliant environment evaluation should consider.

Unintended consequences

Several studies explored for this review have touched on the complexity of implementing the compliant environment policies, and the way this could potentially lead to inconsistencies in enforcement and consequently to negative unintended consequences. For example, whether the risk aversion of those enforcing the policies, such as employers and landlords, could potentially lead to discrimination has been assessed. This is a particular concern raised in studies related to the Right to Rent Scheme (Patel & Peel, 2017), (Mykkanen & Simcock, 2018) but was also alluded to in some studies relating to right to work (Yuval-Davis et al., 2018),

Only a few studies from this time period specifically explored the impact of the compliant environment on those who are British citizens or have lawful status. Note that the time period reviewed here partially predates the Windrush scandal.

Some studies alluded to the possibility that those without a British passport or not perceived to be British may face discrimination. For example, some of the studies of right to rent indicated that landlords preferred being presented with a British passport as an ID document when conducting checks (Grant & Peel, 2015; Mykkanen & Simcock, 2018).

How the compliant environment is driving behaviour

Research reviewed has tended to focus on the experience of migrants living with reactive controls, rather than any deterrent effect of the measures.

Some qualitative evidence from migrants and employers has suggested that the policies do not serve as a deterrent from breaking immigration law for migrants already in the country (Düvell et al., 2018; Schweitzer, 2017).

Further research is needed to understand the role government policies play in decision making and in driving behaviour around immigration. This is the case for irregular migrants and those who employ or rent to them.

Individual measures

The number of studies on individual policy measures varies considerably, with no studies found that assess the impact of driving and banking measures. However, even in the areas that are relatively well covered, many studies raise important points, but are relatively small in scale. The studies also tend to focus on parts of the measures, such as inspections or rules around access, rather than any one measure as a whole. There is scope to carry out more research across all measures to assess their impacts in a more consistent manner. However, it is worth noting the difficulties in carrying out large-scale research with irregular migrants, which would present a challenge for any future study.

The cumulative effect of the compliant environment

Most studies centre on specific themes related to the compliant environment, and although some attempt to summarise the wider implications of the policy (Schweitzer, 2020), the compliant environment's cumulative effect is not covered extensively. There is therefore scope to explore this area in more detail.

Part 2: Understanding practices in other countries

Approach

Part 1 focused on the UK and on the external evidence available related to the compliant environment. This section looks at how the evaluation of Recommendation 7 can best draw on evidence from other countries.

Reviewing practices in other countries can be complex and resource intensive, particularly since the compliant environment comprises several different policy areas underpinned by different types of regulations which are usually not applied in the same way in different countries. Language can also be a barrier to accessing the most up to date and relevant information.

To better understand how the compliant environment review can draw on international examples going forward, this report explores the measures in place in France, Germany and Spain that govern access to healthcare, work and the private rental sector. We chose these three measures because they are vital services and how access is managed will be relevant to all irregular migrant groups.

The report explores access to measures in France, Germany and Spain, as these countries have relatively comparable welfare structures. The UK was a member of the EU until recently, and hence all compared countries have been underpinned by similar legislation, although the implementation and operation of systems might be different.

These countries are relatively similar to the UK in terms of total population and are also three of the four EU countries with the highest number of found irregular migrants.¹² This combination of similar sized countries and high rates of irregular migration suggested that the initial review should focus on these particular countries.

The intention of this review is to look at four countries' rules around access to health, work and housing in general, as well as regulation related to irregular migration. Where possible, the review attempts to assess whether the UK's compliant measures are also in place in some way in France, Germany and Spain. This review does not aim to reflect all policies dealing with irregular migration in these countries.

This review has used information from a range of publicly available sources, mainly in English. This includes grey literature¹³ such as information from the European Commission and official government websites of the countries reviewed. We accessed the information using online searches and by liaising with analysts from the European Commission's European Migration Network (European Commission, n.d.a) to confirm our understanding of these other systems and gain their insights in this area where possible.

¹² In 2019, 70% of all those found to be irregularly present in the EU were based in Germany, Greece, France and Spain (Eurostat, 2020).

¹³ A term used to describe a range of evidence and literature not published in a commercial publication, for example reports by charities or government.

The review focuses on the national legislation in each country. In some cases, EU law will underpin some rules, such as ID card design or the illegal immigration penalties for employers Directive (EUR-Lex, 2016) but reviewing EU legislation in detail is outside of the scope of this review. It should also be noted that the UK, while a member of the EU, did not have to opt into legislation related to Justice and Home Affairs including the Directive on illegal working.

Note that with freedom of movement in the EU, all EU nationals are treated the same and have similar rights and obligations. In terms of rights for nationals outside the EU/EAA/Switzerland, the term 'third-country national' is used.

Note: This review took place in 2020, i.e. prior to the end of the transitional period for the UK's departure from the EU and new UK Immigration policies being introduced.

Overall legislation

Overview

All the countries reviewed have complex systems of laws regulating migration. To some extent, each country's history of migration will also have affected legislation over time.

UK

The 1971 Immigration Act is the foundation of the UK's immigration system and sets out the key principles for managing immigration to and in the UK (Immigration Act 1971). Subsequent legislation, as well as sanctions and restrictions, have been applied in UK policy over several years. The 2014 and 2016 Immigration Acts built on previous legislation and developed these much further, for example introducing specific obligations on other agencies outside the Home Office to carry out checks on someone's immigration status and increasing penalties for employers using illegal workers. (See List 1 at the start of this report for a timeline of key developments in immigration law).

France

Most matters regarding the management of migration are documented in the Code of entry and stay of foreigners and right of asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile (CESEDA) initially passed in 2004. This covers the management of those seeking asylum and those in the country illegally, as well as legally residing foreign nationals. There have been several amendments and additions to this law over the years. The most recent modification of the Code occurred in 2021.

Germany

Illegal entry and residence are managed by Section 95 of the Residence Act. The Act came into force in 2005, with amendments to the Act taking effect in 2008 as amended and promulgated in the 1 March 2020 version (Bundesministerium der Justiz & Bundesamt für Justiz/Federal Ministry of Justice & Federal Office of Justice (BMJ & BFJ), n.d.a). The Act requires all people living in Germany to have the relevant residence permit. This control is in place to support German residency law, which aims to manage migration in a way that supports Germany's labour market and community integration aims. Those found to be living in the country in breach of the Act are required to leave and can be deported (Bundesministerium des Innern und für Heimat/Federal Ministry of the Interior and Homeland, (BMI), 2021a).

The Residency Act is comprehensive and includes rules for migrants accessing work and education, as well as penalties for companies employing people illegally.

Spain

The main law which regulates the immigration of non-EU citizens in Spain is the Immigration Act 2009 (Baltic Legal, 2019). In addition to standard work, student and residency visas, residency can also be granted if someone makes a significant financial investment in Spain, based on Law 14/2013 on support for entrepreneurs and their internationalization. Standard visas are valid for one year, after which they need to be renewed every two years, whereas investment visas are valid for two years, after which they need to be renewed every three years.

Proving status

In terms of proving rights, the documentation required varies depending on the country's approach to identity management, the person's legal status and the time spent in the country. All countries, except the UK, issue national identity cards to their residents that are used to prove identity and to access some services.

In France, identity documents are compulsory, as well as visa or residence permits for third-country nationals to prove their right to legal entry and residency. Non-EU nationals staying for longer than three months are required to hold some form of residency card (depending on their grounds for staying in France) which specifies the timescales of residency allowed (Service-Public, 2020). This means residence permits show someone's residency rights and can be used to access some services such as healthcare or social/family benefits.

In Germany, ID cards are mandatory for all those lawfully present, including for third-country nationals since 2011, when electronic residence permits were introduced, replacing permit stickers in passports and other residence permits (BMI, 2021b).

In Spain, national identity cards are compulsory for all residents. Third-country nationals with permission to reside in Spain for more than six months must apply for a Tarjeta de Identidad de Extranjero/Foreigner's Identity Card (TIE). This is an ID card which proves that they hold lawful status in Spain (Ministerio del Interior/Ministry of the Interior, 2013a).

The UK also issues Biometric Residence Permits and Cards (BRP/Cs) but only for third-country nationals granted permission to stay in the UK for longer than six months, for example foreign students or those with work visas. The UK Government is in the process of replacing physical BRP/Cs by introducing digital status for migrants residing in the UK lawfully. Some immigration routes, like the EU Settlement Scheme, have already moved to this new approach.

Therefore, in the countries considered in this review compared to the UK, ID cards showing someone's residency rights can be used to access services. As most residents have an identity document, including both foreigners and resident nationals, ID checks are commonplace, hence becoming embedded in wider processes for managing access to services, work and the private rental sector.

The following sections present further detail on healthcare, work and rent.

Access to healthcare

Overview

All countries included in this review require a person to have residency status before they can access non-emergency healthcare. All emergency healthcare is free but what constitutes an emergency can vary. Germany and France require all residents to hold health insurance, while in Spain and the UK contributions are made via wider social security/national insurance systems. Spain broadly offers irregular migrants the same healthcare options as those legally in the country. Germany also offers free services beyond emergency care, but social welfare officers handling the subsequent claims must report anyone not legally in the country to immigration authorities. In the UK, emergency healthcare and primary healthcare is free.

UK

Primary care services, which include general practice services, community pharmaceutical, dental and optometric services, are free for all in the UK regardless of immigration status (NHS England, n.d.). This also applies to accident and emergency care, and testing and treatment for certain infectious diseases, including Covid-19. The remainder of healthcare treatment, known as secondary care, is free only if someone is ordinarily resident¹⁴, covered by a reciprocal healthcare agreement between the UK and their country or has paid the Immigration Health Surcharge (HM Government, n.d.a).¹⁵ In England, those who are not entitled to free secondary care are charged 150% of the treatment cost: in the other devolved administrations they are charged 100%.

The first step to accessing non-emergency care in the UK is to register with a GP, although this does not mean that all healthcare will be free.

A person may be required to show a Biometric Residence Permit or digital evidence of their immigration status, as well as other documentation or evidence, to determine whether they are entitled to free secondary healthcare i.e. are ordinarily resident in the UK or have paid the Immigration Health Surcharge. Some checks are completed by data sharing between government departments.

Those not entitled to free secondary care, including irregular migrants, will need to pay for treatment upfront unless deemed urgent by the healthcare practitioner¹⁶ or immediately necessary, in which case they can pay afterwards. Debts of £500 or more that have been outstanding for two months with no repayment plan are reported to the Home Office, meaning that debtors can be refused new grants of leave to enter or remain in the UK. However, this is not a mandatory ground for refusal.

France

The state guarantees and underwrites access to healthcare, and residents are generally required to make mandatory contributions towards their health insurance. There is also an

¹⁴ A person is ordinarily resident if they are living in the UK: 1) lawfully, 2) voluntarily, 3) for settled purposes as part of the regular order of their life for the time being, whatever the duration. People subject to immigration control must have indefinite leave to remain to be classified as ordinarily resident.

¹⁵ Subject to some exceptions, for example, asylum seekers are entitled to free treatment.

¹⁶ Urgent treatment is defined as treatment that cannot wait until someone returns home. For irregular migrants, this timeframe is decided on a case-by-case basis but is often six months.

option to complement this insurance to gain additional coverage (Vie Publique, 2021). Since 2016 there is a simplified system, Protection Universelle Maladie/universal health protection (PUMa), whereby a person who is going to be residing legally in France for longer than 90 days can access healthcare (Ameli, 2021). Those employed are required to register for social security (Welcome to France, 2021a) and obtain private or public health insurance. This health insurance usually covers 70% of the cost of receiving treatment (depending on the type of treatment). In some cases, employers will be responsible for providing health insurance. Further support can be provided if people are below certain income thresholds. Proof of legal residency is required to register for PUMa.

Irregular migrants who have resided in France for at least three months and are under a specific financial threshold¹⁷ can access free primary and secondary healthcare via L'aide médicale de l'État/state medical assistance (AME¹⁸). They must apply to get access and renew this annually (Service-Public, 2022).

Germany

As with France, health insurance in Germany is compulsory. There are three different types of health insurance available: public, private and expat. All German residents can access public insurance, which is funded by statutory contributions, and then choose to take out private insurance to top up or replace the public insurance. Registering for social security is mandatory before registering for insurance. Health cards are electronic and contain health insurance information, which is scanned when visiting medical services. Asylum seekers can access healthcare without being registered for social security, either via medical treatment vouchers or e-cards (Bundesministerium für Gesundheit/Federal Ministry of Health (BMG), 2016).

Healthcare insurance is a pre-requisite of the visa application as anyone applying for a visa must demonstrate self-sufficiency, which includes being able to pay for healthcare. The insurer issues health insurance cards, which need to be shown to access healthcare.

Irregular migrants in Germany have access to free emergency and maternity care. Hospitals can apply for reimbursement from the Social Welfare Office when treating irregular migrants in an emergency, without disclosing their information. However, free access to any care that is not deemed an emergency does need to be approved by a Welfare Office, which is not a confidential process (Platform for International Cooperation on Undocumented Migrants (PICUM), 2016).

Spain

Spain has a universal healthcare system. Those insured under the national social security system and their family members are entitled to free healthcare. The national social security system insures those in work, pensioners and those who are receiving unemployment benefits or allowances, so long as they are legally residing in Spain. Third-country nationals residing legally in Spain must first show that they have not been provided healthcare by other means, including via their country of origin (European Commission, n.d.b).

Emergency care is available to all regardless of residency. In 2018 Spain expanded irregular migrants' rights in terms of healthcare (Boletín Oficial del Estado/Official State Gazette (BOE), 2018). However, for care to be free of charge certain conditions must be met. To register, someone must provide ID, demonstrate that they are registered with the local authorities, and

¹⁷ Taking into account wages, pensions or savings, for example.

¹⁸ Though they must wait 9 months after their first application has been accepted to receive certain non-urgent treatments.

provide a certificate stating that they have no access to healthcare via their country of origin or elsewhere.

Access to private rental market

Overview

The focus of the private rental market in the four countries is on whether the prospective tenant can afford the rent. In all four, proof of identity is explicitly mentioned as necessary when someone enters into a rental agreement, but the UK is the only country where landlords are legally obliged to check whether someone has the right to live in the UK, with failure to do so incurring fines.¹⁹

UK

Sections 20 to 37 of the Immigration Act 2014 limit access to the private rental property sector in England to those with the lawful right to be in the UK (Home Office, 2022a). The Right to Rent Scheme requires landlords to obtain evidence of a person's right to live in the country before signing a contract (Home Office, 2016).

Under the legislation, landlords found to have let to someone without the right to rent and to have not conducted checks as per government guidance can be sanctioned with a civil penalty of up to £3,000 per disqualified person, or a prison sentence in severe cases.

In terms of checks, acceptable evidence includes passports and residence permits. In cases where the individual may not have the right documentation to hand, landlords can also use a service offered by the Home Office to check their status (Home Office, n.d.).

France

To access the private rental sector in France, individuals must provide proof of identity and proof of income/status (Légifrance, 2015). This can include ID cards, any passport or residency cards. There are limits on the amount of information that landlords can ask for (Service-Public, n.d.). Facilitating the stay of irregular migrants is punishable, which could extend to landlords; however, there are no explicit obligations for landlords, estate agents or others to ask for evidence of residency rights.

Germany

While private sector landlords and agents will require ID, such as a passport or residence visa, as part of the application, there are no required checks on immigration. A prospective tenant is expected to provide ID and a General Credit Protection Agency record (Schutzgemeinschaft für allgemeine Kreditsicherung/Schufa record) if they are already residing in Germany. Anyone staying in Germany for more than three months should register their German address with the local authorities, a process which requires certification of residence from the landlord or main tenant (BMJ & BFJ, n.d.b). In Germany, facilitating the stay of irregular migrants for profit is punishable which could apply to landlords (FRA, 2014).

Spain

Landlords wishing to let their properties (short and long term) need to comply with the 2019 National Rental Law (BOE, 1994). Different types of tenancy agreements exist in Spain covering both short- and long-term rentals. However, a prospective tenant will always need to

¹⁹ Or a prison sentence in very serious cases.

demonstrate they can afford the rent and provide proof of identity which can be a passport from another country. Facilitating the stay of irregular migrants is punishable and this could include landlords, however the landlord or letting agent is not obliged to check whether the prospective tenant is in the country legally (FRA, 2014).

Right to work

Overview

All four countries have clear rules for taking on workers outside of the EU. Generally, being sponsored by an employer will be a pre-requisite to entry, with visas being available for different amounts of time and often in certain sectors (e.g. agriculture) or based on skills (e.g. IT workers). In some cases, citizens from specific countries can have different conditions to entry.

In terms of irregular migrants, all countries carry out intelligence-led inspections conducted by various agencies such as the police, tax authorities and immigration agencies.

All four countries issue fines to illegal migrants, although penalties vary by country. The treatment of employers found to be employing illegal workers is harsher across all countries compared with fines and custodial sentences in the most aggravating cases.

UK

To come to work in the UK, a specific visa that allows working is required, although some other visa types do allow the holder to do limited paid work, such as family and student visas. There are a variety of long- and short-term visas which are often aimed at specific professions (HM Government, n.d.b).

Employers are legally responsible for checking a person's right to work, with digital checking tools available. This applies to all over 16-year-olds taking up work in the UK. Failure to check someone's right to work in the UK can lead to penalties for the employer.

Being found to employ someone without the requisite permission to work can lead to a civil penalty of up to £20,000 per worker or a prosecution which may result in a fine or custodial sentence in serious criminal cases.²⁰ The liability within the legislation sits with the employer, although it is also a criminal offence to work illegally.

The Home Office undertakes proactive checks, including inspections, to ensure employers comply with the legislation. Intelligence-led inspections are carried out regularly and led by the Home Office enforcement teams across the UK. In 2019, the Home Office carried out 5,613 inspections (Home Office, 2020b), though the UK does not have targets in terms of the number of inspections it aims to perform (European Commission, 2021).

France

Outside of freedom of movement for EEA citizens, France also offers a series of short- and long-term visas to those coming to work. Work authorisation is always required if the job is for longer than 90 days (France-Visas, 2017), though it is also needed for shorter jobs in many sectors (Welcome to France, 2021b).

Multi-agency teams (e.g. police, gendarmerie, labour inspection and border control authorities) conduct inspections related to illegal workers in the sectors deemed most high risk (Organisation for Economic Co-operation and Development (OECD), 2018). There are

²⁰ See page 31 of *Employer right to work checks supporting guidance* (Home Office, 2022b) for details of all sanctions that may apply.

targets, with 1,286 inspections carried out in 2019 representing 0.1% of employers in all sectors inspected (European Commission, 2021).

There are penalties for the illegal worker ranging from fines of up to €45,000 to prison sentences of up to 3 years. The worker also risks being banned from France for five years. Employers can be fined €75,000-100,000 euros depending on the legal status of the business, face repatriation costs and imprisonment of up to 5-10 years. Employers can also be banned from doing business and from public contracts for 5 years (ibid). See the European Commission's 2021 Communication on the implementation of the Sanctions Directive for additional details on criminal penalties depending on employer actions (ibid).

Germany

Anyone who finds employment in Germany can apply for a work permit, however, requirements will differ depending on nationality, as some nationalities can apply in-country (e.g. USA, Australia and Japan) while others need to apply at a German embassy (German Federal Government, n.d.²¹). Like other countries, Germany offers a mix of short- and longer-term visas.

Activities are undertaken to target all forms of undeclared work and illegal employment. Inspections are driven by risk-based criteria and multiple agencies are involved (e.g. tax authorities, the police and immigration authorities). There are minimum targets set for employee and employer inspections (OECD, 2018). In 2019, over 98,000 inspections of employers were carried out, corresponding to 6% of all employers in the sectors inspected (European Commission, 2021).

Someone found to be working illegally can face a fine of up to €5,000, have their residence permit revoked and also face a prison sentence. Employers can be fined up to €500,000 and face a prison sentence of one to three years, increasing to five years if they have been involved in abuse or human trafficking (OECD, 2018).

Spain

Like other countries, a non-EEA national generally needs an offer of employment to work in Spain. Third-country nationals in Spain require a specific type of visa to work. There are various types of visas depending on employment status, profession and duration of employment (Ministry of Foreign Affairs, European Union and Cooperation of Spain/ Ministerio de Asuntos Exteriores y de Cooperación (MAEC), n.d.). In most of those circumstances, visas will only be issued after the employer has provided evidence of the vacancy or contract (SpainVisa, 2022).

Multi-agency teams (Ministry of Labour and Social Security, police and Ministry of Interior) conduct inspections to detect illegal working. Inspections are driven by data analysis and past experiences (OECD, 2018). Each region in Spain has a different target; in 2019, there were 15,706 inspections in total, representing 1.7% of employers in the sectors (ibid).

Employees with no right to work can be fined. The lowest fines are for those with residency rights but no right to work (up to €500), while irregular migrants can be fined up to €10,000 and, in some cases, expelled from Spain (Ministerio del Interior, 2013b).

²¹ This database lists vacancies along sectors but does not offer any information about the chance of getting a job in Germany.

Employers, on the other hand, can face fines of €10,001-100,000 per irregular worker, and a custodial sentence between 3-18 months, rising in aggravated circumstances (high number of workers or abuse) to up to six years' imprisonment. They also risk closure of their facilities (OECD, 2018).

Informing the evaluation of the compliant environment

This review found that the measures making up the compliant environment have attracted a variable number of research studies. This means that the number of topics explored within these areas vary, and so does the robustness of the coverage. Some areas, such as the Right to Rent Scheme, have seen a relatively large amount of quantitative and qualitative assessment, while other areas, such as benefits and work, have mainly been explored qualitatively. Driving and banking have not been the standalone focus of any research reviewed.

This review has also highlighted important evidence gaps, which may warrant further exploration. These include any unintended consequences and deterrent effects, as well as the cumulative effects of the compliant environment.

Future research should aim to build on the findings summarised in this literature synthesis. It should also seek to establish a much wider evidence base on the effectiveness and proportionality of the compliant environment itself.

The review of other countries has shown that, although broad principles around access to services can be similar across the three countries compared to the UK, the tools used in implementing the measures vary. This means that the value in comparing other countries' approaches across all areas might be somewhat limited.

While access to services can be similar, France, Germany and Spain use ID cards for all their residents, which are often used or required as proof of ID and/or residence to access a range of services. As ID cards are widely used when in contact with authorities, in practice, automatic checks take place in those countries.

The review found that right to work was the measure with the most international similarities so could therefore warrant further exploration around the practicalities of implementing inspections and penalties for illegal working, for example. Further academic studies assessing the impacts of the measure across the three countries compared could be reviewed especially concerning deterrence.

Though access to healthcare, work and rent is based on residency rights, the checks in place, and the responsibility of third parties to check immigration status, appear to vary quite significantly between the UK and the other countries (although reporting obligations exist to some extent in Germany). The literature synthesis also highlighted potential implications related to third-party enforcement, in the areas of right to rent and right to work.

This review has found that, rather than looking at the full set of regulations in a country, it might be more beneficial to look at specific obligations that are in place in the UK and elsewhere, such as third-party checks, and to explore in more detail the implementation of these obligations and any external research concerning them.

These findings will inform future planning in terms of areas to focus on in more detail when assessing the effectiveness and proportionality of the compliant environment.

References

- Ameli (2021) *Universal health protection* (online translation). Available at: <https://www.ameli.fr/assure/droits-demarches/principes/protection-universelle-maladie> [accessed 28/01/2022]
- Baltic Legal (2019) *Immigration to Spain* (online). Available at: <http://www.immigration-residency.eu/immigration-to/spain/> [accessed 28/01/2022]
- BMG (2016) *General information about the health system* (online). Federal Ministry of Health. Available at: <https://www.bundesgesundheitsministerium.de/en/topics/health-guide-for-asylum-seekers/general-information-about-the-health-system.html> [accessed 28/01/2022]
- BMI (2021a) *Illegal entry and people smuggling* (online translation). Federal Ministry of the Interior and Homeland. Available at: <https://www.bmi.bund.de/EN/topics/migration/illegal-entry/illegal-entry-node.html> [accessed 31/01/2022]
- BMI (2021b) *Documents for foreigners* (online translation). Federal Ministry of the Interior and Homeland. Available at: <https://www.bmi.bund.de/EN/topics/administrative-reform/passports-identity-cards/documents-for-foreigners/documents-for-foreigners-node.html> [accessed 28/01/2022]
- BMJ & BFJ (n.d.a) *Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory: Residence Act*. Federal Ministry of Justice & Federal Office of Justice. Available at https://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html [accessed 31/01/2022]
- BMJ & BFJ (n.d.b) *Federal Act on Registration*. Federal Ministry of Justice & Federal Office of Justice. Available at https://www.gesetze-im-internet.de/englisch_bmg/englisch_bmg.html#p0201 [accessed 21/02/2022]
- German Federal Government (n.d.) *Quick-Check*. Available from: <https://www.make-it-in-germany.com/en/visa-residence/quick-check> [accessed 29/01/2022]
- BOE (1994) *Consolidated legislation: Law 29/1994, of November 24, on Urban Leases*. Available from: <https://www.boe.es/buscar/act.php?id=BOE-A-1994-26003> [accessed 29/01/2022]
- BOE (2018) 'I. Disposiciones Generales: Jefatura del Estado', *Boletín Oficial del Estado*, 30 July 2018, No. 183, p. 76258. Available from: <https://www.boe.es/boe/dias/2018/07/30/pdfs/BOE-A-2018-10752.pdf> [accessed 28/01/2022]
- EUR-Lex (2016) *Illegal Immigration- Penalties for Employers*. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:l14566&from=FR> [accessed 31/01/2022]
- European Commission (n.d.a) *European Migration Network* (online). Available at: https://ec.europa.eu/home-affairs/networks/european-migration-network-emn_en [accessed 28/01/2022]

- European Commission (n.d.b) *Spain – Healthcare*. Available at <https://ec.europa.eu/social/main.jsp?catId=1129&langId=en&intPagId=4791> [accessed 21/02/22]
- European Commission (2021) *Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions on the application of Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third country nationals*. Available from: https://ec.europa.eu/home-affairs/system/files/2021-09/COM-2021-592_en_0.pdf [accessed 29/01/2022]
- Eurostat (2020) *Immigration law enforcement in the EU – figures for 2019* (Online) Available at: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20200722-1> [accessed 28/01/2022]
- FRA (2014) *Criminalisation of migrants in an irregular situation and of persons engaging with them*. European Union Agency for Fundamental Rights. Available from: https://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants_en.pdf [accessed 28/01/2022]
- France-Visas (2017) *Salaried employment*. Available from: https://france-visas.gouv.fr/en_US/web/france-visas/salaried-employment [accessed 29/01/2022]
- HM Government (n.d.a) *Pay for UK healthcare as part of your immigration application*. Available from: <https://www.gov.uk/healthcare-immigration-application> [accessed 28/01/2022]
- HM Government (n.d.b) *Browse: Work in the UK*. Available from: <https://www.gov.uk/browse/visas-immigration/work-visas> [accessed 29/01/2022]
- HM Government (2020) *Guidance: How charges for NHS healthcare apply to overseas visitors*. Available from: <https://www.gov.uk/government/publications/how-the-nhs-charges-overseas-visitors-for-nhs-hospital-care/how-the-nhs-charges-overseas-visitors-for-nhs-hospital-care> [accessed 28/01/2022]
- HM Treasury (2020) *Magenta Book Annex A: Analytical methods for use within an evaluation*. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879418/Magenta_Book_Annex_A_Analytical_methods_for_use_within_an_evaluation.pdf [accessed 28/01/2022]
- Home Office (n.d.) *Request a Home Office right to rent check* (online form). Available from: <https://eforms.homeoffice.gov.uk/outreach/lcs-application.ofml> [accessed 28/01/2022]
- Home Office (2016) *Right to Rent goes live across England* (online). Available at: <https://www.gov.uk/government/news/right-to-rent-goes-live-across-england> [accessed 28/01/2022]
- Home Office (2020a) *The Response to the Windrush Lessons Learned Review: A Comprehensive Improvement Plan*. Available from: <https://www.gov.uk/government/publications/windrush-lessons-learned-review-response-comprehensive-improvement-plan> [accessed 28/01/2022]
- Home Office (2020b) *An inspection of the Home Office's use of sanctions and penalties (November 2019 – October 2020)*. Independent Chief Inspector of Borders and

- Immigration. Available from: <https://www.gov.uk/government/publications/an-inspection-of-the-home-offices-use-of-sanctions-and-penalties> [accessed 29/01/2022]
- Home Office (2022a) *Landlord's guide to right to rent checks*. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1053855/Landlords_guide_to_right_to_rent_checks.pdf [accessed 17/02/2022]
- Home Office (2022b) *Employer right to work checks supporting guidance*. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1047370/2022_01_17_Employer_s_Guide_.pdf [accessed 25/02/2022]
- Immigration Act 1971, c.77. Available at: <https://www.legislation.gov.uk/ukpga/1971/77/contents> [accessed 30/01/2022]
- Légifrance (2015) *Decree No. 2015-1437 of November 5 2015 setting the list of supporting documents that may be requested from the rental candidate and his surety* (online translation). Available from: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000031444493/> [accessed 28/01/2022]
- MAEC (n.d.) **Residence and work visas** (online). Ministry of Foreign Affairs, European Union and Cooperation of Spain. Available from: <http://www.exteriores.gob.es/Consulados/LIMA/es/InformacionParaExtranjeros/Paginas/IELima/Visados-trabajo.aspx> [accessed 29/01/2022]
- Ministerio del Interior (2013a) *Foreign identity card* (online translation). Available at: <https://www.interior.gob.es/opencms/ca/servicios-al-ciudadano/tramites-y-gestiones/extranjeria/regimen-general/tarjeta-de-identidad-de-extranjero/index.html> [accessed 28/01/2022]
- Ministerio del Interior (2013b) **Infringements and sanctions** (online translation). Available at: <https://www.interior.gob.es/opencms/gl/servicios-al-ciudadano/tramites-y-gestiones/extranjeria/regimen-general/infracciones-y-sanciones/> [accessed 28/01/2022]
- NHS England (n.d.) *Primary care services*. Available from: <https://www.england.nhs.uk/get-involved/get-involved/how/primarycare/> [accessed 28/01/2022]
- NHS England (2021) *Moving to England from outside the European Economic Area (EEA)*. Available from: <https://www.nhs.uk/nhs-services/visiting-or-moving-to-england/moving-to-england-from-outside-the-european-economic-area-eea/> [accessed 28/01/2022]
- OECD (2018) 'Addressing the illegal employment of foreign workers', in *International Migration Outlook*. OECD Publishing, Paris. Available from: <https://www.oecd.org/els/mig/IMO-2018-chap4.pdf> [accessed 28/01/2022]
- PICUM (2016) *Undocumented migrants and the Europe 2020 strategy: Making social inclusion a reality for all migrants in Germany*. The Platform for International Cooperation on Undocumented Migrants, Brussels. Available from: https://picum.org/wp-content/uploads/2017/11/UndocumentedMigrantsandEurope2020StrategyinGermany_EN.pdf [accessed 28/01/2022]

- Service-Public (2020) *Checking a foreigner's papers: what are the rules?* (online translation). Available at: <https://www.service-public.fr/particuliers/vosdroits/F31208> [accessed 11/03/2022]
- Service-Public (2022) *What is State Medical Assistance (AME)?* (online translation). Available at: <https://www.service-public.fr/particuliers/vosdroits/F3079> [accessed 11/03/2022]
- Service-Public (n.d.) *Real estate rental: rental agreement (lease)* (online translation). Available at: <https://www.service-public.fr/particuliers/vosdroits/N349> [accessed 11/03/2022]
- SpainVisa (2022) Spain Work Visa (online). Available from: <https://www.spainvisa.eu/visa-types/work-visa/> [accessed 29/01/2022]
- Vie Publique (2021) *On what principles of solidarity is the right to health protection based?* (online translation). Available at: <https://www.vie-publique.fr/fiches/262508-solidarite-et-droit-la-protection-de-la-sante> [accessed 28/01/2022]
- Walsh, P.W. and Sumption, M. (2020) 'Recent estimates of the UK's irregular migrant population'. Online: *The Migration Observatory*. Available from: <https://migrationobservatory.ox.ac.uk/resources/commentaries/recent-estimates-of-the-uks-irregular-migrant-population/> [accessed 28/01/2022]
- Welcome to France (2021a) *Registering for social security* (online). Available at: <https://www.welcometofrance.com/en/fiche/registering-for-social-security> [accessed 28/01/2022]
- Welcome to France (2021b) *Fact sheet: work permit* (online). Available at: <https://www.welcometofrance.com/en/fiche/fact-sheet-work-permit> [accessed 29/01/2022]
- Williams, W. (2020) *Windrush Lessons Learned Review Independent review by Wendy Williams*. Ordered by House of Commons. Available from: <https://www.gov.uk/government/publications/windrush-lessons-learned-review> [accessed 28/01/2022]

Appendix A: Search terms

The terms “compliant environment” uk and “hostile environment” uk were combined with “no recourse to public funds”, benefits, banking, NRPF, “Right to Rent”, “driving licence”, “right to work”, “healthcare access” and NHS + health. Searches of the terms “Right to Rent”, “undocumented migrants” work uk, “undocumented migrants” “access to health services”, “no recourse to public funds” impact, “hostile environment policy” effect, “hostile environment” impact, “immigration sanctions” and “irregular immigration status” were also conducted. Google and Google Scholar were used for these searches.

Appendix B: References for the literature synthesis

- Aliverti, A. (2016) *Immigration offences: Trends in legislation and criminal and civil enforcement*. Migration Observatory.
- Bawdon, F. (2014) Chasing Status: If not British, then what am I? Legal Action Group.
- Bloch, A. and McKay, S. (2015) 'Employment, social networks and undocumented migrants: The employer perspective'. *Sociology*, vol. 49(1), pp. 38-55.
- Bloch, A., Kumarappan, L. and McKay, S. (2015) 'Employer sanctions: The impact of workplace raids and fines on undocumented migrants and ethnic enclave employers'. *Critical Social Policy*, vol. 35(1), pp. 132-151.
- Britz, J.B. and McKee, M. (2015) 'Charging migrants for health care could compromise public health and increase costs for the NHS'. *Journal of Public Health*, vol. 2, pp. 384-390.
- Crawford, J., McKee, K. and Leahy, S. (2020) 'More than a Hostile Environment: Exploring the Impact of the Right to Rent part of the Immigration Act 2016'. *Sociological Research Online*, vol. 25(2), pp. 236-253.
- Dickson, E., Jolly, A., Morgan, B., Qureshi, F., Sojka, B. and Stamp, D. (2020) *Local Authority Responses to People with NRPF During the Pandemic*. Research Report. Institute for Community Research and Development (ICRD): University of Wolverhampton
- Dickson, E. (2019) *Not Seen, Not Heard: Children's experiences of the hostile environment*. London: Project 17.
- Düvell, F., Cherti, M. and Lapshyna, I. (2018) *Does immigration enforcement matter? Irregular migration and control policies in the UK*. Oxford: Centre on Migration, Policy and Society.
- Grant, S. and Peel, C. (2015) 'No Passport Equals No Home': *An Independent Evaluation of the 'Right to Rent' Scheme*. Joint Council for the Welfare of Immigrants.
- Hodkinson, S., Lewis, H., Waite, L. and Dwyer, P. (2020) *Fighting or fuelling forced labour? The Modern Slavery Act 2015, irregular migrants and the vulnerabilising role of the UK's hostile environment*. Critical Social Policy.
- Jolly, A. (2018) 'No recourse to social work? Statutory neglect, social exclusion and undocumented migrant families in the UK'. *Social Inclusion*, vol. 6(3), pp. 190-200.
- Jolly, A. (2019) 'From the Windrush Generation to the 'Air Jamaica generation': local authority support for families with no recourse to public funds', *Social Policy Review 31: Analysis and Debate in Social Policy*, p. 129.
- Kang, C., Tomkow, L. and Farrington, R. (2019) 'Access to primary health care for asylum seekers and refugees: a qualitative study of service user experiences in the UK'. *British Journal of General Practice*, vol. 69(685), pp. E537-E545.
- Karamanidou, L. (2019) *Border Management and Migration Controls – UK Report*. RESPOND.

- Leahy, S., McKee, K. and Crawford, J. (2018) 'Generating confusion, concern, and precarity through the Right to Rent scheme in Scotland'. *Antipode*, vol. 50(3), pp. 604-620.
- MHCLG (2019) *English Private Landlord Survey 2018*. Ministry of Housing, Communities and Local Government.
- Mykkanen, N. and Simcock, T. (2018) *Right to Rent and the Impact on the Private Rented Sector*. Residential Landlords Association.
- Nellums, L.B., Rustage, K., Hargreaves, S., Friedland, J.S., Miller, A., Hiam, L. and Le Deaut, D. (2018) *The lived experiences of access to healthcare for people seeking and refused asylum*, Equality and Human Rights Commission Research report 122.
- Odumade, V. and Graham, P.L. (2019) 'Everyday experiences of migrant families with No Recourse to Public Funds'. *The British Psychological Society North East Branch Bulletin*, Autumn 2019 issue (10), pp. 31-42.
- Oliver, C. (2020) 'Irrational rationalities and governmentality-effected neglect in immigration practice: Legal migrants' entitlements to services and benefits in the United Kingdom'. *The British Journal of Sociology*, vol. 71(1), pp. 96-11.
- Papageorgiou, V., Wharton-Smith, A., Campos-Matos, I. and Ward, H. (2020) 'Patient data-sharing for immigration enforcement: a qualitative study of healthcare providers in England'. *British Medical Journal Open*, vol. 10(2), e033202.
- Patel, C. and Peel, C. (2017) *Passport Please: The impact of the Right to Rent checks on migrants and ethnic minorities in England*. Joint Council for the Welfare of Immigrants.
- Poduval, S., Howard, N., Jones, L., Murwill, P., McKee, M. and Legido-Quigley, H. (2015) 'Experiences among undocumented migrants accessing primary care in the United Kingdom: a qualitative study'. *International journal of health services*, vol. 45(2), pp. 320-333.
- Schweitzer, R. (2017) 'Integration against the state: Irregular migrants' agency between deportation and regularisation in the United Kingdom'. *Politics*, vol. 37(3), pp. 317-331.
- Schweitzer, R. (2020) 'How inclusive institutions enforce exclusive immigration rules: Mainstream public service provision and the implementation of a hostile environment for irregular migrants living in Britain'. *Politics of (dis) integration*, pp. 121-140. Springer, Cham.
- Skehan, A., Sandhu, B., Payne, L. and Wake Smith, E. (2017) *Precarious Citizenship: Unseen, Settled and Alone – The Legal Needs of 'Undocumented' Children and Young People in the England and Wales*. London: Migrant and Refugee Children's Legal Unit (MiCLU).
- Yuval-Davis, N., Wemyss, G. and Cassidy, K. (2018) 'Everyday bordering, belonging and the reorientation of British immigration legislation'. *Sociology*, vol. 52(2), pp. 228-244.



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [Open Government Licence \(nationalarchives.gov.uk\)](https://nationalarchives.gov.uk/open-government-licence/)