



# How to Build a Post-Brexit Immigration Policy: JCWI's 5 Principles

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Immigration is a deeply political issue in the UK. While there will never be a full cross-party consensus on how immigration should be managed, we believe that all parties across the political spectrum can and should get behind these five broad principles for reforming law and policy. These principles would show that politicians are committed to creating a system that works for the economy and for society as a whole.

The UK's immigration policy and laws are facing a complete overhaul in the wake of the June referendum vote to leave the European Union. This moment provides an opportunity to review and reform the disparate and complicated assortment of laws, regulations, guidance and policies that make up UK immigration law.

Even evidence-based policy is made pursuant to political aims and objectives, such as increasing community cohesion, increasing GDP, reducing the national debt, or addressing voter concerns. It is neither possible nor is it desirable that every party or interest group in the UK agree on what those policy goals should be. In a democratic society, it is however essential that all parties agree on certain basic principles, including the importance of the rule of law; that due regard is had to evidence; and that there is some agreement as to core long-term aims to improve community cohesion and economic growth.

We have set out the following principles for policymakers to use in order to create a system that is fair, accessible, and that works for both migrant communities and the UK as a whole.

1. New laws and policy must be led by evidence and pursue realistic and deliverable goals.
2. Immigration policy and law in the UK must promote and respect the requirements of the rule of law.
3. No community should be left behind: the economic benefits of migration should be shared amongst us all through reinvestment in communities, infrastructure, jobs, and education.
4. Immigration policy should encourage long-term integration and the formation of stable, cohesive communities of migrants and non-migrants alike.
5. Respect for human rights and equality must be integral to our immigration system.

We call on lawyers, politicians and policymakers from across the political spectrum to sign up to these five broad principles and to use them to both review current policy, as well as to inform any future changes to immigration law and policy.

### **A Principled Approach**

#### ***1. New laws and policies must be led by evidence and pursue realistic and deliverable goals.***

For policies to be effective they must have a verifiable basis established through objective evidence, as opposed to purely being led by ideology or as a response to presumed public perception. Such an approach not only ensures that public money is spent to achieve realistic and achievable goals, but will also inspire faith and support from the wider public and civil society.



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To ensure that future immigration policy is evidence-led, three questions must be asked at an early stage:

1. Need: is there an actual problem that needs to be addressed by making a new law or policy?
2. Efficacy: will the policy or law that is proposed in reality address the need that has been identified?
3. Realism: is this a realistic policy and can it deliver what is being promised?

To ensure public confidence in effective policies, they must also be designed in ways that allow for effective evaluation, with built-in data recording and monitoring to ensure that they achieve their aims over time in a way that is measurable.

### ***2. UK immigration law and policy must promote and respect the requirements of the rule of law.***

The rule of law is the framework that underpins open, fair and democratic societies. It is essential that any future changes to our immigration system therefore serve to maintain and enhance, rather than undermine, the rule of law. We consider that all future immigration law and policy should reflect Lord Bingham's eight tenets of the rule of law:<sup>1</sup>

1. The law must be accessible and so far as possible, intelligible, clear and predictable;
2. Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion;
3. The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation;
4. Ministers and public officers at all levels must exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably;
5. The law must afford adequate protection of fundamental human rights;
6. Means must be provided for resolving without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve;
7. Adjudicative procedures provided by the state should be fair;
8. The rule of law requires compliance by the state with its obligations in international law as in national law.

### ***3. No community should be left behind: the economic benefits of migration should be shared amongst us all through reinvestment in communities, infrastructure, jobs, and education.***

Immigration policy must take as a starting point the understanding that there are both benefits and pressures caused by the movement of people. A fair and sustainable immigration system must attempt to balance both benefits and pressures among

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<sup>1</sup> *The Rule of Law*, Tom Bingham, 2010



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communities, and ensure that the contribution of migrants to the UK economy and society is felt by all.

We must also recognise that different regions have different migration needs. Policymakers cannot continue to impose a one-size-fits-all immigration system on diverse regions in the UK. There may instead be a place for a regional mechanism by which areas of the UK, major cities, and devolved administrations can feed back to central government about the migration needs in their local areas.

The UK needs:

1. To gather more data, and conduct impartial and independent analysis of the local and regional impacts of migration;
2. A mechanism that considers this data, and ensures that the economic benefits of migration are reinvested in order to ensure adequate infrastructure and services across the country. A properly managed migration fund could be a starting point;
3. A mechanism allowing regions with a high demand for migrants' skills and labour to inform central government planning. This will ensure that centralised controls on migration do not stifle local and regional growth across the UK.

### ***4. Immigration policy should encourage long-term integration and the formation of stable, cohesive communities of migrants and non-migrants alike.***

As every mainstream political party recognises, one of the UK's greatest strengths is that British society is made up of people from diverse backgrounds, ethnicities, religions and cultures. Recognising the reality of this diversity and its benefits, alongside promoting inclusion and integration into our communities, must therefore be central to immigration policy.

Integration and inclusion should be understood as a long-term endeavour, the benefits of which are both social and economic. These include stable, safer and more tolerant communities that foster equality of opportunity and increased participation in society, including of disadvantaged and vulnerable groups and persons. Failing to promote long-term cohesion can result in significant social and economic consequences, both for communities and for society as a whole. Integration policy should reflect the following principles:

1. Opportunity and encouragement should be favoured over coercion. The vast majority of new migrants in the UK are anxious to improve their English, if it is lacking, and to contribute to their communities. Opportunities to take lessons, join in with community events and so on are far more valuable than coercive measures.
2. Integration must not be viewed as a test for migrants alone. Stable communities are ones in which all members, whether migrants or UK-born, are active in their engagement, acceptance, and tolerance for others.
3. Integration is hampered by precariousness and uncertainty. While not every visa route needs to be long-term, it is important that routes to eventual long-term settlement in the



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UK are clear and fair. Uncertainty or overly harsh rules lead to a sense of disconnection from UK society that can hamper integration.

4. Politicians and public figures should recognise that they play a significant role in encouraging good community relations and ensuring a balanced public debate. Evidence-free rhetoric vilifying migrants and ethnic minorities can be hugely damaging to community relations and in some circumstances may even encourage violence towards minority groups.

### ***5. Respect for human rights and equality must be integral to our immigration system.***

People must never be seen as less than human, merely owing to the fact that they were born elsewhere. The UK has historically been a leader in the establishment of human rights principles and in their global enforcement. From establishing the principle of *habeas corpus*, to the first international prosecutions of war crimes at Nuremberg, and through to the founding of the European Convention on Human Rights, the UK has been at the forefront of the development of human and civil rights law. This respect for human rights, for equality and non-discrimination must continue to be at the heart of our policymaking.

A system based on respect for human rights and non-discrimination is central to a democratic, cohesive and functioning society. Protecting and safeguarding the human rights of migrants and promoting equality should not be seen as a frustration or afterthought of migration management, but instead must form an integral part of policy formulation and implementation. As well as adhering to international human rights standards, where human rights are promoted and protected by the Government, this encourages faith in the system and fair and just decision-making.

### **Conclusion**

Within the framework of these principles there is a wide amount of space to pursue differing goals, such as ensuring that certain skills gaps are filled, improving the skills of the domestic workforce, or prioritising certain kinds of migration while discouraging others. As long as these aims are pursued within the framework put forward in this briefing, they should go some way to inspiring public trust, while working for different communities, as well as UK society as a whole.

**We would greatly welcome your views on the principles outlined above. If you would like to discuss the content of this briefing, or to register your support for these principles, please contact:**

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