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Warren, Richard (2026) *From Fair and Firm to Restoring Control: A Critical Analysis of Labour's White Paper*. Journal of Immigration, Asylum and Nationality Law, 40 (1). pp. 11-25. ISSN 1746-7632.

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From Fair and Firm to Restoring Control: A Critical Analysis of Labour's White Paper

Richard Warren

At a glance

The immigration White Paper of May 2025, Restoring Control over the Immigration System, marked the first opportunity in fifteen years for Labour to set out a new agenda for immigration reform. Labour's election manifesto of 2024 promised to 'restore hope, 'stop the chaos' and 'turn the page' after 14 years of Conservative-led governments. This article considers critically whether the main policy proposals in the White Paper set out a clear direction for achieving this within the sphere of immigration policy. It also considers the White Paper's role as a political document in framing and shaping the ongoing migration debate within the UK.

Whilst the document sets out some concrete changes to the points-based system, several of which have already been implemented, it is evident that many of the suggestions relating to broader reforms of the immigration and nationality system are reiterations of previous policies from both past Labour and Conservative governments. This article argues that in many respects the White Paper fails to make a significant departure from the policies of the last government. Indeed, there is a danger that further ill-conceived reforms will do little to improve the functioning of the Home Office or address the concerns of those voters who want much more far-reaching changes to immigration policy.

1. Introduction: Restoring Control

Labour's election manifesto of 2024 promised to 'restore hope', 'stop the chaos' and 'turn the page'[1] after 14 years of Conservative-led governments. Its key promise in relation to border control was to abolish the Rwanda scheme and re-establish a functioning asylum system whilst pursuing new enforcement approaches to tackle small boat crossings.[2] In relation to immigration, it anchored reforms to the points-based system in reducing the dependency on skilled workers through skills training and countering the exploitation of migrants by employers who breach employment laws.[3] However, there was little else suggesting any particular approach to such issues as family migration, routes to settlement and citizenship. It therefore inevitably raised

1 The Labour Party, *Change: Labour Party Manifesto* (2024) 4 <https://labour.org.uk/wp-content/uploads/2024/06/Labour-Party-manifesto-2024.pdf> accessed 19 September 2025.
2 ibid 16-17.
3 ibid 41.

hopes amongst critics of Conservative immigration policy, that the new government may be amenable to proposed reforms to simplify and improve the current immigration system.

Sheona York, in her examination of the state of UK immigration law in her 2021 book *The Impact of UK Immigration Law*,[4] sets out a number of recommendations for significant legal and administrative reform by any government committed to re-establishing a fair and orderly system of immigration control. These include:

- A simple transparent and coherent re-statement of the legal architecture of immigration control
- The eradication of retrospective effects from immigration legislation, rules and procedure
- The provision of sufficient resources for the immigration and asylum system without reliance on prohibitive fees or exploitative and malfunctioning outsourcing contracts
- A scheme for the regularisation of long-resident migrants and their children based on a shared burden of proof and adequate administrative resources
- A proactive campaign to encourage immigrants to seek permanent residence and eventual citizenship

Whilst her focus is on addressing injustices that migrants face within the current immigration system, her wider critique is of the collateral damage inflicted by a dysfunctional immigration system on the maintenance of high standards of public administration and respect for the rule of law.[5] She considers the history of repeated failed reforms of the immigration system, and her suggestions are aimed at developing a functioning department that can restore public confidence. Above all, her work calls for the full engagement of the public in honest democratic discussion on the choices that must be made, recognising that for immigration policy to be successful it requires democratic legitimacy. This includes reflection on the costs and benefits of immigration, and in particular on the meaning and value attached to citizenship.

In this paper, I will review a number of sections of the 2025 White Paper,[6] considering the current government's proposals in light of York's recommendations. I consider some of the likely impacts of the proposals as well as some of the notable omissions.

2. Framing the Problem and Framing the Solution

A White Paper is not simply a statement of policy; it is an inherently political document which seeks to frame the public debate on the issue. By presenting the nature of the problem and proposing specific solutions, the government seeks to mould public discourse and frame a particular course of action as the most logical conclusion. In seeking to shape the agenda, it can also act to narrow the range of acceptable ideas. Therefore, in analysing the White Paper, it is also important to consider what is not said.

The previous Labour government between 1997 and 2010 produced two major immigration White Papers; 1998's Fairer, Faster and Firmer[7] and 2002's Secure Borders, Safe Havens.[8] Somerville[9] in his study of immigration policy under New Labour characterises Labour

4 Sheona York, *The Impact of UK Immigration Law: Declining Standards of Public Administration, Legal Probity and Democratic Accountability* (Palgrave Macmillan 2021).
5 ibid xv.
6 HM Government, Restoring Control over the Immigration System CP1326 (2025).
7 HM Government, Fairer, Faster and Firmer: A Modern Approach to Immigration and Asylum (1998) CM4018.
8 Home Office, Secure Borders, Safe Haven: Integration with Diversity in Modern Britain (2002). CM5387.
9 Will Somerville, *Immigration under New Labour.* (Policy Press 2007).

policy as being in two phases – a reactive phase in the first term 1997–2001 encapsulated by the first White Paper which primarily responded to the asylum backlogs, and a more proactive phase between 2002–2007 in which the government put forward the positive case for a new system of managed migration, and which was most clearly set out in the 2005 five-year strategy for managed migration.[10]

It is instructive to contrast the present White Paper with the framing devices used in these earlier Labour papers. Both these earlier papers at least aimed at giving the impression of a balance between increased restrictions and the rights of migrants, no doubt an attempt to reconcile competing political interests. So in 1998, 'firmer' was to be balanced with 'fairer'; in 2002 the UK was conceived of as both a fortress and a shelter where 'secure borders' were balanced with 'safe havens'. David Blunkett in his forward to the 2002 paper refers to both the 'tensions as well as enrichment' that come from immigration.[11]

Fairer, Faster and Firmer was introduced when there was also a perceived crisis in the UK's asylum system,[12] albeit at a time when the UK had been experiencing a sustained period of economic growth. Throughout that paper, the primary problem is framed as inefficiency in the immigration system, causing backlogs and delays, and the key word that runs throughout the paper is 'modernisation'. The paper is technocratic and managerial in its tone. There are repeated references to 'abuse' of the system by individuals. But the solution lies in modernising reform to produce 'flexible, more streamlined and more efficient control which provides a better service and is capable of meeting the challenges of the modern world'.[13] The concept of fairness is used explicitly throughout the paper in relation to the experience of genuine applicants. Human rights were also framed as integral safeguards alongside increased immigration control. At this time, Labour sought to gain legitimacy for increased immigration restrictions by a commitment to balance increased controls with an enhanced framework of rights.

The overall tone of the 2025 White Paper is markedly different from these historic papers, reflecting a discourse on immigration which has shifted further to the right in the past two decades. Unlike Labour's previous immigration white papers which featured forewords from the Home Secretary, the 2025 White Paper begins with a foreword by the Prime Minister to emphasise the seriousness with which the government is taking immigration policy. This frames the issue of immigration clearly within a 'crisis discourse'.[14] There is little attempt at the balance of the last Labour administration and the deliberate use of dramatic language and hyperbole to frame the problem. It is evident that the paper is primarily positioned as addressing potential Reform voters:

- The damage [the increase in immigration] has done to our country is incalculable
- Our economy has been distorted by perverse incentives to import workers
- Britain became a one-nation experiment in open borders[15]
- We are clear that this chaotic system is unsustainable[16]

10 HM Government, Controlling our borders: Making migration work for Britain: Five year strategy for asylum and immigration, CM6472 (February 2005).
11 Home Office (n 8) 4.
12 By 31 May 1998, there was a backlog of 52,000 asylum applications of which 10,000 were waiting for over 5 years. Appeals were taking up to 60 months for a hearing. Home Office (n 7) 18.
13 HM Government (n 7) 22.
14 C. Cantat, A. Pécoud & H. Thiollet, 'Migration as Crisis' (2025) 69(6) *American Behavioral Scientist* 627–649; N. Dines, N. Montagna, & E. Vacchelli, 'Beyond crisis talk: Interrogating migration and crises in Europe' (2018) 52(3) *Sociology* 439–447.
15 HM Government (n 6) 3.
16 ibid 5.

It accepts the narrative that immigration is a significant cause of difficulties in accessing public services and housing and the British public is cast as the victim of a 'failed experiment' in uncontrolled migration.[17] The concept of fairness does feature throughout the paper, indeed the PM in his opening statement says, 'At its heart is a simple message of fairness'.[18] However, unlike Labour's 1998 paper, it is less clear what fairness means for individual migrants. Fairness is now primarily conceived of as a system that appears fair to British taxpayers.[19] Ultimately, by legitimising the narrative that the UK's immigration system is in a state of crisis, the paper suggests that only some very fundamental reforms will achieve real change. Indeed, 'An entirely new approach is required to repair the damage'.[20]

The question then is to what extent the White Paper proposes workable solutions to the problems that have been identified.

2.1. Work Migration

The most well-developed sections of the White Paper are Chapters 1 and 2 which focus on changes to the points-based system for skilled workers, many of which have been immediately implemented through changes to the Immigration Rules.[21] The White Paper sets out the case that net migration has increased to record highs whilst economic growth and living standards have stagnated. The post-Brexit skilled work visa lowered the skill threshold on the route from Regulated Qualifications Framework (RQF) 6 to RQF 3,[22] resulting in net migration rising to a peak of 906,000 in the year ending June 2023.[23]

Building on the changes announced by the Sunak government in their December 2023 'five-point plan' to reduce immigration,[24] the paper sets out a number of proposals to restrict new work migration. Of these, perhaps the most significant are increasing the threshold for skilled worker visas to graduate level (RSQ6) to reduce lower skilled migration and closing the social care visa route to overseas recruitment from 22 July 2025 (with transitional requirements until 2028 for those already working in the UK).[25]

The paper attempts to diagnose the problems in certain areas of the labour market such as social care, where:

> 'poor pay, conditions and shift patterns even in some of the better workplaces, and abuse, exploitation and sub-minimum wages in the worst, has made it much harder to recruit UK residents into jobs, and left any reputable employers, who look after their staff, badly undercut'.[26]

17 ibid 71 [274].
18 HM Government (n 6) 3.
19 Eg, 'We have an obligation to the British taxpayer and to the integrity of our asylum system and public services to strengthen our response to that abuse'. HM Government (n 6) 60 [220].
20 HM Government (n 6) 19.
21 Statement of Changes in Immigration Rules HC997, 1 July 2025.
22 HM Government, The UK's Points-Based Immigration System: Policy Statement CP220 (February 2020) <https://assets.publishing.service.gov.uk/media/5e4c0ae086650c10e8754dcb/CCS0120013106-001_The_UKs_Points-Based_Immigration_System_WEB_ACCESSIBLE.pdf> accessed 19 September 2025.
23 HM Government (n 6) 7.
24 James Cleverley Home Secretary Hansard HC v742 cc43.
25 This will permit visa extensions and in-country switching for those already in the country with the right to work.
26 HM Government (n 6) 18 [40].

> This is a damaging way for labour market policy to be driven. It has led to over recruitment from abroad and under training in the UK'.[27]

It proposes the creation of the Labour Market Evidence Group (LME Group) comprised of the Industrial Strategy Advisory Council, the Department for Work and Pensions, the newly created Skills England and equivalent organisations in the Devolved Governments and the Migration Advisory Committee (MAC) which will be tasked with compiling evidence about the state of the workforce, training levels and participation by the domestic labour market with a view to making recommendations about sectors or occupations where workforce strategies are needed, or where the labour market is currently failing. The government commits to 'an entirely new approach' to managing migration which will involve 'more fundamental changes to prevent immigration always being the lever that gets pulled whenever labour market problems emerge'.[28] A technical annex estimates the proposed changes in the White Paper are likely to reduce inward migration by approximately 100,000.[29]

The White Paper also specifically addresses the fact that 'vacancies in the social care workforce are largely driven by historic levels of poor pay and poor terms and conditions leading to low domestic recruitment and retention rates'.[30] The paper therefore states a commitment to establishing Fair Pay Agreements to improve care worker pay to make the option more attractive to resident workers. The Health and Social Care visa was introduced in August 2020 amidst the coronavirus pandemic as a fast-track lower-cost route for health care professionals to enter the UK.[31] It was expanded in February 2022 to include social care workers in response to a developing crisis of recruitment in the care sector[32] – a perfect storm brought about by the post-Brexit ending of free movement and the aftermath of the pandemic. Following the expansion, the number of social care visas increased from 20,000 in 2021 to 105,000 in 2023.[33]

What is absent from the White Paper, however, is a full recognition of the wider economic issues affecting social care and how it is to be funded on a long-term basis.[34] It is unclear how a requirement for a workforce strategy for a care home that wishes to sponsor overseas workers will address what is an overwhelming structural issue within the UK. It is also unclear where additional funding will come from for Fair Pay Agreements. Over the last decade, governments from all parties have been unable to offer a viable model for the reform of adult social care. The ill-fated attempt by Theresa May's conservative government in her 2017 election manifesto, branded by the tabloid press and opposition as a 'dementia tax', was widely seen as contributing to her losing her majority in the election that year. It remains a political issue that successive

27 ibid [42].
28 ibid [45].
29 HM Government, Restoring Control over the Immigration System Technical Annex (May 2025) 13.
30 ibid 27 [79].
31 Home Office, 'Government launches Health and Care Visa to ensure UK health and care services have access to the best global talent', 14 July 2020 <https://www.gov.uk/government/news/government-launches-health-and-care-visa-to-ensure-uk-health-and-care-services-have-access-to-the-best-global-talent> accessed 24 September 2025.
32 Care Quality Commission, State of Care 2021/22 <https://www.cqc.org.uk/publication/state-care-202122> accessed 19 September 2025.
33 HM Government (n 6) 21.
34 See for example, House of Commons Health and Social Care Committee, Second Report of Session 2024–25: 'Adult Social Care Reform: the cost of inaction' HC368; V. Kotecha, 'Plugging the leaks in the UK care home industry Strategies for resolving the financial crisis in the residential and nursing home sector' (2019) The Centre for Health and the Public Interest; B. Goodair, A. McManus, M.D. Esposti, A. Bach-Mortensen, 'How outsourcing has contributed to England's social care crisis' (2024) BMJ 387; M. Fotaki, A. Horton, D. Rowland, D. Ozdemir Kaya & A. Gain, 'Bailed out and burned out? The financial impact of COVID-19 on UK care homes for older people and their workforce' (Warwick Business School 2023).

iterations of government have failed to address. The immigration White Paper does not address this, and whilst it may be unfair to criticise a paper dedicated to immigration policy for failing to explore the complexities of adult social care, there is a lack of recognition in the paper that this is a discussion that urgently needs to be had, since it underpins the structural problem that has led to the increasing use of migrant labour.

The MAC in its April 2022 review of the care sector[35] produced a very detailed report on the functioning of the care sector and the factors that had led to private providers' reliance on overseas recruitment. It identified low pay as a significant barrier to local recruitment and retention. It observed that reliance on immigration would never be a sustainable solution and recommended that 'a long-term, coherent workforce strategy, that is fully implemented with adequate public funding, is vital to make social care an attractive, viable and sustainable career'.[36] This would include establishing a clear pay progression framework, ensuring that care work is properly valued in line with its social and economic importance and developing care work as a profession with workers incentivised to invest in their career to improve quality and recruitment.

Many of these recommendations have not been pursued and the 2025 White Paper does not refer to the work of the MAC on this issue. The government has established the Casey Commission which is tasked with setting out plans for a National Care Service. However, this is not due to produce a final report until 2028, and actual reforms would therefore take place in a future Parliament.[37] As a result, the long-term solution for care homes when the transitional period ends in 2028 is uncertain.

2.2. Family Migration

The government had said very little on the subject of family migration prior to taking office. The White Paper promises a new family migration policy before the end of the year, though the content is essentially a restatement of what currently exists.[38] One clear target for change is the role of art 8 ECHR and the 10-year route to settlement, which the paper frames as 'exceptional circumstances'.[39] It observes that 'too many cases are treated as "exceptional" rather than having a clear framework'.[40] Indeed they have 'substantially increased'.[41]

> the system for family migration has become overly complex, developing increasingly around court decisions and case law, including court interpretations of Article 8 of the Human Rights Act (based on Article 8 of the European Convention on Human Rights (ECHR))[42]

Yet in the case for change, no statistics are given for how many cases are considered exceptional, what percentage this is, how much it has increased over time and who is primarily reaching

35 Migration Advisory Committee, Adult Social Care and Immigration: A Report from the Migration Advisory Committee. CP 665 (2022).
36 Ibid 7.
37 Department of Health and Social Care, Independent commission into adult social care: terms of reference, 11 July 2025 <www.gov.uk/government/publications/independent-commission-into-adult-social-care-terms-of-reference/independent-commission-into-adult-social-care-terms-of-reference> accessed 24 September 2025.
38 HM Government (n 6) 43 [148].
39 ibid [150].
40 ibid [147]
41 ibid [150].
42 ibid 40 [135].

this decision of exceptionality (Home Office decision makers, the First-Tier Tribunal etc.). There is no way to therefore evaluate to what extent this is a problem, or to understand what factors could have led to this alleged increase.[43] There are no concrete examples given of cases that are being treated as exceptional that should not be. Problematic categories are identified as visitors overstaying and relying on family life, people arriving by dangerous routes and applying for wider family (presumably refugees trying to obtain family reunion) and people delaying removal with spurious claims (which one would have thought could be dealt with by certification if they are indeed genuinely spurious). Yet, visitors are already excluded from relying on the human rights exceptions of para EX.1 in the family migration rules and can only succeed in a family-based claim to remain if they can show 'unjustifiably harsh consequences' affecting them or their family.[44] Since this is the Home Office's chosen language for reflecting when a decision would be a disproportionate breach of art 8, and has already been described as a high threshold to surmount, it is difficult to see what more could be done to tighten this perceived loophole without running the risk of breaching the Convention. In *Agyarko*,[45] Lord Reed stated:

> The Secretary of State has not imposed a test of exceptionality, in the sense which Lord Bingham had in mind: that is to say, a requirement that the case should exhibit some highly unusual feature, over and above the application of the test of proportionality. On the contrary, she has defined the word "exceptional", as already explained, as meaning "circumstances in which refusal would result in unjustifiably harsh consequences for the individual such that the refusal of the application would not be proportionate". So understood, the provision in the Instructions that leave can be granted outside the Rules where exceptional circumstances apply involves the application of the test of proportionality to the circumstances of the individual case, and cannot be regarded as incompatible with article 8. That conclusion is fortified by the express statement in the Instructions that "exceptional" does not mean "unusual" or "unique" [60].

This section of the White Paper therefore appears primarily rhetorical – a statement that something abusive is occurring involving the use of human rights laws and that the government will crack down on it. A recent report by the University of Oxford based on a systematic review of media coverage about the ECHR between January and June 2025 documented widespread misreporting of the role that the ECHR, and in particular art 8, plays in preventing removals from the UK.[46] It is unfortunate that the proposals in the White Paper appear addressed to assuaging concerns derived from such reporting.

There is no recognition that the current complexity in the art 8 caselaw has been driven by repeated attempts by past governments to amend the family migration rules and human

43 For example, the increase in the minimum income requirement to £29,000 is likely to have led to more applicants relying on human rights arguments. If the MIR increases again to £38,700 as intended by the previous government, it would be expected that even more applicants (particularly those with British children) would succeed on the 10-year route based on demonstrating 'unjustifiably harsh circumstances'. If the government increased the MIR to £100,000, no doubt even more applicants would be able to show unjustifiably harsh circumstances. This does not mean their cases would be exceptional – as Underhill LJ said in the case of *HA (Iraq) v Secretary of State for the Home Department* [2020] EWCA Civ 1176 in relation to a similar legal test – 'There is no reason in principle why cases of "undue" harshness may not occur quite commonly'. [56].

44 GEN 3.2 Appendix FM Immigration Rules.

45 *Agyarko v SSHD* [2017] UKSC 11.

46 V. Adelmant, A. Donald, B. Cali, *The European Convention on Human Rights and Immigration Control in the UK: Informing the Public Debate* (University of Oxford: Bonavero Institute of Human Rights 2025).

rights requirements, leading to a decade of litigation between 2012 and 2022.[47] It fails to acknowledge that each minor change to the architecture of immigration rules in a sensitive area such as family migration, has the potential to produce contested interpretations, that necessitate judicial resolution. At a time when the First Tier Tribunal (Immigration and Asylum Chamber) is facing a sustained backlog of asylum appeals[48] and where the public focus has been on reducing the number of asylum seekers accommodated long-term in hotels, one would have thought that relitigating art 8 ECHR was the last thing a government would seek to advocate; particularly since the question of individuals obtaining spouse visas on human rights grounds has not been a recent political controversy.

The White Paper's proposed solution to the alleged abuse is to 'clarify' (presumably change) the current art 8 family rules, to set out a new test for exceptional circumstances and to introduce legislation to strengthen the public interest test. It promises that:

> this new framework will be underpinned by regular assessment and updates so that the impact of migration on the country can be properly considered on a regular basis and balanced against individual circumstances when Article 8 immigration decisions are made.[49]

This appears to contemplate a shifting public interest that can harden or soften according to the national mood. Whatever it means, re-legislating art 8 is unlikely to simplify the current state of the law. Any changes to the substantive legal tests in the current 10-year human rights routes would necessitate transitional routes for those currently on them, or else create a situation where those who have already won human rights appeals on art 8 grounds could face being refused again for failing to meet the new thresholds in the art 8 rules. The tendency of the Home Office to amend the law in a way that retrospectively affects people already on routes to settlement is a particularly problematic issue which York identifies in relation to deportation law in her discussion of the case of *Abidoye*[50] and which she recommended against.[51]

The higher courts, which have repeatedly stated that one is not looking for exceptionality when assessing an art 8 claim,[52] will again be forced to consider the ultimate question of proportionality through whatever newly contrived language Parliament comes up with to frame an art 8 claim. Rather than generating further battles over the interpretation of art 8, attention would be better focused on working efficiently through the current backlog of family migration cases.

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47 The immigration rules changes of July 2012 led to significant litigation culminating in the Supreme Court cases of *MM (Lebanon)* [2017] UKSC 10, *Agyarko* [2017] UKSC 11 and *Hesham Ali* [2016] UKSC 60. The Immigration Act 2014 s19 public interest requirements again led to a number of legal cases interpreting the legislation resulting in *Rhuppiah* [2018] UKSC 58 and *KO (Nigeria)* [2018] UKSC 53, HA (Iraq) [2022] UKSC 22 (in a deportation context). Between 2012 and 2019 there were 68 Upper Tribunal reported decisions providing guidance to the First Tier Tribunal (FTT) as well as tens of relevant Court of Appeal and High Court decisions concerning the relationship between the Article 8 immigration rules, legislation and pre-existing caselaw. A number of judges expressed their despair about the over-complexity of the interlocking requirements and their subsequent interpretation.

48 Currently, there is a backlog of 106,000 cases waiting to be heard by the First-Tier Tribunal, including at least 51,000 asylum appeals, with an average wait time of 53 weeks. Home Office, 'Tribunal system reforms to speed up asylum decisions' (24 August 2025) <www.gov.uk/government/news/tribunal-system-reforms-to-speed-up-asylum-decisions> accessed 24 September 2025.

49 HM government (n 6) 44 [157].

50 *R (Abidoye), v The Secretary of State for the Home Department* [2020] EWCA Civ 1425 in

51 York (n 4) 178–181.

52 Eg, *Huang v Home Secretary* [2007] UKHL 11.

2.3. Enforcement

Chapter 5 sets out the government's new approach to enforcement, promising a tightening of the immigration rules to make it easier to refuse entry or asylum to individuals who break the rules or break the law together with 'stronger powers and proper enforcement in place to track them down, arrest them, and remove them from our country'.[53] The paper observes a sharp decrease in removals since 2012 which the government is committed to reversing.

Building on the introduction of e-visas the government intends to introduce a new digital service to determine whether an individual has complied with the terms of their visa and is inside or outside the UK at any given time. It also promises to be able to:

> update records in real time when status changes, ensuring those who are no longer entitled to access public services, work or rent will have this reflected on their eVisa.[54]

There has been a significant amount written on the problems that have arisen with the reliance on a digital only status.[55] It is not uncommon for migrants who should have s3C leave whilst awaiting a decision on a family immigration application, to have e-visas which incorrectly state that their leave has expired.[56] Regrettably the White Paper does not acknowledge these concerns.

Much of Chapter 5 is focused on tackling further abuse in the immigration system, and here the prime target is 'a significant increase in asylum claims by individuals who entered the UK on other visas and legitimate routes even where conditions in their home country have not changed'.[57] It states that 69 per cent of these are on work or student routes. Whilst the number of asylum claims from people arriving on visas is provided as 40,000 in 2024, there is no statistic provided for what percentage of those were from people where there was a change in their country of origin or individual circumstances that may give rise to a legitimate *sur place* claim. It is also not clear what number of those cases were subsequently recognised as genuine refugees. So it is not possible from this data to evaluate whether there actually is a large number of people using the visa routes who are not in need of international protection. Historically, the response to such claims was to process them quickly as late claims with a view to removal if they were clearly unfounded.

The White Paper appears to suggest that there cannot be any circumstances where a genuine student or worker requires protection for pre-existing events that occurred before they obtained their visa. Yet, student and work visas can potentially lead to settlement and so unlike with visitor visas there is no need to demonstrate an intention to leave at the end of the visa when making the application. Students must demonstrate that they are genuine students,

53 HM Government (n 6) 50 [184].

54 Ibid 57 [206].

55 Joe Tomlinson, Jack Maxwell and Alice Welsh, 'Discrimination in digital immigration status' (2021) 42(2) *Legal Studies* 315–334; Joe Tomlinson, 'Will digital immigration status work?' (2021) 34(4) *Journal of Immigration, Asylum and Nationality Law* 306–316; K. Burrell, A. Key, & K. Botterill, 'Digital by default: the literacies, legibilities and legacies of the UK's post-Brexit EU settled status regime' (2025) *Journal of Ethnic and Migration Studies* 1–19; K. Jablonowski, & M. Hawkins, 'Loss and liability: Glitching immigration status as a feature of the British border after Brexit' (2024) 38(2) *Journal of Immigration, Asylum and Nationality Law* 254–274; Jed Meers, Joe Tomlinson, Alice Welsh and Charlotte O'Brien, 'Does Digital Status Unlawfully Penalise EU Citizens Accessing the UK's Private Rented Sector?' (2025) 88 *Mod Law Rev* 33–63.

56 Leave is granted under s3C of the Immigration Act 1971 to those who make an in-time application for an extension of leave. It continues until they receive a final decision on the application. At the Kent Law Clinic we have had a number of recent cases where individuals have been unable to access a correct e-visa to show this status.

57 HM Government (n 6) [213].

but the desire to study abroad can exist in tandem with a desire to escape persecution. Indeed, some universities may offer scholarships to students who are already refugees in third countries. Similarly, workers may seek a work visa with a genuine intention to work as a means to leave their country to avoid a developing risk of persecution and indeed the Displaced Talent pilot encouraged refugees to seek lawful work routes to enter the UK. In both scenarios, if the visa is suddenly withdrawn (failure to pass exams, loss of employment), a person may nevertheless have a valid claim for asylum and have not used deception in obtaining their original visa.

Without further evaluation of the numbers and types of cases, it is hard to see to what extent this is a significant threat to the UK's asylum system, and as with the alleged problems with family migration, it is surprising that this issue is being raised when public concern is primarily focused on small boat arrivals. The proposed solution to this is also undeveloped in the White Paper. One suggestion is 'innovative financial measures, penalties or sanctions, including for sponsors of migrant workers or students, which will incentivise them to show greater responsibility in their sponsorship practices'.[58] It is not clear if this means punishing the sponsor if an employee or student subsequently claims asylum – but this would be a concerning development which may incentivise discrimination from risk-averse sponsors.

2.4. Settlement and Citizenship

Chapter 6 on fostering Integration and cohesion starts with the noble aim to 'foster the integration of all individuals coming to, and staying in the UK, to improve their experience and increase overall community cohesion and societal contribution'.[59] To this end, the government proposes to increase the English language requirement of sponsored workers and those who wish to settle to B2 (independent user level) and add a requirement for English language for dependents.

The main announcement here though, is the return of the concept of earned routes to settlement and citizenship. Labour had previously introduced the idea of probationary citizenship in the Borders, Citizenship and Immigration Act 2009 – a scheme that was never implemented but which contemplated migrants having to perform voluntary work and civic activism in order to gain a faster route to citizenship.[60] In the 2024 Labour manifesto, there was no mention of policy on settlement or citizenship.

The current White Paper states: 'It has been a long-standing principle that settlement in the UK is a privilege and not a right. Individuals are to be required to earn their settlement through long-standing contribution to the community'.[61] The government proposes a doubling of the time to settlement to 10 years, placing sponsored workers in a similar category to those on human rights routes to settlements – with the suggestion that this period can be reduced through point(s)-based contributions which are yet to be specified. Whether this is to be conceived of in purely economic terms, measured by earnings, or whether there are to be other ways of providing contributions to the community is to be subject to a consultation. What this means in practice is a significant increase in costs for a worker to become settled (visa fees and health surcharge) and an increased period of insecurity.[62]

58 ibid [221].
59 ibid 64 [240].
60 Borders, Citizenship and Immigration Act 2009 Part 2 ss39-49 that were never commenced.
61 HM Government (n 6) 69 [262].
62 The standard in-country skilled worker fees ranges from £769 to £1,751. The immigration health surcharge for a further 5 years currently costs £5,175 per person.

It is evident that immigration rules can be designed to facilitate integration or to obstruct it.[63] A number of studies have shown that security of residence and easier access to citizenship has a positive impact on migrant integration.[64] This proposal will do the opposite. Insecure status can create barriers to integration, by increasing individuals' sense of vulnerability and perception that they still do not belong.[65] Introducing the need for more applications creates further occasions for such applicants to lose their leave through temporary loss of employment or errors in the application process. Repeat application fees add to financial insecurity and having less disposable income hinders participation in key aspects of social and economic life.[66] It will also add additional work to the Home Office. There are already large numbers of people on 10-year human rights routes (introduced in July 2012) who remain unable to acquire settlement due to the prohibitive fee (currently £3,029 per applicant), and therefore are for the foreseeable future required to apply for further leave to remain every 30 months, by making an application that often takes over 6 months to decide.[67] Campaigners have highlighted the stress and uncertainty that this can create and the difficulties it can cause for those on s3C leave, making it difficult to change employment or rent new accommodation due to the uncertainty over their status.[68] Yet it is now proposed to add another cohort of 10-year routes to an already overburdened UKVI. None of these concerns are addressed in the White Paper.

The House of Lords Justice and Home Affairs Committee concluded in 2023 that the Home Office was systematically failing in its role to implement family migration policies, harming families and undermining social cohesion.[69] A key recommendation was that the Home Office should simplify the journey to settlement of family migrants, capping it at 5 years with only one repeat application before settlement. They found that the introduction of 10-year routes had substantially increased the Home Office's workload and it was struggling to process the volume of applications and of correspondence.[70] They found that caseworkers were overworked, resulting in inconsistent and incorrect decisions, leading to a greater number of appeals than would otherwise be necessary and resulting in a high level of turnover among caseworkers, further slowing down the process of considering applications. The present White Paper gives no consideration to the question of the increased workload in deciding applications, nor to the increased costs of enforcement associated with more long-resident migrants being unable to remain in the UK.

At present there is no clarity on whether there will be transitional requirements for those who entered the UK in the belief that they were on 5-year routes to settlement. York argues

63 In the case of *AO & Anor, R (on the application of) v Secretary of State for the Home Department* [2011] EWHC 3088 the government explained that it was deliberate policy to place road-blocks in the way of settlement for foreign national prisoners that could not be legally removed to make it more difficult for them to integrate and settle.

64 S. da Lomba, 'Legal status and refugee integration: A UK perspective', (2010) 23(4) *Journal of Refugee Studies* 415–436; C. Gathman & N. Keller, 'Access to Citizenship and the Economic Assimilation of Immigrants' (2018) 128 (616) *The Economic Journal* 3141–3181.

65 See for example K. Jutvik and E. Holmqvist, 'Precarious Residence? A study on the Impact of Restrictive Migration Policy on Migrants' Subjective Well-Being and Stress' (2025) 15(4) *Nordic Journal of Migration Research* 1–19.

66 See L. Mort et al. 'A Punishing Process' Experiences of people on the 10-year route to settlement' (Praxis & IPPR 2023); The government argued in *MM (Lebanon)* [2017] UKSC 10 that those earning more money were better able to integrate in the UK.

67 Unlike most other immigration applications, the Home Office provides no service standard to be held account to, for applications based on human rights. <www.gov.uk/government/publications/family-customer-service-standards/family-customer-service-standards> accessed 24 September 2025.

68 L. Mort et al, (n 66). See also *RAMFEL & Anor, R (on the application of) v Secretary of State for the Home Department* [2024] EWHC 1374.

69 House of Lords, Justice and Home Affairs Committee, 1st Report of Session 2022-23, All families matter: An inquiry into family migration HL Paper 144, 63 [234].

70 ibid 62 [227].

that simple fairness requires that that increased restrictions for people starting on a route to settlement should not apply to those already embarked on that route. Yet she observes that legally, since it is established that the Immigration Rules do not create vested rights, transitional requirements cannot be inferred, and it is permissible for the Home Office to amend the rules in a way that denies future leave to those already in the UK.[71] The fact that migrants with limited leave to remain are deemed to have a precarious legal status for purposes of an assessment of any art 8 ECHR private life claim, exacerbates that insecurity.

In the HSMP Forum cases, it was held that those who arrived as highly skilled migrants and were later subject to a rule change increasing the probationary period from four years to five years had a legitimate expectation of an ability to settle after four years. However, here the UK government had given an unequivocal statement that skilled migrants would qualify for settlement after four years.[72] Since this time, the UK government gives no such guarantees, at present merely stating on its public facing website that 'After 5 years, you may be able to apply to settle permanently in the UK'.[73] Therefore, if the government were now to extend all existing routes to 10 years, it is not clear that migrants would have a cause of action to challenge this.

Since an insecure 10-year route is unlikely to improve an individual's integration or sense of belonging, the real justification for the change is more likely found in the statement that it is 'our strongly held belief that people should contribute to the economy and society before gaining settled status in our country'.[74] It seems the policy is more about reassuring British voters that migrants who arrived as part of the post-Brexit skilled worker expansion will remain excluded from full participation in society for longer, than about encouraging social inclusion. The change will deny access to restricted public funds for a longer period of time and potentially force out people who are unable to sustain a continuous 10-year period of work. The technical annex estimates there may be a 10–20 per cent reduction in the number of people settling due to the deterrence effect causing some who are already in the UK to leave, and others not to come.[75] There is, however, no attempt to quantify this in terms of welfare savings.

2.5. Precariousness as a Long-Standing Principle?

The paper asserts that, 'It has been a long-standing principle that settlement in the UK is a privilege and not a right' as if this were a self-evident truth. Whilst there may well now be a bipartisan consensus on this, it was not always the case, nor does the principle have a particularly long history. For a start, until the end of the Brexit transition in January 2021, EU migrants and their family members had clear rights to settle in accordance with the EU Citizens' Rights Directive.[76]

The political acceptance of the reduction of a migrant's security of residence from being a relatively stable path to settlement, to a precarious and highly conditional membership has developed over the last fifty years. When deportation powers were first introduced in 1962 for Commonwealth migrants it was held that they should not apply after five years' residence as after such time an immigrant 'ought to be regarded as "belonging" to the UK

71 York (n 4) 178.
72 *HSMP Forum (UK) Ltd., R (on the application of) v Secretary of State for the Home Department* [2009] EWHC 711 [72].
73 Home Office, Skilled Worker: Overview <https://www.gov.uk/skilled-worker-visa> accessed 19 September 2025.
74 HM Government (n 6) 69 [263].
75 HM Government (n 29) 4 [12].
76 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

for all purposes'.[77] When probationary periods before settlement were first introduced for Commonwealth citizens by a Conservative government in the Immigration Act 1971, the former Labour Home Secretary James Callaghan argued that Commonwealth immigration to the UK was by its nature migration for the purpose of settlement.[78] It was thus conceived of in a different way to the temporary *Gastarbeiter* programmes used in other European countries. Labour was concerned that introducing probationary periods would, 'create a rootless and shiftless group of immigrants who will not be able to settle because they will not have surety and assurance of the basis on which they are here'.[79] When such a proposal had been suggested in the previous Parliament Callaghan had stated:

> Do the Opposition seek to justify keeping a large body of Commonwealth immigrants – in fact, keeping the whole body of Commonwealth immigrants – in a state of uncertainty and insecurity for four whole years with the object of getting rid of a tiny handful, of whom I already have power to get rid anyway and of whom I do get rid? Is that likely to help race relations and integration? … What I chiefly deprecate is the mood of uncertainty, and it may be of tension, which they could generate among Commonwealth immigrants in this country.[80]

Even in the 1998 White Paper, settlement was framed by Labour as something that flows naturally from lawful residence, and whilst it is not stated to be a right, it is framed as an expectation, certainly for refugees. That paper proposed that refugees would be granted an immediate right to settlement, primarily because it:

> … will help refugees and others granted leave to remain to integrate more easily and quickly into society, to the benefit of the whole community into which they have been accepted. [It would] bring forward the point at which persons who would *inevitably have been granted settlement* achieve that status, at the same time making the policy fairer and swifter in application.[81]

For many years a number of routes were clearly marketed as routes to settlement. It was assumed that people on such routes would be permitted to settle provided they obeyed the law. A shift to conceiving of migration as primarily temporary and reversible has developed since then. It was in 2011 that the Immigration Minister Damien Green stated:

> Settling in Britain should be a privilege, not an automatic add-on to a temporary way in. We are therefore going to break the automatic link between work and settlement. Only those who contribute the most economically will be able to stay.[82]

At a similar time, the government consolidated the legal position that those without indefinite leave were to be classed as legally precarious and thus not deserving of the protection of

77 Correspondence, Home Secretary to Lord Chancellor Viscount Kilmuir 20/10/61 TNA LCO2/6958.
78 James Callaghan, Shadow Home Secretary, Hansard HC vol 813 col 69 (08 March 1971).
79 Ibid col 70.
80 James Callaghan, Hansard HC vol 773 col 445-448 Deb (13 November 1968).
81 HM Government (n 7) 39 [9.3] [emphasis added].
82 Damien Green Immigration Minister Hansard HC v537 cc583 (12 December 2011).

art 8 ECHR private life.[83] By 2020, the Migrant Integration Policy Index (MIPEX) was comparing the UK unfavourably with countries such as Canada, Australia, Ireland and the Nordic countries, classifying it as a country that provides basic rights to migrants but not a secure future in the country and one that encourages the public to see immigrants as foreigners rather than as potential citizens.[84] The Labour White Paper takes uncritically the position that has now developed, that migrants who enter the UK to work should have no expectation of a secure path to settlement.

This chapter of the paper concludes with a suggestion that citizenship law will also be reformed, increasing the length of time it takes to acquire citizenship, but allowing certain points-based migrants to qualify sooner based on great contributions. It is not made explicit what those additional contributions are to be, though it seems implicit that this is to be at least partly based on a migrant's economic value, thus further cementing the link between citizenship and a person's economic performance in the market economy.[85]

3. Conclusion

In this paper I have considered the contribution that the White Paper makes to current debates over immigration reform, in light of Sheona York's recommendations for immigration reform. The work route changes are the most developed and will be felt immediately. The government arguably has a democratic mandate for a reduction in legal migration and the attempt to address issues of domestic skills training, through Labour Market Evidence Group and Skills England, is a welcome recognition that reducing labour migration will result in economic trade-offs and therefore requires further consideration and planning. Yet if that course is pursued, it is incumbent that an honest discussion is had concerning the wider social and economic consequences that will follow as work routes are limited, in particular the impact on the UK care sector.

Apart from this, the actual paper is short on concrete new policy developments. There is no commitment to structural reform of the immigration system and to the simplification of the legal architecture of immigration control as recommended by York. There is no commitment to further resource the immigration system, apart from enforcement. There is a lack of innovative thinking about how to address the question of long-resident migrants without status, or how to improve the security and social inclusion of those on precarious routes to settlement. Whilst it may be legitimate for the government to propose longer routes for workers to obtain settlement and the associated benefits, it is disingenuous to maintain that the motivation for that is to improve social integration. One of York's key recommendations was that a necessary condition for improving social cohesion is that those living and working in the UK but who are not citizens should have a secure, affordable path to settlement and ultimately citizenship.[86] Dismissing this is to accept the potentially corrosive consequences on democracy of the UK hosting a long-term population of precariously resident migrants, who

83 Section 117B(5) of the Nationality, Immigration and Asylum Act 2002 introduced by s 19 Immigration Act 2014. I discuss this in Richard Warren, 'Private Life in the Balance: Constructing the Precarious Migrant' (2016) 30 (2) *Journal of Immigration, Asylum and Nationality Law* 121–141.

84 Solano, Giacomo and Huddleston, Thomas, Migrant Integration Policy Index 2020 (Migration Policy Group 2020) <www.mipex.eu/key-findings> accessed 24 September 2025.

85 See Bridget Anderson, 'Immigration and the Worker Citizen' in Bridget Anderson et al (eds) *Citizenship and its Others* (Palgrave Macmillan 2015); Luca Mavelli, *Neoliberal Citizenship: Sacred Markets, Sacrificial Lives* (OUP 2022).

86 York (n 4) 10.

are expected to contribute economically but are excluded from political participation. It is disappointing that the White Paper does not address this squarely.

What is more problematic in the White Paper are the undeveloped proposals which recycle ideas from previous governments and suggest attempts at re-legislating: that art 8 ECHR will again be tightened up, that more abuse in the asylum system will be identified and countered and that the rules on deporting foreign national offenders will again be hardened. These are policies which have proved counter-productive when tried before, have done little to improve the functioning and efficiency of the immigration system, and judging by opinion polls, have done little to reassure the public that the government is able to control immigration. If anything, the framing of the White Paper builds on the existing sense of crisis. The danger is, having accepted the narrative of crisis that has developed in the last few years, many of the measures announced so far are unlikely to satisfy those for whom immigration is a defining issue and if Labour's proposed reforms do not address the problem that they have set themselves, there are other parties proposing more radical solutions.[87]

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87 Eleni Courea and Jessica Elgot, 'Farage vows to scrap indefinite leave to remain, placing thousands at risk of deportation' *The Guardian* (22 September 2025) <www.theguardian.com/politics/2025/sep/22/farage-vows-to-scrap-settled-status-placing-thousands-at-risk-of-deportation> accessed 24 September 2025.