

# CHASING STATUS

If not British, then what am I?

## The 'Surprised Brits' who find they are living with irregular immigration status

Report by Fiona Bawdon



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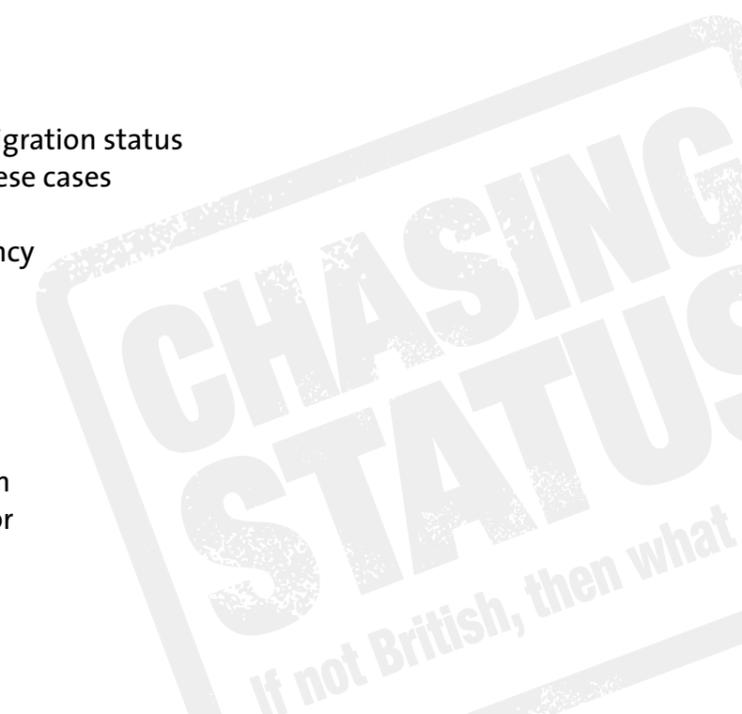
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# The 'surprised Brits' chasing status

The subject of immigration and immigrants - legal or otherwise - is rarely out of the headlines, and is bound to form a central plank of all the main parties' manifestos in the 2015 election.

Home Secretary Theresa May has already said she wants to make Britain a 'hostile environment' for illegal immigrants, with the Immigration Act 2014 introducing status checks by private landlords, DVLA, banks and NHS. 'Most people will say it can't be fair for people *who have no right to be here in the UK* to continue to exist as everybody else does with bank accounts, with driving licences and with access to rented accommodation,' she told Radio Four's Today programme [emphasis added]. The act's provisions - and much debate in the media - centre on the assumption 'those who have no right to be in the UK' are a dodgy group of scroungers, generally up to no good and intent on accessing public services and benefits to which they are not entitled. Above all (it's implied), they are distinctly different from the rest of us normal, more law-abiding folk. And *The Economist* wrote recently: 'Though a few will have driving licences and bank accounts acquired legally, illegal immigrants of all sorts tend to live outside formal society, which makes it difficult for the government to reach them through tough laws.' Yet besides those who knowingly have no legal right to be in the UK, there is also another virtually invisible - and rarely acknowledged - group, who can't easily prove their legal status (because of lost documents or poor government record-keeping) or whose status is 'irregular' for a variety of legitimate reasons. Rather than living 'outside formal society', they are often at the heart of it: friends, neighbours, workmates and valued, long-standing members of our communities. And far from being 'difficult for the government to reach them through tough laws', this group is being badly hit by legislation aimed at cracking down on illegal migrants.

Immigration lawyer Gwen Morris calls people in this situation 'surprised Brits' - the unintended and unacknowledged victims of increasingly draconian immigration laws. Even before the 2014 act came into force, these surprised Brits were already, in May's words, being denied the right 'to continue to exist as everyone else does'. Chasing Status tells the stories of this group: those who, after living most of their lives in the UK, find that following legislative changes they are suddenly unable to work or claim benefits. Having long taken their Britishness for granted, such people 'can't believe their nationality, much less their lawful presence, is being questioned', as Morris puts it.

The six oldest Chasing Status interviewees (whose ages range from 53-60) have been in the UK a total of 260 years. They entered the UK as children and were educated, married and raised families here. They have national insurance numbers and driving licences, pay their taxes and (until recently) could work and claim benefits, just like anyone else. Until being asked for proof by employers or the Job Centre, none had any reason to question their immigration status.

In their interviews, they tell of their shock and disbelief at discovering they are not as British as they thought they were. When May talks about creating a hostile environment, it's unlikely she would have been thinking of 53-year old Aubrey, who arrived from Jamaica in 1973 as a boy. A working single father, Aubrey has been suspended from his job without pay, as he has no proof of his right to be here. His passport with its Indefinite Leave to Remain stamp was lost some years back, and the Home Office says it could

take six months to process his new application. In the interim, he can neither work nor claim benefits. Nor would May have been thinking of Lasith, sacked from his job of eight years after he couldn't provide proof of his right to be in the UK. Lasith has lived, worked and raised his five children here, entirely lawfully, since arriving from Sri Lanka a half-century ago. After being fired, he received a letter from the UK Border Agency (now UK Visas & Immigration) telling him he had 28 days to leave the country.

**'It breaks my heart when these middle-aged clients come to my office - here from age three, or nine or 15 - never having left this island, papers often gone with the passing of their mums - and I have to explain what a rocky road this might be.'**

A 2009 report by the London School of Economics identified four categories of people with 'irregular immigration status', none of which would cover the Chasing Status interviewees. While the likes of Aubrey and Lasith may not be the intended targets of the legislation, our research shows they are being driven into unemployment, homelessness and destitution by laws already in place. Further changes introduced by the 2014 Immigration Act will only exacerbate their plight, by restricting access to essential services such as bank accounts and private sector housing. They are no longer able to access legal aid to help them resolve their situation, following the 2012 Legal Aid, Sentencing and Punishment of Offenders Act, which removed funding for all immigration cases; and if the LASPO residence test (currently subject to legal challenge) eventually goes ahead, they won't get legal aid for anything else, either. Estimates for the total number of illegal immigrants of all types vary greatly. The 2009 LSE report - still widely cited, even though the figures relate to 2007 and are based on the 2001 census results - suggested the number ranges from 417,000 to 863,000, with a central estimate of 618,000. However, as the likes of those interviewed by Chasing Status fall outside the definitions of 'irregular migrant' used by the LSE, they would be excluded from its calculations. Not only is this group overlooked by researchers and policy-makers, many in it may still be unaware of their

irregular immigration status. Roopa Tanna, a solicitor at Islington Law Centre, says it appears, ironically, that the problem is more common in the longer-established immigrant communities. Many of the people she sees who now find they have status problems, originally hailed from Caribbean countries, she says, although other long-established migrant groups, such as Bangladeshis, would be equally affected. When migrants from these countries first came to the UK four or five decades ago, their status was automatic, under the legislation of the time. They would have assumed it was permanent and irreversible. Newer migrant groups, who started coming to the UK after the introduction of tougher immigration laws, are far more alert to the importance - and difficulty - of securing their status, says Tanna. If they lose a document, they know they have got to get it back.

Several interviewees had difficulties after the loss of their original passports, which had the crucial Indefinite Leave to Remain stamps. Aubrey had replaced his Jamaican passport when it went missing some years earlier, but had baulked at the high cost of renewing his stamp. At the time, he didn't think it mattered, as he had no plans to go abroad, little realising that, without it, he had no proof of his immigration status. Most of those interviewed were at least partway down the road to regularising their status; all are likely to be able to do so, eventually. However, as Tanna says, meeting the criteria for a successful application is one thing in theory; amassing the necessary proof to satisfy the Home Office is another. Whatever anyone thinks of political rhetoric about being 'tough on immigration', no mainstream party or newspaper would have individuals like these in their sights when talking about the need for a crackdown. We believe that urgent reform is needed to ease the plight of people who are now at or approaching retirement age, having lived virtually all their lives in the UK. Recommendations include restoration of immigration legal aid for those living in the UK since 1973 (when the 1971 Immigration Act came into force); and a dedicated team at the Home Office with the understanding and expertise to deal with such cases appropriately. Morris says: 'It breaks my heart when these middle-aged clients come to my office - here from age three or nine or 15, never having left this island, papers often gone with the passing of their mums - and I have to explain what a rocky road this might be.'

## Some of the most vivid accounts of arriving in the UK came from the Chasing Status interviewees who have been here the longest

'Coming home from the airport, it was raining, cold and everything was just strange to me. In those days, you had chimneys with smoke, so you was wondering why the place was so dark,' recalls Henry, who arrived from Jamaica in 1966 as a nine-year-old. He hadn't seen his parents since he was two, and went to hug his uncle, thinking he was his father. Edward, too, remembers the chimneys ('it was like ovens, or factories'). Also from Jamaica, he arrived in 1971 when he was 17. It took him a while to get used to how different the terrace houses were, all joined together.

For Amanda, who arrived in 2003 from Zimbabwe, it was the unfamiliarity of the people rather than the buildings that struck her most. Few of the interviewees had been back to their country of origin, even for the briefest of visits. This was generally down to lack of finances - for Henry and Edward, their work and consequent earnings were too erratic; Amanda's foster parents would never have paid for her to go; and as a single father, Aubrey had other demands on his money. Lasith said his children used to urge him to sort out his passport so he could go travelling. 'I said, yes, yes, but it never bothered me. I said, this is a beautiful country. I don't need to go anywhere.'

He had at least had travelled to other parts of the UK, Henry had barely left the area of east London he was first brought to by his parents 47 years ago. 'I can't see myself living anywhere else. I look at south [London], I said, "no way". Tottenham? No way. Just around Hackney and Shoreditch.'

This lack of ability or inclination to travel abroad meant lost passports weren't replaced and problems with immigration status went undiscovered, until the issue was finally raised by employers or the Job Centre. For Mary, it was when her foster son, Marcus, was not allowed to travel abroad with his school football team that she realised his immigration status needed resolving. Several interviewees had just

misplaced their passports years earlier - perhaps not surprising, given how little they were used. Anne Marie's, however, was lost in more dramatic circumstances, destroyed in a house fire, which also claimed the rest of her possessions. Pregnant with her second child, she was warned not to re-enter the property by the authorities.

**'In those days, you had chimneys with smoke, so you was wondering why the place was so dark,' recalls Henry, who arrived from Jamaica in 1966 as a nine-year-old.'**

With her status resolved, Alicia was planning her first trip back to Jamaica - but admitted to being nervous about being allowed back into the UK. 'My sister's like, "I'm going home!" I'm like, "I hope I can come back!" I don't want to stay for three weeks, because I know I'll be thinking the whole time about coming back.' Amanda 'would love to travel', but to Malaysia or the Caribbean island of Anguilla, rather than her native Zimbabwe. After 10 years in the UK, both 19-year-olds felt it was their home, although Alicia's attitude was more nuanced. 'It's not that I'm not Jamaican. I am Jamaican, but this is my country. Everything I've done, I've done here. Primary school, secondary school. Everything.'

Several interviewees sought help with resolving their status problems from their MPs, but even those who tried hard to help (and not all did) could not do much more than pass on information. Lasith couldn't get legal aid and serious illness had deflected him from taking steps to resolve his status. Instead, he seemed to place total reliance on a letter from Hammersmith MP Andy Slaughter, saying that, as he had been in the UK since 1964, he should be eligible for ILR. Slaughter had been contacted on Lasith's behalf by his trade union, and he was pleased with the support he'd had from both. Aubrey, who similarly couldn't get legal aid, had never joined the union at his work, a decision he now thought 'a big mistake' because 'maybe they would have helped me'.

**'It's not that I'm not Jamaican. I am Jamaican, but this is my country. Everything I've done, I've done here. Primary school, secondary school. Everything.'**

Everyone's story was different, but some strong themes emerged. These included the emotional toll on interviewees; their lack of mobility since coming to the UK; how the cost of the process had militated against their sorting out their status earlier; the importance (and difficulty) of obtaining specialist legal help to resolve their status problems. Politics, racism and immigrants/immigration generally were barely mentioned, suggesting most did not see their predicament in political terms, or in the context of the wider debate around immigration.

Alicia, brought to the UK age eight to join her mother, was one of the few to address wider public attitudes towards immigrants head on. 'They shouldn't just assume it's because [immigrants] want assistance, because sometimes life just ain't great on the other side.' Only 83-year-old Violet alluded to racism directly, albeit this was in reference to the delay in 1974 before her daughter was allowed to leave Jamaica to join her in the UK. The issue of race arose in a few of the interviews, however. Amanda spoke about her shock at seeing so many white people when she arrived from Zimbabwe as a child; and about being fostered by two white families in succession. While the first family teased her about being 'a little immigrant', the second had become 'like my family.' Mary, the white foster mother of 18-year-old Marcus, who was originally from Kenya, said her children 'wouldn't know white from black. We're all the same'. She seemed particularly affronted that it was people with similar skin colour to Marcus who were being rude and unhelpful when she had taken her foster son to try to sort out his passport.



**10. Anne Marie:**

56, arrived from Jamaica in 1974, aged 16, to join her family. She has three grown-up British children. Anne-Marie has learning difficulties and was interviewed with Violet, her 83-year-old mother.

Number of years in the UK: 40.

**12. Aubrey:**

53, arrived from Jamaica in 1973, aged 12, to join his parents. He is a single father to a grown-up British daughter, and a grandfather.

Number of years in the UK: 40.

**14. Lasith:**

60, arrived from Sri Lanka (then Ceylon) in 1964, aged 10, to join his parents. He has five children.

Number of years in the UK: 50.

**16. Marcus and Mary:**

18, arrived from Kenya in 2003, aged 8, after most likely being trafficked here. Lives with his white foster mother, Mary, her husband and their grown-up daughter and two grandchildren.

Number of years in the UK: 10.

**18. Amanda:**

19, arrived from Zimbabwe in 2003, aged 8, to join her aunts in the UK, after the death of her mother. She was brought to the UK by her grandfather, who told the authorities she was his daughter and was subsequently denied asylum.

Number of years in the UK: 10.

**20. Sam:**

53, arrived from Sierra Leone in 1972, aged 12. He came with his uncle's family on a diplomatic passport. He has a British wife (now estranged) and six British children.

Number of years in the UK: 41.

**22. Henry and Edward:**

56, arrived from Jamaica in 1966, aged 9, to join his parents; 59, arrived from Jamaica in 1971, aged 17, to join his parents.

Number of years in the UK: 47 and 42, respectively.

**24. Alicia:**

19, arrived from Jamaica in 2003, aged 8, to join her mother. She has an 18-month-old British son.

Number of years in the UK: 10.

**26. Alan:**

46, arrived from US in 2006, after being headhunted to run a charitable organisation.

Number of years in the UK: 7.

All names have been changed.

# This is England. This should not be happening

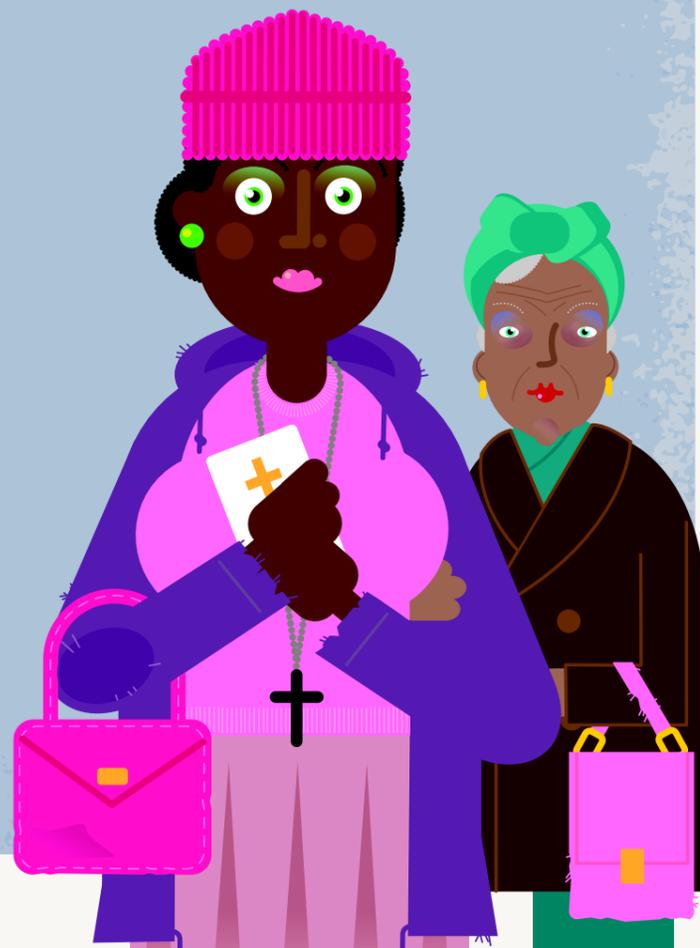
For the past six years, 56-year-old Anne Marie, who has some learning difficulties, has been relying on hand-outs from her family to survive.

Her mother, Violet, 83, who retired from her job as a changing room attendant two decades ago, says: 'If she didn't have us, she would be on the street begging.'

Anne Marie's plight dates back to a house fire in 1985, which destroyed her home and all her belongings. She recalls: 'My son was one year old, and I was pregnant. I tried to go back to the house but I was told under no condition I should enter the house because of the fire damage.' Little did she realise that the loss of one possession in particular would eventually lead to the constant threat of destitution. Anne Marie had arrived in the UK from Jamaica in 1974, and among the things destroyed in the blaze was her Jamaican passport. For the next two decades, there was no reason to feel the loss of her documentation. With her Jamaican grandmother dead, and most of the rest of her family settled in Britain, Anne Marie had no call to return, and foreign holidays weren't an option for financial reasons. Her three children were all British citizens, and the family had no problems accessing welfare benefits or other services. Life was not without its struggles, however, and the children were taken into care for a period. Anne Marie's learning difficulties meant she couldn't get a foothold in employment, but she was far from idle and remains an enthusiastic volunteer at her local church. 'I do Mother Mary's Sacristy on Saturday morning. Tidy it up, clean it and make sure it's sparkling and up to scratch. That's a part of my life when I feel really good.' Having

come to the UK at a time when migration from former colonies was encouraged, the family paid little attention to the changes in immigration legislation that gathered pace from the 1980s onwards. Even when Anne Marie's youngest child had to apply for British citizenship, rather than qualifying automatically, it caused bemusement, rather than alarm. Violet says: 'I had to laugh at that, when the two oldest ones were British, but the youngest one, who was also born here, wasn't British!'

It was a shock, therefore, when a decade later Anne Marie suddenly began having



problems with her benefits claim. For several months, she and her mother traipsed around, trying to resolve a problem they didn't fully understand. At one point, they were told Anne Marie needed a new passport, but having obtained this, found it still failed to do the trick as it didn't contain the original's crucial Indefinite Leave to Remain stamp. Anne Marie's benefits were stopped again. Worse, she was threatened with having to repay the money she had already received. Violet realised the passport that had been destroyed many years earlier had contained the only proof of her daughter's right to be in the UK. 'I didn't know at the time, when I sent for her [to come to Britain], because in those olden days, they don't explain things to you properly. They just put it in the passport and that is that... nobody tell you these things.' Finally, they turned to Islington Law Centre, where solicitor Roopa Tanna is in the process of trying to resolve Anne Marie's status problems (see box). Meanwhile, the threat that Anne Marie could be sent back to a country she hasn't seen in 40 years - and to which she has no ties - remains. As Violet

says, 'she has nobody to go back to' in Jamaica.

For all her lack of formal learning, Anne Marie does not lack eloquence when describing how she feels about her situation. 'I feel that it is rude, out of order. You don't give no explanation, nothing. You don't have no respect for the person. You don't care how the person going to eat or the person is going to live. You know, when you are in a courthouse, and you're waiting for the judge to say whether you are guilty or not guilty? That's the way I feel now. I feel I've been treated just like I'm a criminal.' Violet adds: 'The one thing about it that really make me feel sick [is] you cut off someone's benefits for all these years and there's no back-up, no advice, nothing! That's what annoys me. [No one says] "we cannot pay you x amount a week, but go to such and such place, and you will get a hot meal", or something like that.' She sighs, before adding: 'I mean, this is England. This should not be happening.'

Anne Marie, 56, originally from Jamaica  
see Appendix 5

## How times have changed

Islington Law Centre tried without success to track down Anne Marie's records from the Home Office UK Visas and Immigration (which replaced the UK Border Agency, which itself replaced Immigration and Nationality Directorate), or the British High Commission in Jamaica. It is almost certain that Anne Marie was granted Indefinite Leave to Enter the UK, and has, therefore, been a permanent and lawful resident for 40 years. However, because no records could be found (or may not have been retained in the first place), she is treated as if she has no lawful residence, and now has to make an application for permission to live in the UK, which is a lengthy, complex and expensive process. Before new rules came into force in July 2012, Anne Marie could have made an application for Indefinite Leave to Remain,

as someone who had been in the UK for over 14 years. That has now been changed to 20 years, and even then she will only get 30 months' leave, and have to keep renewing that leave until she has clocked up 10 years of the limited leave before applying for ILR. That means that Anne Marie would have been here for 50 years, before she applies for ILR and her solicitor intends to apply now, arguing that her case is exceptional. To get ILR, Anne Marie would have to pass a Life in the UK test which could be a problem if her learning difficulties were not recognised (although articulate she cannot read or write). Anne Marie was lucky in one respect, in that she sought legal help before legal aid was removed from immigration work. Any one newly discovering they were in her situation would not qualify for legal aid to resolve it.

# ‘I’ve worked, I’ve contributed – but I’m being treated like I’ve just come here’

Whenever Aubrey fills out an official form, he ticks the Black British box. It’s automatic, he says. At 53, and never having been back to Jamaica since arriving here aged 12, what else could he possibly be?

‘This is where my family is. This is where my friends are. This is where my kids are - so that’s what I am.’ Until a couple of months ago, Aubrey had no reason to think of himself any other way. ‘I went through the school system. Been here all my life, basically. My family-my brothers, my sisters, my uncles, aunts - they’re all here. It didn’t cross my mind that I’d be questioned about it.’ Lately, however, he has gone from taking being British for granted, to feeling his adopted country of 41 years is ‘trying to get rid’ of him. He adds: ‘I’ve worked, I’ve contributed, and you’re treating me like I’ve just come here. It’s not a good feeling. I have sleepless nights.’ After a previously exemplary employment record (‘I’m old school. Wherever I work I give 100%. I don’t skive’), Aubrey finds it inconceivable he has been suspended without pay and subjected to his first ever disciplinary hearing - all because he can’t prove to official satisfaction something he finds blindingly obvious: his legal right to live and work in this country.

When his employer of three years first asked for his documents, Aubrey thought it was a formality. Assuming evidence of his work history would be proof that he was entitled to work now, he duly took along his P60 and P45s. When this wasn’t enough, he contacted the Inland Revenue and got hold of 10 years’ worth of his tax records. Belatedly, he

discovered what his employer wanted was not proof of his work record, but proof of his immigration status. It felt like a blow: ‘I thought the world was attacking me.’ It also became apparent just how precarious the status he always took for granted might be.

When Aubrey came to the UK in 1973 to join his parents, his Jamaican passport had been stamped to show he had leave to be in the UK. That passport had subsequently been lost and, although he had replaced it, he hadn’t bothered to get the immigration stamp replaced. As a single father on a tight budget, he had baulked at paying £600 for something he assumed wasn’t that necessary. ‘I thought I would do this when I have the money. I can’t afford to go on holidays, I can’t afford to travel - that wasn’t a priority. Keeping a roof over my head was a priority - paying my bills, stuff like that. So I took those priorities and put them in front of getting my passport sorted.’

It was a miscalculation that has already cost him his peace of mind (‘It’s stressing me out, really big time’), three weeks’ pay (and counting), may yet cost him his job - and possibly much more. Despite the seriousness of his situation, the only help offered by his employer - a major public company with 100,000 workers - was to suggest he find a Citizen’s Advice Bureau. The fact that his

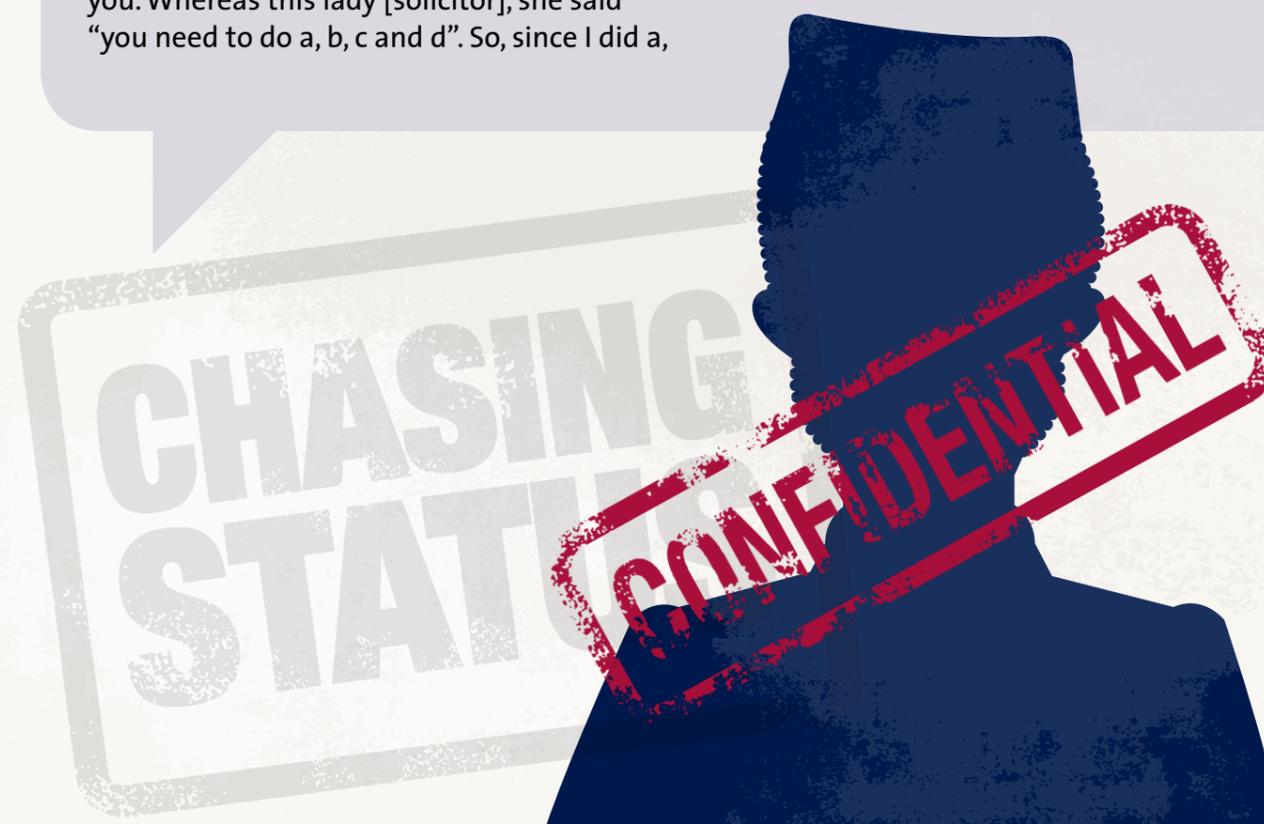
employer provides immigration-related services to the government (albeit through a different division) is an irony not lost on Aubrey. At one point, frustrated at the deafening silence from the Home Office, he asked his HR department if they could use their internal contacts to find out what was happening with his application. Their response was there was ‘no connection’ between the divisions. This failed to satisfy Aubrey: ‘Yes, there is a connection, because it’s the same company, and this is my livelihood. If you don’t help me and I lose my job, I’ll be out on the street.’

His problems were compounded by the removal of legal aid for immigration work. Although the CAB referred him to a local law centre, when he got there, he was told that, with legal aid gone, they couldn’t help him. Luckily, the receptionist didn’t send him away empty-handed. She printed out the relevant Home Office form for him, and asked one of the centre’s solicitors to give him pointers on what documents to include. However brief and informal, the advice proved invaluable. ‘Without it, it would have taken a hell of a lot longer, I know that,’ Aubrey says. ‘There are certain things that I didn’t really realise because this form doesn’t specifically guide you. Whereas this lady [solicitor], she said “you need to do a, b, c and d”. So, since I did a,

b, c and d, the process actually speeded up.’ Even so, he remains in limbo. All his efforts to contact the Home Office for an indication of progress have been met with silence. All anyone can tell him is the process could take up to six months. What his family will live on and whether he would have a job at the end of it, is not something he has been able to bring himself to contemplate.

Since discovering his own predicament, Aubrey has made it his mission to spread the word among friends who he fears might unknowingly be in a similar situation. Meanwhile, he waits and endures. His daughter, now 26, came to live with him when she was five, after her mother’s mental health deteriorated. It was a tough time for the family and it took him a while to get his daughter settled. This, however, is worse, he says. ‘The things I went through getting my daughter and what her mum went through, that was emotionally draining. That took a lot out of me, but I dealt with it. But this, there’s nothing I can do. It’s out of my hands - and when you try to get help, it’s like no one wants to help you.’

*Aubrey, 53, originally from Jamaica  
see Appendix 5*



## I thought it was a joke - and then I got a “removal” letter from the Border Agency

Lasith came to the UK from Sri Lanka (then Ceylon) in 1964, arriving with his younger brother and grandmother. He still has his birth certificate and long-out-of-date Ceylonese passport, showing him as a nine-year-old, wearing a tie and an intense expression.

Until a few weeks ago, Lasith, now 60, had always taken both his good health and his Britishness for granted. A caretaker until his recent problems, the father of five liked his job and was popular with his workmates. The work was physically demanding but he assumed he would carry on for years; in his words ‘until I’m 70 or can’t work no more. I would have tried to build my pension up’. He didn’t reckon with the intervention of the UK Border Agency.

In September 2013, after eight years in the job, Lasith’s contract was terminated because he couldn’t prove to his employer’s satisfaction his legal entitlement to work in this country. ‘I told them “I’ve been working for 40 years. I have five kids now, grown up in this country, and I’ve got five grand kids. So how can you say that I’m not eligible to work? How do you think I’ve supported them?”’ His employer had his National Insurance number, so he showed them his passport and birth certificate, along with details of his school and, and where he got married. None of it was enough, and he was sacked. Even then, Lasith assumed he would soon be reinstated. I wasn’t worried, because I didn’t think of myself as illegal. I thought of myself as British. This is the only country I’ve grown up in. I wasn’t scared because I knew deep down, where are you going to take me? Put me in the Indian Ocean? Although I was born in Sri Lanka, I’m not a citizen of that

country, so I have no status there.’ Gradually, the seriousness hit him. ‘I thought it was a joke really - and then I got a letter from the Border Agency, hassling me. They gave me a deportation order.’ What he describes was, in fact, a letter from Capita (a private company contracted by the Border Agency to track down those who might have no right to be in the UK). It stated that he had 28 days to leave voluntarily. The thought he would be ejected from the country where he’d lived for half a century, and which his whole family called home, was devastating. ‘What are they talking about? This is my country! My father’s a British citizen, my brother’s a British citizen, my uncle’s a British citizen. My father came here early 1950s. Some of my uncles came here in the early 1940s. I can’t believe all this.’

In a state of panic and anger, Lasith started casting around for advice, but with legal aid gone, it wasn’t easy to find. He lives in west London but was advised by a local CAB to try Hackney Migrants Centre, in the East End. He and his daughter travelled across London for a drop-in session, only to be told that although the solicitor could give them general advice about what he needed to do (including to ignore Capita’s letter), her huge caseload prevented her from taking him on. Meanwhile, his trade union had contacted his MP, who after investigating, confirmed that, because Lasith had arrived pre-1973, he would be entitled to Indefinite Leave to

Remain. He would still have to prove he’d lived here for each of those years but, for the first time in a while, he began to feel optimistic about his future. Fate had another blow in store, however. It emerged that the shoulder pains Lasith had been having were not caused by returning to heavy lifting too soon after an operation, as he’d assumed, but by a tumour. He was diagnosed with lung cancer. Having been given a life expectancy of a year to 18 months, Lasith is about to start a six-week course of radio and chemotherapy. He is now a shadow of his former self, barely recognisable from the confident, physically imposing figure he once cut. (At one point while describing how being told he had no status made him feel, Lasith breaks down and it is several minutes before the interview can resume.) It’s not just the cancer that has had an impact on his health. ‘It’s obviously had a lot of impact on me, telling me I have no status and I’m not eligible to work, when I’ve been working all my life here. It’s had an effect on my health also. It’s made me depressed.’ Instead of looking forward to another decade of working and building up his pension, he is now living on incapacity benefit and applying to see if he can release his pension contributions so he has something to live on now.

While the cancer charity Macmillan is helping Lasith with his finances, he wishes he’d claimed unemployment benefits as soon as he lost his job, rather than rely on his savings. ‘I thought I’ll be a couple of months out and be reinstated. I didn’t want to go and claim, so I was using the money I had to live on and pay my rent.’ He also reflects on how much better off he would be financially if he’d still been in his job when he found out he was ill. ‘They would have had to carry on

paying me until everything is diagnosed.’ Lasith accepts his share of the blame for his predicament, acknowledging he should have sorted out his British passport years ago but there were always other priorities financially, and he never had the opportunity to travel outside the UK. ‘I have five children and I had other things that were important to me. My kids, I had to give them holidays and things like that, so they come before that and no one hassled me in this country. My friends are English, my friends are Irish, Scottish, whatever. My children used to say to me “dad, you’ll have to get your passport if you want to travel”. They used to tell me that, years and years ago. I said, yes, yes, but it never bothered me. I said “this is a beautiful country. I don’t need to go anywhere”.’

Lasith, 60,  
originally from Sri Lanka



**For his 16th birthday, he had his passport. He was over the moon. Now he doesn't have to say, "no, I can't go, I'm a second-class citizen"**

The first time Mary set eyes on Marcus was when the social worker brought him to stay for a couple of days. She recalls he had all his possessions in two carrier bags.

In the tiny one-bathroom house that was home to Mary and her husband, daughter and two grandchildren, there were no spare beds, so he slept on the floor. Earlier that day, Mary's grandson's head teacher had phoned, asking her to come in. She had no idea that phone call would change her life – and that of her family - forever. Assuming her eight-year-old grandson had been up to mischief, Mary had asked Mrs Jenkins: 'What has Ian done now?' It emerged he had been trying to comfort a sobbing classmate. When Marcus proved inconsolable, Ian had taken him to see the head teacher, who called social services. 'They found he was living with three men: one who claimed to be his father, and two who said they were his uncles.' Discussions with Marcus revealed he was suffering serious physical abuse at home and needed to be removed immediately. It appeared (among other things) he had been burned with cigarettes, and social services had a strong suspicion the eight-year-old had been trafficked.

With no local authority accommodation suitable for a child available, another solution was needed, and the head teacher appealed to her pupils. Ian had volunteered his nan to look after Marcus for a few days: 'Oh, she'll be fine.' Mary was fine, although she had a lot on her plate already. As well as working as a nurse, she had been looking after her grandchildren, since the younger was just three months old, when her

daughter became unwell. Eight years on, all three lived with Mary and her husband of 56 years. Although the intention was Marcus's stay would be temporary, Mary says she knew 'almost immediately' he was for keeps. 'He was so sad and would hide. You can't let a little lad like him be like that. So I just stuck with it, and he stuck with me.' Since then, her family have been able to give Marcus the experience of regular family life, with all its minor frustrations and foibles (such as queuing for the bathroom. 'Marcus is the worst offender. We are always shouting at him to come out – but that is a normal family, which is what he needs'). However, a while after he came to stay, Mary realised Marcus's lack of immigration status was a problem. Since by then he was part of the family, it came as a shock to discover others took a different view. After her husband had repeatedly had to bring Marcus home from the airport when he'd been stopped from travelling abroad with his football team, Mary realised something would have to be done. Marcus's social worker referred him to Jo Renshaw at Turpin & Miller, who dealt with the case on legal aid, and made a successful application for Indefinite Leave to Remain. Despite this, they still encountered protracted problems with foreign travel, including a family holiday to Spain. 'In the beginning, he just thought he'd have to make the best of it. He just thought he'd be a second-class citizen,' says Mary. 'Not on my shift.'

The obvious course of action was to apply for British citizenship in order to get Marcus a British passport, but the cost was prohibitively high. 'We wouldn't have managed - it was over £600. Ordinary people don't have those resources, do they?' Thankfully, Marcus's football coach stepped into the breach, organising a fund-raising event to find the money, and Jo Renshaw helped them with the application for citizenship.

As the eldest of 10, whose mother walked out when she was 15, Mary is someone who has learned to cope with most things, but nothing could have prepared her for what she encountered and witnessed during the application process. Seeing the way the (mainly black) applicants were treated was a real eye-opener for her, a white woman. She describes as 'appalling' the rude and uninterested staff, the endless waiting, and the dehumanising and demeaning experience. 'I don't think it's right that these poor people are treated in such a manner. They are made to feel they are nothing,' she says. 'We were there 12 hours sometimes, sitting, waiting. If you went to the toilet, a security man came with you. He stayed outside, with his hands behind his back. I couldn't get over it.' No one would tell them anything, and although Marcus was still so young, Mary was terrified he might suddenly be sent back to Kenya. Even once the citizenship and passport application cases had finally been resolved, the rudeness persisted. Mary recalls: 'This lady said to me, "you can go now". So I said, "is that it, then?" She didn't answer. She just turned her back and carried on. I said, "excuse me. Is that it?" "She glanced half around and said, "what do you want me to say?" I said, "well, is that it? Who is responsible? Can we keep him?" She said, "I'm not responsible for the world's children". So I shouted, "who is then?"' She didn't get a reply. When Marcus's British passport finally arrived, it was just in time for his 16th

birthday. 'He was absolutely over the moon about it. It means he's the same. He doesn't have to say "no, I can't go, I'm a second-class citizen". He can go where he likes and do what he likes, and he's very, very happy.'

Ten years after arriving in Mary's family home, Marcus is doing well at art college and set for university. He and Ian are like brothers and, to Mary's obvious delight, Marcus has recently started calling her 'mum' (she is 'nan' to everyone else). For his 18th birthday – the age when fostering legally ends – the family threw a surprise party for him. Marcus's present to Mary was to tell social services he wants to stay with her family 'until he gets married'. 'So I'm hoping we get to keep him a bit longer,' she says.

Marcus, 18, originally from Kenya, with foster mother, Mary



## I worked hard and got myself into uni, only to be told I can't go. And I was like, I did all that, for what? Can't give up, though

Amanda was nine when her grandfather brought her to the UK, claiming to the immigration authorities she was his daughter. Ten years on, now a likeable and ambitious teenager, Amanda still recalls her arrival with characteristic frankness.

'It was cold and, I don't mean to be rude, but I was like "oh my god!" There was so many white people around. And it was also scary because when they asked my granddad for our passports, he didn't have my passport.' They were questioned, and her memories of the experience remain vivid. 'I remember being hungry, being given a sandwich. I remember crying, wanting to go with my auntie. We were there for hours, and then they finally let us go.' Amanda's grandfather was subsequently denied asylum so she lived with her mother's sisters. However, it wasn't long before she was taken into care and fostered, though she retained contact with her aunts. 'Next thing I know, I have to live with white people. My English was still not great. It was a different environment, different culture. They had a dog and I was scared of dogs. So it was a horrible experience for me, and I didn't understand at the time why I was being put into care. I hated it.' Additionally, her foster family would tease her about being 'a little immigrant' and the fact she couldn't accompany them on trips abroad, adding to her isolation. It gave Amanda her first inkling of her lack of legal status, but at the time she was more concerned about how much she loathed her supposed carers.

Bright and articulate, at first she wasn't shy about speaking up, but it would take three

years and several changes of social worker before anyone did anything about it. 'The first few social workers, they wouldn't listen.' They accused her of exaggerating, so 'in the end, I wouldn't say anything'. It was only when she got a newly qualified social worker the situation changed. 'Sarah actually listened and was very concerned. She was like "if you're not happy, you do know you can say you're not happy and you can move".' Initially it seemed as if Sarah made a bad situation worse, as Amanda was moved to a new family many miles away, effectively severing contact with her aunties. 'I had to move schools, everything – but for me, I think it was probably the best thing the social services ever did for me. It really was. I was so unhappy where I was.' Her second placement was successful. Even though Amanda moved out when she reached 18, she remains in touch with her foster carers, visiting or phoning them. 'They're like my family. I don't see any colour at all, because they are white but I don't see anything like that. They are a lovely couple, so I was very lucky.'

As well as being the first to take Amanda's unhappiness seriously, Sarah was the only social worker who tried to sort out her status. Although Amanda's grandfather's failed asylum claim and the circumstances of her own arrival in the UK were raised in court when she was fostered, nothing was done

until four years later when Sarah took Amanda to see specialist immigration firm Turpin & Miller. Amanda says: 'I think my documents could have been sorted out a lot earlier than this, but it's just at that time, the social workers weren't really that bothered.' While she remains resolutely upbeat, her status problems are a source of great frustration. She can't travel like her friends and can't claim welfare benefits. Despite working part-time job in McDonald's, there are times when she has to ask her social worker for additional financial support, which makes her feel more like a child than an adult. She also needs regular hospital appointments for a string of serious medical conditions and so has to ask for her travel expenses. 'I want to be able to support myself, rather than constantly crying out to social services.' Most upsetting of all, her limited status meant she was forced to defer a hard-won place to study law at university last year, when the rules for those with discretionary leave to remain changed (see box). 'I worked hard and got myself into uni, and I was really proud and happy, only to be told I can't go. And I was like, is this a joke? I

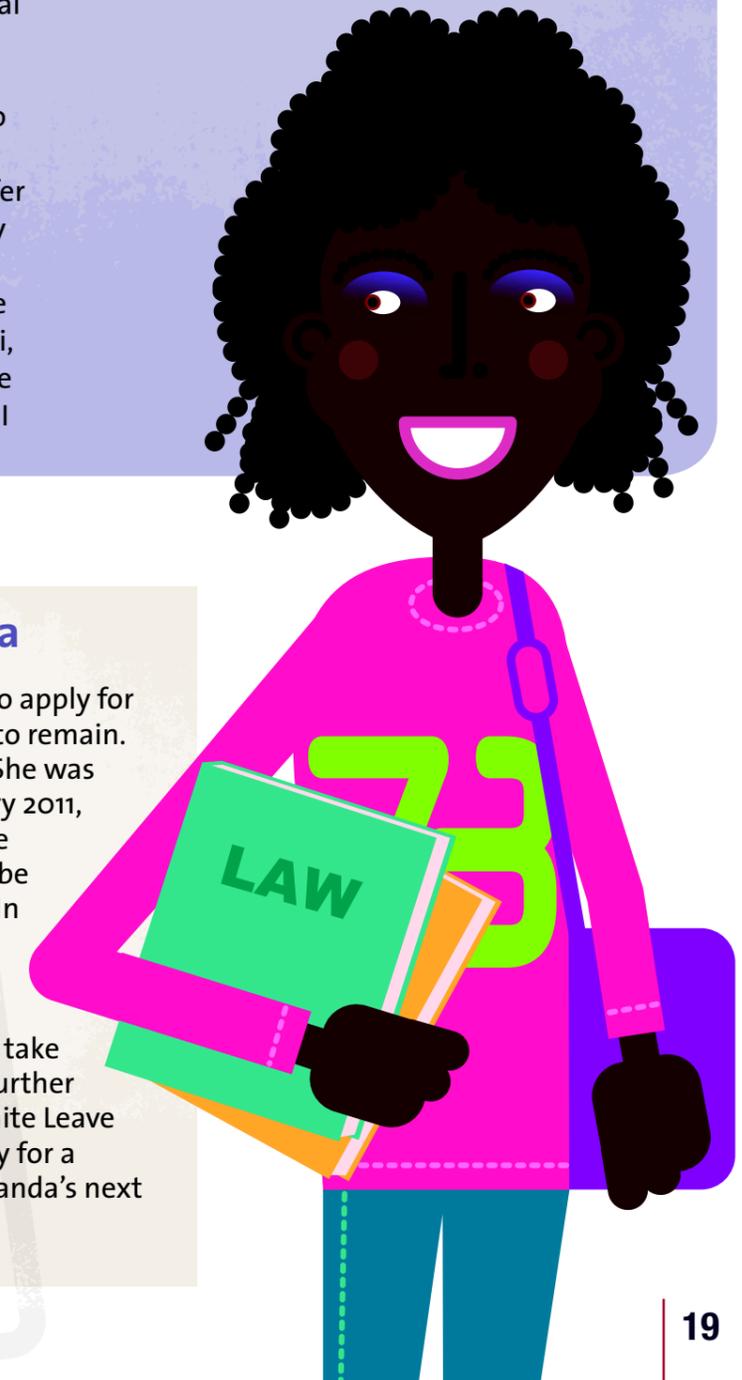
did all that, for what? Can't give up, though. I want to make something out of myself and know that I actually did it.'

She adds: 'I don't want to be this, you know, this normal stereotype of foster kids: how we're all trouble. I want to show that, actually no, not all foster children are like that. I've met children who were fostered and went to university and actually do something with their life. They'd got no family, but they are nice and happy. They are normal people. It doesn't define who you are, just because you've been in care.'

*Amanda, 19, originally from Zimbabwe*

### How the law limited Amanda

The Home Office typically grants those who apply for status as children only discretionary leave to remain. Amanda was granted leave for four years. She was caught by the change in the law in February 2011, which meant those with limited leave were not entitled to student finance and would be charged overseas rates to study in the UK. In Amanda's case, a year after she was forced to defer taking up her place, her local authority stepped in to help her out with the finance, and she was able, belatedly, to take up her place to study law. After making a further status application, she was granted Indefinite Leave to Remain, which means she can now apply for a student loan for the rest of her course. Amanda's next step is to apply for British citizenship.



## Homelessness arrived just like that! I spent my Christmas at Crisis in east London

When Sam arrived in London from Sierra Leone in 1972 as an excited 12-year-old, neither he nor his wealthy, influential family could ever have dreamt he would end up sleeping on the streets - all because of a lost passport.

Sam's policeman father had decided his son should take the opportunity of travelling to Britain with his brother's family, when Sam's uncle became attaché for Sierra Leone. When his uncle's five-year tenure was up, Sam (by now 17), stayed on to continue his education, along with his two cousins.

Sam married a British woman and they had six children, all British citizens. He set up his own business and continued his education. Then in 1988, his mother died. For the first time since 1972, Sam needed to return to Sierra Leone. He took his Sierra Leonean passport to a south London law centre and, with their help, applied for and received Indefinite Leave to Remain.

After two decades, he and his wife separated, sadly. He moved addresses several times, leaving his possessions with various friends. In about 2009, he was asked for ID when hiring a van. A search for his passport was unsuccessful, but he assumed it was among the belongings left with friends. When eventually he realised his passport was lost, rather than misplaced, he didn't panic, reasoning it would be a simple matter of tracking down his records from the UK Border Agency. Initially, he approached Lunar House direct, to no avail. Next, he went to see an advice agency, which applied on his behalf; still no joy. He then sought support

from his MP. Still the reply came back: no record of this person. Alone among the state agencies Sam contacted to reassemble his missing documents, the UKBA claimed to have no trace of him. He couldn't believe it: 'I was trying to convince them "you have me on your records, I have my footprints all over the state".' The DSS came up with 26 pages of records; the DVLA replaced his driving licence; and the NHS provided 42 years' worth of his medical records. 'The DVLA comes up with the goods! The DSS comes up with the goods! The UK Border Agency doesn't.' For ages, Sam clung to the belief that, if he just kept asking the UKBA, eventually it would find his records. By now out of work, and estranged from his wife and children, Sam used up all his savings. With no proof of his immigration status, there was no lifeline of welfare benefits. Life took a dramatic turn. 'Homelessness arrived like that,' he says, snapping his fingers. 'So 2010, I spent my Christmas at Crisis in east London.'

Besides the practical difficulties, destitution caused him deep shame. 'I am a proud man. I don't want my kids to know. I don't want my friends to know.' Thrust into an unknown world and relying on hand-outs, he ended up sleeping rough, where he was found by a charity and taken to a short-term hostel. 'It wasn't the nicest place to be, because they have this policy of no nesting. You go in and

there's just...' he struggles to find the word, 'humanity, on the floor. And you are just waiting there.' As a charity worker on Sam's case explained: 'It is not just a case of staying in one place. Sam had to travel every day to a different shelter, across south London with no money and carrying a big bag through all kinds of weather. [He was] not allowed in until 7pm, and then had to be out early in the morning and do the whole thing again. And this persisted for a whole winter season.' Eventually he was found accommodation in a longer-term hostel. But for the next two years, he had to live on hand-outs while his solicitor sought to get his benefits reinstated. With housing benefit finally restored, Sam is now in more permanent accommodation but is still in limbo. He remains anxious about being 'shipped out' at a moment's notice, away from his children (who still don't know about his homeless episode) and the only country he has known since the age of 12.

He describes the mental toll it has taken: 'Depression, anxiety just erupted. Shame, sadness, dejection.' He has used all his personal resources to find a resolution. 'I deserve a job at UKBA. No joke. I have researched that place in ways you would not believe. I know their references, where they store stuff, how they do it, the mistakes they made. [Chief Inspector of Borders & Immigration] John Vine's report - I've read it from top to bottom.' (See box)

He believes he has narrowed the date in 1988 when ILR was granted to a two-week period. He has supplied more than enough details to locate an individual's records at virtually any other organisation: name, key dates, date of birth, national insurance number, NHS number. Yet UKBA still insists it has no record of him. He believes the only thing that will unlock his records is his UKBA file reference number, the only bit of information he lacks. His theory is well founded if the experience of his cousin, Adam, is any yardstick. Sam's solicitor suggested it might help substantiate his story if Adam got hold of his own UKBA records. Adam - by now a British citizen and director of a multinational company - obligingly sent off his application, only to be told (somewhat predictably) that UKBA had no record of him. Incensed, he dug around and found his UKBA file reference number, and tried again. This time, 45 pages of records were forthcoming. Sam says: 'This just indicates these people cannot handle simple data. I give them my name, my address, makes no difference.' He adds, more in sorrow than in anger: 'If that is the key, would it not make sense in their documents, in their policies, on the phone, to say to people "without this, we can't help you"? I would have photocopied the passport a thousand times.'

*Sam, 54, originally from Sierra Leone*

### A damning report

The report Sam refers to from the Chief Inspector of Borders & Immigration confirmed the fears of many immigration lawyers and others who work in this area - that the UKBA (as it was then) was sinking under the weight of its workload. Looking at just a single area of case work (known as the 'legacy' cases), the Chief Inspector found that at one point there were 150 boxes of unopened post in a room, amounting to over 100,000 items of correspondence. In that context, it is not hard to understand Sam's struggles to get UKBA to find his records from so many years ago. Most of those seeking to get a response from the UKBA/UKVI are those without status, who are applying to regularise their stay. However, Sam's story illustrates how even those who already have ILR can be left in limbo, and even forced to apply again from scratch - a lengthy, expensive and complex process (with no guarantee of success) - if they are unlucky enough to lose their 'proof' of status and the UKBA claims to have no record of them.

## I was running around like a headless chicken. Nobody seemed to point me in the right direction

The only time Henry, a quietly spoken 56-year-old, originally from Jamaica, reveals any anger about his predicament is when he recalls a Job Centre worker saying he had 'no legal right to be in the country'. 'That's what he said, which pissed me off. Pardon my Dutch.'

As a painter and decorator by trade, benefits were Henry's lifeline when work dried up. A Job Centre delivered equally troubling news to 59-year-old Edward, also originally from Jamaica. Like Henry, he had been in the UK for more than four decades before his immigration status was questioned and he found his benefits stopped without warning. The only explanation that the Job Centre could give him was there was 'an immigration issue' and, for the first time in his life, he was advised to contact the Border Agency. 'It felt really strange, you know,' he recalls. Henry and Edward's stories are strikingly similar. Both arrived in the UK as children to join their families; neither has ever returned to Jamaica; and neither had previously given much thought to their right to work or claim benefits here. Both also had the luck to eventually find their way to Gwen Morris, immigration solicitor at Hoxton Legal Advice Service. Despite only receiving enough funding from the Legal Services Commission to take on a maximum of four new clients a week, she managed to take them on. Morris says there are many, many more 'rather surprised Brits' out there, people like Edward and Henry from Commonwealth countries who, after spending most of their life in the UK, 'can't believe their nationality, much less their lawful presence, is being questioned'. For someone in this situation, establishing

their legal right to be here can be a lengthy and difficult process, she adds (*See box*). 'It breaks my heart when these middle-aged clients come to my office - here from age three, or nine or 15 - never having left this island, papers often gone with the passing of their mums - and I have to explain what a rocky road this might be.' At the time, immigration legal aid was still available for both Henry and Edward, but getting help was still a hit and miss process. Both say it took a while for their situation to sink in. Edward says: 'I buried my head in the sand, thought it was all too difficult, it's too much.' With his benefits cut off, he relied on help from friends and family, which caused a strain, 'because most of those I rely upon, they haven't got it themselves'. It took an emotional toll, and he became depressed. 'Before this, I used to work, take care of myself, everything - and then all of a sudden...' His voice trails off. Eventually, he realised his situation wouldn't solve itself and began looking for expert help. 'I did a lot of running around. I was sent here and there.' Only when a friend suggested the Hoxton centre did the situation begin to look up.

Henry had a similar experience. He has dyslexia and finds reading difficult, which meant that at first he didn't understand what the Job Centre wanted. 'All they were

saying, I need some formal document and, not knowing English properly, what's a formal document?' When he realised they meant a passport, he took his original Jamaican one along, which didn't help matters. His account of trying to find help echoes Edward's. 'I was running around like a headless chicken. Going law centre, going Job Centre. Nobody seemed to point me in the right direction.' A Citizens Advice Bureau had suggested he go to a local law centre, but he emerged from there frustrated and no further forward. 'There was no one for me to talk to. I had to use the phone [in the law centre]. I was phoning, phoning half an hour, no one answered. I put the phone down. I wait half an hour and phone again. Phone, phone. No one answered, so I just walked out.' It was only when his housing association tried to evict him for non-payment of rent, that Henry finally found the expert help he needed. The eviction was halted, and, thanks to Morris, he has now been granted Indefinite Leave to Remain. His benefits have been reinstated, but the money had yet to come through by the time of the interview, meaning he had been without any income for over a year. Next, he wants to sort out British citizenship, but needs to find a job first as his Jobseeker's allowance won't be enough to pay for it.

Becoming a citizen of the country he came to at nine is 'just a security thing' he says. It won't be 'like a pot of gold for me, or a joy'. Neither Edward or Henry think they would have been able to resolve their situation without help from a legal aid solicitor - not just because of their lack of legal knowledge or, in Henry's case, problems with reading, but because their predicament felt too overwhelming to deal with alone. Edward is 'frightened to think' what would have happened to him without Morris's help. 'Because, after getting bad news, you tend to be more depressed, and the more depressed you are, the less chance of you actually sorting what need to be sorted out, so it's like a spiral.' Henry says he needed Morris to cajole him into action: 'I know she was trying to help, but my frame of mind was, on days, I don't want nothing more. But she had a way of getting me to answer the questions, so I did reply, because she said if I don't answer the questions, she can't help me. So I tried my best at that.'

Henry, 56,  
originally from Jamaica  
see Appendix 5



### How the ILR goalposts have moved

At the time Henry and Edward applied for status, Indefinite Leave to Remain could be granted on the basis of 14 years or more continuous residence. In April 2012, that changed to 20 years' residence, and a successful application no longer results in a grant of ILR but only Limited Leave to Remain. ILR can only be applied for after making further LLR applications (it is granted in two and a half year chunks), equating to a further 10 years' residence. Therefore, anyone in Henry and Edward's position now would have to complete 30 years in the UK prior to grant of ILR, and would be unlikely to be allowed to access state benefits during that period.

# I couldn't breathe when my social worker said I could be taken to detention immediately

Originally from Jamaica, Alicia, 19, had been in the UK 10 years when she discovered the problems with her immigration status. She had arrived unaccompanied, aged just eight, to live with her mother.

It was not an easy transition, not least because she'd been told she was here for a family wedding, only to be sent to school. And her relationship with her mother proved to be volatile, leading to periods when Alicia was taken into care.

It was at 16, when Alicia's friends began getting their national insurance numbers, that it first dawned on her she might be, in her words, 'illegal'. 'We were in secondary school and everyone was getting an NI number. I didn't understand: why ain't I got an NI number?' Desperate to get a Saturday job like her best friend, Alicia asked her mother for her passport. 'Every time I mentioned it to my mum, she'd get angry. I left it. I thought my mum just didn't want me to get a job yet.' Her misgivings didn't go away, but it was only a couple of years later that Alicia finally raised the issue with her social worker. 'I went to my social worker and asked "has there ever been a passport for me?" And she said "no". And I said, "I think I'm illegal" and she said "what?!" And I told her everything that had happened.' Alicia says she 'couldn't breathe' when she heard what her social worker said next: 'She told me, she can either go upstairs now and tell her manager what she has found out, and immediately, I could be taken to detention. They would probably get the police.' Or, the social worker said, she could delay

telling her manager until they were able to get legal advice about whether Alicia might have a case. Luckily for Alicia, the local authority had a good contact at a local specialist immigration firm, Turpin & Miller. 'So I said to her, well try that.'

Alicia is angry that, having been uprooted against her will once ('I would have stayed in Jamaica if I had the chance because my nan was there') and successfully settled in Britain, she was threatened with being uprooted again, and returned to a country that now felt alien. 'It's not that I'm not Jamaican. I am Jamaican. But this [Britain] is my country. I've done everything here. Primary school, secondary school, everything.' She adds that although excited about her first trip back to Jamaica, made possible now she has been granted Limited Leave to Remain, it feels 'like I'm going on holiday, it doesn't feel like I am going home'. When Alicia realised the country she now thought of as home (and had lived in longer than her birthplace) might not allow her to stay, it hit her hard, especially as by then she had a baby son to consider. From being a confident young woman looking forward to the future, she became constantly tearful and depressed. 'I didn't go a day without crying. It was all I could think about. For me, the paper [limited leave] still says you're not existing. My social worker reminded me that you're still nothing

in this country until you get that indefinite [leave to remain]. They'll never look at you as a normal person. Until you get that indefinite, your child will never be classed as a normal English child.' Her precarious status left her feeling isolated, and frustrated at not being able to do the things other friends took for granted. 'All my friends started driving, going to uni. This made me realise that without this piece of paper, I'm no one. I went into a depression then.' She reports being teased and bullied by other teenagers, who would threaten to turn her in to the immigration authorities. 'Oh, you're an immigrant. Ha, ha! That started.' It also made her fearful of filling in official forms or giving her details to anyone, even when she was pregnant with her son, now aged 18 months, believing 'anything that needs correct names, Immigration is going to come'.

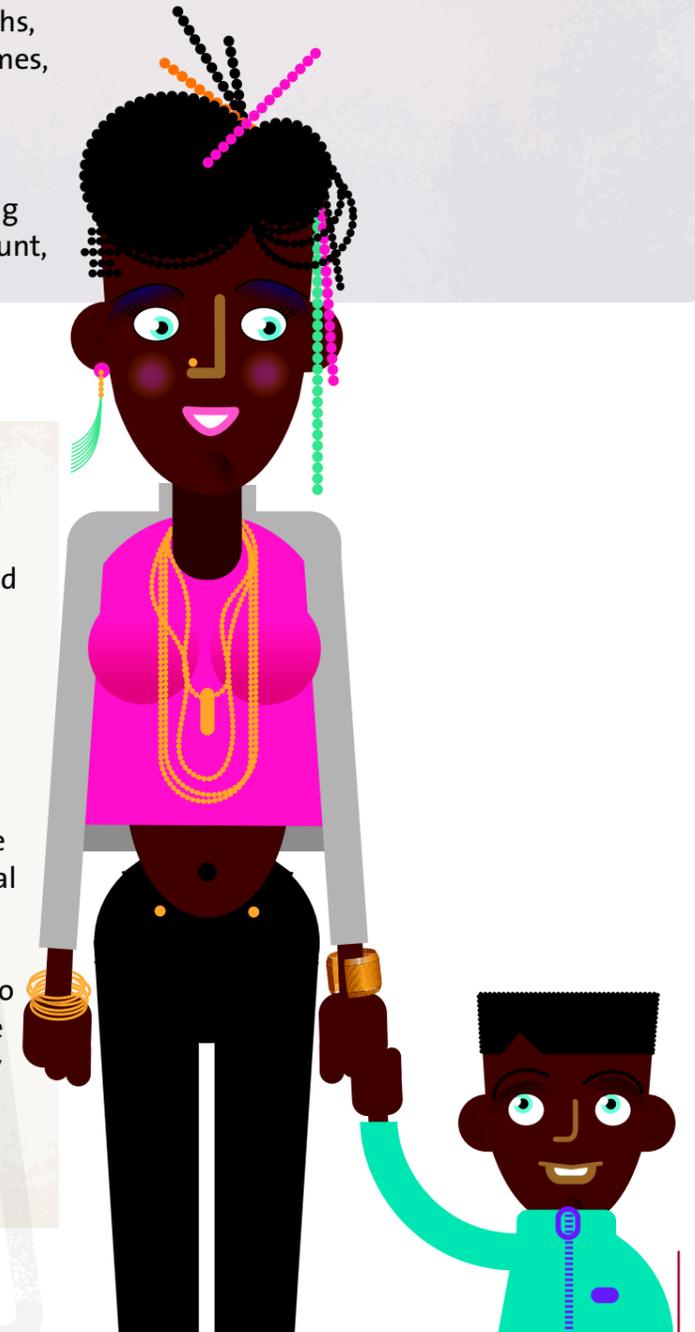
When (after an initial refusal), her lawyer succeeded in getting her LLR, the first thing Alicia did was go out and open a bank account,

something her lack of status had previously rendered impossible. She describes her feelings when Turpin & Miller partner Jo Renshaw called to tell her the news. 'I wrote a few poems about having your identity stripped away from you. One minute, your teachers and your friends are telling you "we're going to go on holiday; we're going to travel; we're going to go away". And it just daunts you, like, I'll never be able to do anything like that. And then one day you get a phone call saying "actually, Alicia, now you can". (see box) You do feel more relaxed, because you don't feel they are going to come and take you tomorrow.'

Alicia, 19, originally from Jamaica

## Post-18 problems

Although Alicia had been in care as a child, the local authority had not resolved her immigration status. Securing status once a young person has reached 18 can be much harder, as they are considered an adult and so able to return to their country of origin even if, like Alicia, they have lived most of their life in the UK by that stage. Alicia's application was made when she was over 18, but (after an initial refusal) she was granted Limited Leave to Remain as the mother and sole carer of a British child, but without the right to claim benefits, and a 10-year wait before being eligible for settlement. It was only after a successful judicial review that Alicia was finally granted the right to access public funds.



## ‘You give the UKBA the kitchen sink, plus someone else’s kitchen sink – and they still come back for more’

If Alan’s career in the charity sector doesn’t work out, he could have a future as a detective, if his exertions in resolving his immigration status are any indication. His quest for status called for investigative skills, boundless amounts of doggedness, determination, money - and a bit of psychology.

Unlike our other interviewees, as an educated professional originally brought to the UK for a job, Alan could afford to pay for his own legal advice. Yet even with these advantages, his encounters with the UKBA took on a Kafkaesque quality. Originally from America, Alan, 46, was headhunted to the UK to head a voluntary organisation. After five years, he was ready to apply for Indefinite Leave to Remain, and, hopefully, residency. At this point, things started to go wrong. Alan had already experienced the UKBA’s rigidity while securing his tier 1 entry visa. ‘You know what information they want and you know how you can provide it, but they want it in a specific way that their form says they want it in,’ is how he describes it.

It was only after a stressful, and expensive, few months and with the assistance of his solicitor that his application was granted, and he prepared for the next stage, which would be applying for Indefinite Leave to Remain. Unfortunately, as a result of the economic downturn, his job ended. This wouldn’t have been a problem in itself, had the migration rules not unexpectedly (and precipitously) changed at the same time (see box). Originally after being made redundant, Alan had decided to take a break before applying for ILR, as he had had an exhausting few years and was financially

secure, having just sold a house back home. His last day in the job was 6 April, which was exactly the same day that tougher rules for obtaining Indefinite Leave to Remain were introduced, having been announced by Theresa May just three weeks earlier. To qualify for ILR, he discovered he would now need enough points, which are based on such things as age, educational level and income. ‘I couldn’t change my age; I got no points for that. My education: I wasn’t going to go out and get a PhD in the next six months. I had just given up my salary; I was living on savings.’ The substantial sum in his bank account from the sale of his house made no difference. ‘It’s only the income that you receive in the 12 months prior to applying.’ Alan had to act quickly. He revived his former, dormant business and managed to reach the income target ‘literally to the pound’. But generating sufficient income was one thing, proving it to UKBA’s satisfaction was another. The UKBA insisted on written bank statements for proof of income. Alan had run a paperless account. His bank said it could provide a print-out of the account, but not actual statements. For a while it looked as if Alan might be scuppered by the UKBA’s rigidity. He says: ‘The bank’s attitude is “it’s not our application; the UKBA can ask for anything it wants, but we have no obligation to provide it”’. He realised that to

break the logjam, he would need to use a bit of psychology. He saw his bank manager about investing the money from selling his house. ‘And, after getting all the advice on how I could invest, I said, oh, while I’m here, I just have this other little request. I know you don’t normally do this, but could you print out formal statements for me...?’ With the tempting prospect of a large investment in the offing, the bank was happy to comply, and Alan got his statements. The next hurdle was to provide proof he had lived in the UK for the full five years. The amount of proof he was advised to produce was, he believes, absurd. ‘They specifically wanted proof of your actually having been in the country. My bank statements showed all the daily ATM withdrawals, that I had lunch every day at Subway, so they could actually track I was here every day for the entire five years. But that wasn’t enough. They want to know that you are actually *living* here.’

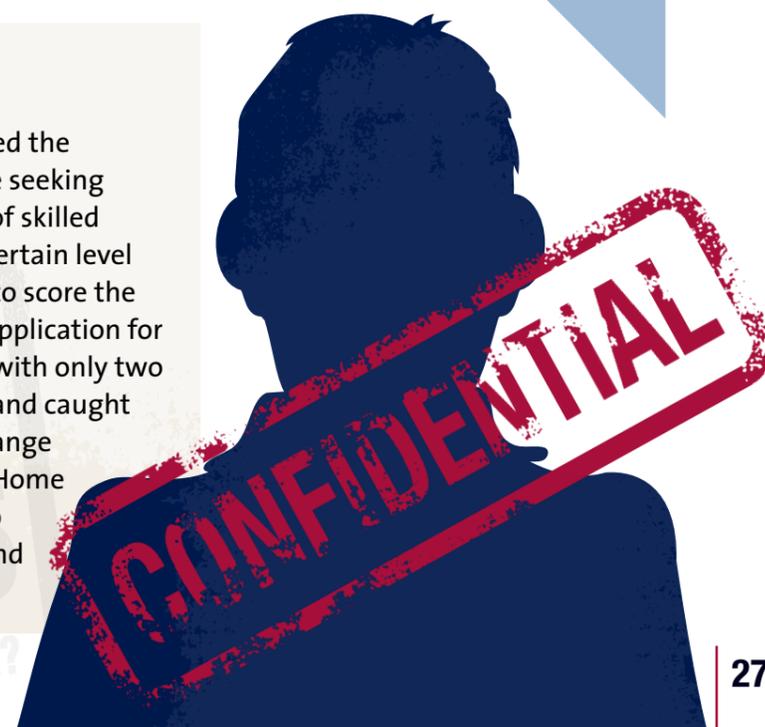
One problem was that he had once rented a house informally from a couple who were only moving out for a year, so kept the utilities and other paperwork in their names. What at the time had been a ‘great deal’ now meant Alan had had no written evidence of living there. Although his bank statements showed his rent payments going out every month, it was going to be difficult to provide

verification from his former landlords, who by then had moved away. A web search returned nothing. Then Alan recalled his landlord’s partner’s name and that he was a doctor. He eventually established the doctor had had an article published in a Brazilian medical journal. Via a Brazilian contact, he found out from the magazine where the doctor worked, which turned out to be a GP’s practice in Devon. Finally, Alan secured the written confirmation that he needed, but he says: ‘They were a retired couple. If the person had died, I would have had absolutely no proof that I lived there.’ After a rollercoaster 18 months, Alan’s story has a happy ending: his application was successful, and he is now married to a British citizen. But he admits that without specialist legal advice, he would not have found his way around the system. ‘You don’t just give [the UKBA] what they ask for. You give them everything you can get your hands on: the kitchen sink, plus someone else’s kitchen sink. That’s what the [law] firm suggested I do, and they still came back and asked for more. There’s no way on earth that poor people whose English isn’t great, who don’t understand how banking here works, who don’t understand how the grant [of ILR] system works, to expect them to take on that system.’

Alan, 46, originally from America

### Point scoring

In March 2011, the government announced the introduction of a requirement that those seeking Indefinite Leave to Remain in a number of skilled categories had to continue to earn at a certain level for a certain period in order to continue to score the ‘points’ necessary to make a successful application for settlement. The change was introduced with only two weeks’ notice of the precise regulations and caught many people off guard. Although the change had been mentioned in a speech by the Home Secretary the previous year, there was no warning on the Home Office’s website and therefore no time for people to prepare.



**1. BARRIERS TO RESOLVING STATUS**

Lack of awareness and cost were the two main reasons why Chasing Status interviewees hadn't regularised their immigration status earlier, before they began to experience problems with their eligibility to work or ability to access benefits. Some interviewees had no suspicion that they weren't already British. Alicia was fobbed off when she first asked her mother for her passport, as a 16-year-old wanting to get a Saturday job. Her mother's obfuscation led Alicia to believe she didn't want her to work just yet. It was only two years later when Alicia became pregnant that she discovered there was another reason why her mum became angry every time she asked for her passport. Aubrey and Anne Marie had no notion of the serious consequences of having lost their original passports, with the all-important stamp showing they had the right to be in the UK. Along with the other interviewees who had entered the UK four decades earlier, at a time when immigration legislation was less stringent, they had no idea that, as the rules had changed, so had their status. None appreciated that they now needed to take steps to secure the status they had taken for granted.

Many of the adults interviewed for Chasing Status were doing low-paid jobs or were on welfare benefits. Foreign trips were an unaffordable luxury and most hadn't travelled abroad (not even to visit their country of origin) since arriving in the UK as children. For those reasons, replacing a lost passport or applying for new documents had never been a priority. Aubrey, a single father, had replaced his lost Jamaican passport several years earlier, but found the additional cost of a new ILR stamp too steep. 'Where am I going to get £600 from? So I left it.' At that stage, he had no idea that his failure to replace the stamp might cost him his right to work. Like Aubrey, father-of-five Lasith hadn't seen the need to sort out his documentation because he had no plans to travel abroad. He, too, had more pressing demands on his money than paying for a passport that was unlikely to be used. 'I couldn't afford a holiday. My kids, I had to give them holidays, so they come before all that and no one hassled me in this country. I could go into a pub and have a pint or

whatever, so it never bothered me.' Henry began applying for citizenship, but ended up spending the money on something else and failed to follow it through. 'I had to fill out the application form and I was saving up for the money, but something happened and I used that money. The whole thing just disappeared from my thoughts.' Aubrey had learned a hard lesson and was now making it his mission to alert others who might be in the same situation. 'I've called a few friends of mine and said "you need to get this thing sorted". It's the importance of it that people don't realise.'

**2. THE IMPACT OF IRREGULAR IMMIGRATION STATUS**

Discovering their irregular immigration status had had a profound effect on interviewees, not just in practical terms – for example, losing a job or benefit payments, being unable to go to university or open a bank account - but also emotionally. Lasith said it wasn't so much the loss of his job or his income, it was the reason behind the loss that was the biggest blow. 'Telling me that I have no status and I'm not eligible to work when I've been working here all my life... It's made me depressed.' Nearly all the interviewees spoke of feeling depressed, or described symptoms associated with depression. Amanda had had to talk to a counsellor. 'They told me, if I carried on as I was, I'd be clinically depressed and have to go on medication.' Edward, 59, said he was depressed. 'I have been for quite a while... before this, I used to work, take care of myself, everything.'

When first alerted to his status problems, he had 'buried my head in the sand, thought it was too difficult'. Henry, 56, was similarly overwhelmed. 'I was like, I don't care what's happening no more.' Alicia 'didn't go a day without crying. It was all I could think about'. Sam also sought counselling after 'depression, anxiety just erupted'. He was the only one to identify a silver lining to his situation, however. While his battles with UKBA over locating his records had caused him 'shame, sadness, dejection', the experience also meant he had 'found out how tough you can be'. For some, emotions remained raw. Both Lasith

and Sam broke down during the interviews; Anne Marie absented herself from the room, when she became upset after explaining that, out of her entire family she alone is without British status, after her original Jamaican passport was destroyed in a fire. Nearly all the interviewees had suffered severe practical problems as a result of their irregular status. Sam ended up homeless on Christmas Eve 2010; Lasith lost the job he had held for eight years; Edward was served with an eviction notice; Anne Marie, who has learning difficulties, had been without benefits and reliant on family hand-outs for around seven years. It's worth noting that the problems experienced

were not accidental or incidental, but exactly what the legislators had intended. What wasn't foreseen, however, was that blameless individuals settled in the UK legally would also end up being affected by the changes in legislation because they had failed to sort out their paperwork or because their records had been lost. Other effects were more subtle, but still devastating, particularly for the younger interviewees.

Marcus was turned back at the airport and unable to accompany his football team on tours abroad, or his foster parents on a family holiday to Spain. His foster mother reveals he felt like 'a second-class citizen'. Amanda and Alicia, who both arrived in the UK in 2003 aged eight, reported being singled out for their lack of status. Amanda's first foster family made jokes about



her not being able to go on foreign holidays with them, because she was ‘illegal’: ‘I did not feel at home at all.’ Alicia reported being bullied by other teenagers, who threatened to report her to the authorities if she crossed them. Both young women felt their lives had been stalled. Amanda, bright and ambitious despite serious health problems, had to defer taking up a hard-won place at university. She felt her lack of status meant she was ‘still being treated like a child’, deprived of the independence enjoyed by others her age. ‘I want to be able to support myself, rather than constantly crying out to social services.’ Alicia felt stigmatised and left behind, while her friends’ lives were moving on after finishing school. She avoided contact with officialdom, for fear ‘immigration police is going to come’. When she was pregnant with her son, now 18 months, she felt discouraged from registering or seeking regular medical help. ‘Just my doctors to get checked; I didn’t want anything else, to put my name on anything.’ Besides practical difficulties, Alicia, who had never previously questioned her Britishness, felt her morale was affected. ‘I wrote a few poems about having your identity stripped away from you.’ Without status, she felt she was ‘no one... you’re not existing’. When her interim status finally came through, she celebrated by opening her first bank account. Alicia’s feelings were echoed by Sam, who also felt robbed of his identity. ‘If the state says you have no status, what are you going to do? Who are you? You are absolutely nobody. You can’t stand up and speak. What can you say?’ Despite being in the UK for 41 years, Sam was afraid he would be sent back to Sierra Leone. ‘At my lowest point, I thought I would be shipped out. I really thought that.’ Amanda, who had been brought from Zimbabwe as a child after her mother died, had similar fears. ‘If I get sent back, who do I go back to? I don’t speak to my grandad. I have no idea where my dad is. How do I start all over again with nothing and not knowing anyone?’ And Alicia spoke about her relief at resolving her status problems because she no longer felt ‘they are going to come and take you tomorrow’. Family members were also hit by interviewees’ status problems. Alicia said she felt her toddler son – British thanks to his father’s

status – would ‘never be classed as a normal English child’ until her own status was secured. Violet, 83, who had been using her pension to support her daughter financially, said Anne Marie’s situation made her ‘very angry and upset. It’s really getting me down’. Anne Marie reported her brother was ‘very, very angry’ at her plight. Although unable to read or write, Anne Marie articulated the impact of her lack of status. ‘You know when you are in a courthouse and you’re waiting for the judge to say whether you are guilty or not guilty? That’s the way I feel.’

### 3. FEELINGS OF ‘BRITISHNESS’

None of the interviewees had ever previously questioned their Britishness, which is why their immigration status problems came as such a shock. The idea of having to jump through hoops to obtain a piece of paper confirming something that seemed self-evident had caused them upset and befuddlement in equal measure. However, their sense of being British was unaffected by the experience. Alicia laughed when asked whether she still thought of herself as British. ‘It hasn’t affected that, because I am!’

For Amanda, passing her Life in the UK test had been an important moment. ‘I was like, yes! I deserve to be British, thank you very much.’ For her, it was also more meaningful than just ticking a box. ‘I think I know what it is to be British and can understand why people are so strong on it. I would like to be part of that, but I just have to wait’ (this refers to the fact she was still waiting for her status to be fully resolved). Alicia and Marcus, two of the youngest interviewees, were as thrilled as they were relieved, once their Britishness was legally confirmed, regarding it as real cause for celebration. For some of the older interviewees, however, it was just a bureaucratic box to be ticked. In Henry’s words: ‘It’s not going to be like a pot of gold for me... It’s just a security thing.’ He added it would just make him feel ‘what they call normal’.

### 4. THE ROLE OF LEGAL ADVICE IN THESE CASES

Even before the 2013 cuts that axed legal aid for immigration cases, the Chasing Status interviewees had considerable difficulty finding the expert help they needed. Only one, Alan, earned enough to pay privately for a solicitor. Despite being well educated, well informed and holding down a professional job, Alan reports he would have been ‘in big trouble... without a lawyer to manage the situation’. He believes that, as well as bringing knowledge of the law, the involvement of a lawyer also brought extra credibility to his application, smoothing its passage to approval by the UK Border Agency. ‘If you are filing as an individual, if they’ve [immigration authorities] got a question [about the application], their default assumption is to think there’s something wrong. But if you come with the letterhead of a very reputable firm that they trust, the default assumption is it’s probably OK.’

Nearly all the other interviewees were helped by a legal aid solicitor, but even with expert advice, their situation still proved complex and time-consuming to resolve. Those like Aubrey and Lasith

who sought help after the LASPO cuts found themselves in particular difficulties. For many, it had taken some time before they realised that they needed specialist legal help to resolve their situation, and longer still to track someone down who could provide it. Complaints included ‘being sent here, there and everywhere’ and that ‘nobody seemed to send me in the right direction’. A few had initially (and erroneously) assumed they could resolve their situation on their own without much difficulty. Aubrey said: ‘[I went] to the Jamaican Embassy and said “look, can you write a letter to the Home Office just stating the fact that I’ve not applied for another passport since I’ve been here. Just let them know that I’ve not travelled anywhere”’. Sam says: ‘Naively, I wrote a simple letter to Lunar House [UKBA] “would you please confirm, my whatever [immigration status]?” Lunar House came back and said they don’t do that any more because of data protection; you need to go and get legal advice.’ Amanda, an aspiring law student, had similar lack of success until she found her way to a solicitor. ‘I wouldn’t have known what

to do. I probably would have been an overstayer or something. I wouldn’t have known which route to take.’ What would she have done without legal aid? ‘I don’t know! Go begging on the street or something. I have no idea.’ Several sought assistance from their MPs, with mixed results. Some MPs showed little or no interest in their constituent’s plight; others took up their cases enthusiastically. However, none had been able to do much more than provide information, however useful, rather than actually progress a case. A Citizens Advice Bureau had been the first port of call for many interviewees. In one case,



a CAB worker had referred them to a local law centre, unaware legal aid had been scrapped for immigration cases by that date. When Violet was asked how she and her daughter, Anne-Marie, had found their way to a local north London law centre, she replied, simply: 'It's Islington law centre. Everybody knows it.' Others were not so lucky, even when they found somewhere to potentially offer help. After 'running around like a headless chicken', Henry was eventually set up with an appointment at a law centre, to speak to one of its lawyers by telephone. Following two failed attempts to get through on separate occasions, he left. It was only after a friend suggested Henry contact the Hoxton Legal Trust that he finally found help. Most interviewees were full of praise for their solicitors. Mary said the lawyer who resolved her foster son's status problems gave them 'amazing support' and deserves 'a medal'. It was not all completely positive, however. One interviewee felt their solicitor had all but given up on what seemed to be an intractable case. 'It's proving - I better be careful what I say here - tiresome for my solicitor.' This interviewee was frustrated that others seemed less on top of the issues than they were. 'I keep seeing the holes. People are not listening.' For others, the moral support and encouragement provided by a lawyer was almost as important as the expertise. Edward was 'frightened to think' what would have happened to him without his solicitor, suggesting if left to himself, he would have spiralled into depression. Henry said his solicitor 'had a way of getting me to answer the questions' even on the days when he felt careless about his fate.

Two interviewees, Lasith and Aubrey, received no legal aid as they had sought help only after public funding had been removed from immigration work (despite having lived in the UK for 50 and 40 years, respectively). Aubrey, who was anxious to be reinstated at work as he had family to support, had been frantically trying to resolve his situation himself. It was only when he was given informal advice by a law centre solicitor that he started to make any progress with his application. 'No one tried to help me until I came here. The lawyer just guided me through certain things and that's how

I was able to get all these things done properly. The form is complicated. It's long and if you make one mistake they will send it back to you.' Without the benefit of that advice, it would have been 'like you are climbing a hill forever'. The removal of legal aid meant that the west London law centre Lasith applied to couldn't help him, and he was advised to try Hackney Migrant Centre, on the other side of the capital. The solicitor there gave him advice on how to submit an application, but a subsequent diagnosis of lung cancer has meant Lasith had not had the chance to act on it. Having lost his job (due to the problems with his status) and being reliant on incapacity benefit, following his illness, Lasith's finances were too stretched to pay for legal help. 'I have to pay for the whole case. So it's a bit tricky at present. I've got a lot of finances I have to sort out, and whatever money I'm going to get in the future, that'll all probably go to keep those people [creditors] away from me. So I don't know.' The one positive detail to Lasith's story is that after hearing about his ill health, the solicitor who had earlier given him advice at Hackney Migrants Centre subsequently took on his case pro bono.

## 5. DEALING WITH THE UK BORDER AGENCY\*

Many interviewees reported frustration at the rigidity and slowness of the UK Border Agency in resolving what for them was an urgent problem. For nearly all, it was their first exposure to the UKBA or Home Office (the terms were often used interchangeably), and it was not a happy experience. Alan complained about the agency's nit-picking, and its laborious processes. 'Sometimes they're asking for something that they could have asked for the first round and they just didn't, and then you have to scramble [to get it] because they give you very little time.'

The UKBA's rigidity in the way it would accept information was also a problem, he added. 'The frustration is, you know what information they want and you know how you can provide it, but they want it in a specific way, which may not actually be appropriate for where you're

coming from.' For Sam, the contrast between the inefficiency of the UKBA's record-keeping and that of other public bodies was stark. Whereas the DVLA had been able to replace a missing driving licence, and his GP had rapidly tracked down his entire NHS records stretching back 40 years, the agency was unable to find any record of him, unless he could supply his long-mislaid Home Office reference number. He couldn't believe the flaw in their system. 'I'm an ordinary person, but if I were to index something to file, that single thing is not enough to locate it. There must be other factors that you must include so you can find stuff.' The UKBA was not, he concluded, 'fit for purpose' (a view subsequently shared by Home Secretary Theresa May, who in March 2013 replaced it with a new organisation, UK Visas & Immigration). Its responses to questions were described as 'glib' and 'complacent'. Aubrey, whose job depended on resolving his immigration status rapidly, said the agency was unable to give him any indication of how long the process might take, despite his persistent badgering. 'I've been on the phone constantly to them and they said "well, OK, we can't actually give you a date when this will be done".' He was also frustrated that they were unable to confirm to his employer that his application was in hand. 'It seems like no one will contact each other, and it's all left to me to sort it out.' His conclusion? 'I don't know, maybe they're a bunch of robots down there.'

*\*The UKBA was replaced by UK Visas & Immigration in March 2013. Most of the Chasing Status interviewees' dealings had been with the UKBA, as they predated its successor, so we have generally stuck to using that UKBA throughout this report, but the terms should be considered more or less interchangeable for our purposes.*



## Appendix 1: Methodology

Chasing Status is based on semi-structured interviews with 10 people who have all experienced problems with their immigration status. The interviewees covered a wide range of ages, backgrounds and situations.

The aim was to examine the plight of those with irregular status, who may have spent most of their lives in the UK and not previously questioned their right to live and work here. Eight of the interviews were conducted at a legal adviser's office, one at a homelessness charity and one at the interviewee's own office. The same broad-based topic guide was used for all the interviewees and leading questions were avoided.

All interviews were conducted by the report author, Fiona Bawdon. Eight of them were carried out during 2013, the final two in early 2014. Their stories and situations are presented here as they were at the time of interview. Interviewees were asked what first brought them to the UK; how they discovered they had problems with their immigration status; the impact it had on them; and what steps they took to try to resolve their situation. Interviews were recorded, and generally lasted around an hour. They were then transcribed and subjected to detailed analysis to identify common themes. All interviewees opted to be anonymous, and their names have

been changed and identifying details removed or amended. Reasons for wanting anonymity varied. Some were concerned that criticism of the Home Office or the UK Visas & Immigration (which replaced the UK Border Agency in 2013) might affect their chances of being granted status; some feared employers might take a dim view; and one did not want his children to learn their father had ended up homeless as a result of his immigration status. While for practical and logistical reasons, there is a London bias in the interviewees (all but three lived in the capital), the problems identified are shared by people in long-standing migrant communities elsewhere in the UK.

## Appendix 2: Overview of interviewees

Chasing Status interviewees ranged from age 18 to 60: seven are men; three are women. They came from six different countries of origin: Jamaica, America, Kenya, Zimbabwe, Sierra Leone and Sri Lanka. Eight of the 10 came to the UK to join family members, one (Marcus) is suspected to have been trafficked and Alan, the only interviewee to arrive as an adult, came from the US after being headhunted to run a voluntary organisation.

Of the nine who came as children, the youngest age at arrival was eight; the oldest 17. The length of time they had been in the UK at time of interview ranged from 10 to 50 years. Apart from Marcus, the only other interviewee who is likely to have entered illegally is Amanda, who was brought aged eight, by her grandfather after the death of her mother. He subsequently returned to Zimbabwe, leaving Amanda with her aunts, although she was subsequently placed in foster care. At least two interviewees have serious health issues: one has been diagnosed with lung cancer (and given a life expectancy of 18 months); one has a chronic, incurable autoimmune condition and other problems, but presented as in good health. Most of the interviewees would fall into the category of what we have termed 'surprised Brits', to a greater or lesser extent. The exception is Alan. Although his starting point is different from the others, we have included his experiences as they give valuable context and perspective. Alan is highly educated, well travelled, well informed about immigration requirements, and rigorous about keeping relevant paperwork. He is the only interviewee who was able to pay privately for specialist legal advice. Despite these advantages (not shared by any of the other interviewees), he was still caught out by sudden changes in immigration legislation, and almost defeated by the bureaucracy of the UKBA (as it was then).

Seven interviewees received advice via legal aid as they sought help before immigration work was taken out of scope of the scheme. Two, whose status issues became apparent after October 2013, were unable to get legal aid. Both approached the same advice centre, which although it couldn't take on their cases, gave some advice on how

best to proceed. One, Aubrey, had used this assistance to submit his own application to the Home Office, and was still waiting to hear if it had been successful at the time of the interview (it was subsequently refused). The other, Lasith, had failed to act on it, not least because of the demands of his cancer treatment. However, once the law centre solicitor became aware of his health problems, she took up his case on a pro bono basis.

As well as those directly affected by status problems, the project heard from close family members: Anne Marie, a 56-year-old with learning difficulties, was interviewed along with her octogenarian mother. Mary, the white foster mother of 18-year-old Marcus, was outraged that the child she had taken into her family a decade earlier should be treated by the authorities as different from her birth children and her grandchildren.

Besides the interviewees, family members and those giving them legal assistance, we also spoke to a charity worker who had been helping Sam. He described the Home Office's lack of concern that its poor record-keeping had led to Sam becoming homeless. 'You are just supposed to wait in the wings, while they engage with trying to look for the file, and they seem immune to the fact that someone is going through a very difficult time.' At the time of writing, the Home Office had still been unable to track down Sam's missing documents.

## Appendix 3: Relevant immigration legislation

Below, is a round-up of key legislation affecting Chasing Status interviewees.

### British Nationality and Status of Aliens Act 1914

Granted status of 'British subject' to people from Crown dominions

### British Nationality Act 1948

Created a common status of 'Citizen of the UK and Colonies' (CUKC) for all those in both the UK and the UK's (many) colonies. Citizens of the independent commonwealth countries acquired separate citizenship, but retained the shared status of 'British subject'.

### Commonwealth Immigrants Act 1962

Introduced immigration controls for the first time on citizens of independent Commonwealth countries.

### Commonwealth Immigrants Act 1968

Amended the 1962 Act and widened controls to include people who were citizens of the UK and colonies either by birth in a colony, or by registration in a commonwealth country before it became independent. This act was introduced in three days to restrict the movement of British passport holders mainly from East Africa.

### Immigration Act 1971

Established the machinery of control of immigration into the UK. Divided CUKCs into 'patrial' CUKCs, with the 'right of abode' in the UK for those with a personal or ancestral connection with Britain, and 'non-patrial' CUKCs for the rest. The act made provision for the making of deportation orders and rights of appeal against immigration decisions.

### British Nationality Act 1981

Replaced the concept of patriality with a new tiered structure of citizenship: British citizenship for former patrial CUKCs; British Dependent Territory Citizenship for those connected with a British colony; a residual 'British Overseas Citizenship' for those with no right of abode in any state. Allowed British citizenship by descent from the mother as well as the father. Removed automatic citizenship by birth in the UK.

### Immigration Act 1988

A raft of piecemeal changes, including: restricting rights of appeal against deportation; tightening up on visa requirements; but ending the requirement for leave to enter or remain for citizens of European Community countries.

### Asylum & Immigration Act 1996

Introduced a range of changes in relation to asylum seekers, and also made it a criminal offence to employ anyone who doesn't have permission to live or work in the UK.

### Nationality, Immigration & Asylum Act 2002

A wide ranging act. Introduced the citizenship exam for new citizens, along with provisions for deprivation and resumption of citizenship. Created new criminal offences and powers of arrest, and numerous changes to law and procedure related to immigration.

### Immigration, Asylum & Nationality Act 2006

Removed rights of appeal against visa refusal for visitors and short-term students. Established civil (in addition to criminal) penalties for employing people without permission to work.

### Borders, Citizenship & Immigration Act 2009

Provided for citizenship by descent to be acquired by those with British born mothers. A number of changes were brought in relating to the operation of border controls.

### The Legal Aid, Sentencing and Punishment of Offenders Act 2012

Major changes to legal aid, including the removal of funding for most immigration cases. Further provisions also proposed restricting access to any legal aid to anyone unable to prove less than 12 months' lawful residence (currently subject to legal challenge).

### Immigration Act 2014

Made many major changes to immigration law, including: extending powers of removal from the UK; removing most rights of appeal against immigration decisions; restricting access to NHS and other services; new penalties for landlords; changes to the procedures for marriage in the UK.

## Appendix 4: Recommendations for reform

### The stories highlighted in 'Chasing Status' show that there is an urgent need for reform in this area.

A number of relatively simple changes - some legislative, some procedural - could ease the plight of the those we describe as 'surprised Brits' - people who are both long-standing members of our communities and think of themselves as British - enabling them to resolve their immigration status more quickly and easily, and to avoid the risk of destitution in the interim.

Above all, we would urge political parties of all hues to acknowledge that existing immigration legislation is causing severe problems to these people in ways that were neither foreseen nor intended, and to undertake to introduce reform.

### Areas for consideration include:

#### Creating specialist Home Office unit

Recognising that these cases require a specific understanding of the history of immigration control and how Commonwealth citizens have been affected, to establish a specialised caseworking unit with the Home Office, to which applications such as these will be directed. A specialist unit would be able to fast-track cases for migrants who have been in the UK since 1973.

#### Ensuring access to legal advice

The restoration of legal aid for immigration cases, to allow people to access the expert legal advice they need to resolve complex status issues. Or, to bring back within scope immigration cases which involve determining the status of people living in the UK on 1 January 1973 (the date when the 1971 Immigration Act came into force).

#### Maintaining applicants' ability to work/claim benefits while status is resolved

The Home Office should consider mitigating some of the worst effects of status problems by issuing letters pending consideration, which would confirm eligibility to continue working and/or claiming benefits, and accessing other

essential services, such as the NHS and rented accommodation, while their application is being processed.

#### Greater Home Office and Foreign & Commonwealth Office transparency

The history of visa record keeping is nothing if not convoluted\* A persistent problem is the inability for applicants to track down the records for Indefinite Leave to Remain which they were granted as long as four or five decades ago. This is compounded by the fact that Home Office is not open about the immigration records that are still held and those that are no longer in existence due to the passage of time. It should make public its archiving and destruction policies - and accept that some of its records may be inaccurate or incomplete.

#### Standards of evidence for proving residency

For many applicants who arrived in the UK decades earlier, proving they have lived here for every one of those years may be an impossible task. The Home Office should consider revising the evidence it insists on to make the process quicker and more commonsense. For example, accepting copies of documents rather than insisting on originals, or accepting the fact an applicant has had no valid passport, or an expired passport, during the relevant period as evidence they did not leave the UK during that time.

#### Information campaign

The government should embark on an information campaign to raise awareness of the need for long-standing migrants to check their immigration status and of the perils of failing to do so.

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## Appendix 4: Recommendations for reform

There should be a campaign of awareness among:

- MPs, who increasingly are an early port of call for those seeking help, since the removal of legal aid;
- Employers, who should be urged not to suspend or dismiss workers while their status is being resolved;
- Job Centre workers and others who may be dealing with people with irregular status;
- The Commonwealth Secretariat for dissemination among member states.

*\*Until June 2000, visas issued overseas were the responsibility of the Foreign and Commonwealth Office, and there was little joined up working between the FCO and the Home Office on visa matters. After that date, the Joint Entry Clearance Unit (JECU) was established, run by staff from both the Home Office and FCO. In April 2002, JECU was replaced by a joint Home Office/FCO directorate called UK Visas. This lasted until 2008, when responsibility for overseas visas passed to the UK Border Agency (UKBA), an independent agency of the Home Office. UKBA was abolished in March 2013, and visa functions were for the first time brought wholly within the Home Office, branded as UK Visas and Immigration (UKVI).*

## Appendix 5: How the position changed for Jamaican migrants

As a British colony for 300 years, the links between Jamaica and the UK have always been strong. In the 1950s in a time of acute labour shortages, many Jamaicans were encouraged to resettle in the UK. As citizens of the 'UK and Colonies', they were entitled to move freely between the two countries. However, when Jamaica became independent in August 1962, the majority of Jamaicans ceased to be citizens of the UK and Colonies and became Jamaican nationals and members of the Commonwealth. This included those who had come from Jamaica to the UK on their British passports. The Immigration Act 1973 (which came into force on 1 January that year) conferred indefinite leave to remain on those who were 'settled' in the UK and who didn't otherwise qualify for right of abode. Many Jamaicans living in the UK at that time therefore acquired settled status. They remained entitled to live in the UK permanently and to register as British citizens. Ten years later, the British Nationality Act came into force and changed the face of British nationality law. There was a grace period of five years during which time those Commonwealth citizens who had been living in the UK since 1 January 1973, and had remained in the

UK since that time, had the right to register as British. Problems for the likes of Henry and Edward, Anne Marie and Aubrey, can arise in a number of ways, and many were not aware that they needed to register as British citizens during the five-year grace period (which ended on 31 December 1987). Indeed, some were unaware that they had lost their status as citizens of the UK and Colonies when Jamaica became independent.

Those who came to the UK in the 60s and 70s retained their right to reside but often lacked the documents to prove that they had the right to live here. This was not so important in the earlier decades but in recent years they have increasingly been called upon to prove their right to live in the UK in order to access work or benefits. An old Jamaican passport from 40 years ago is not accepted as proof. A newly issued passport does not contain any residence stamp. Applying for a permanent residence stamp in a new passport costs hundreds of pounds in fees to the Home Office and requires the applicant to provide evidence of residence in this country on a yearly basis going back as much as 40 years.





**CHASING  
STATUS**  
If not British, then what am I?