

ILPA's supplementary response to the Home Affairs Committee's inquiry into Home Office preparedness for Covid-19

Background

ILPA is a professional association founded in 1984, the majority of whose members are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with a substantial interest in the law are also members. ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law, to act as an information and knowledge resource for members of the immigration law profession and to help ensure a fair and human rights-based immigration and asylum system. ILPA is represented on numerous government, official and non-governmental advisory groups and regularly provides evidence to parliamentary and official enquiries.

Exclusion of frontline health workers from the NHS concession

We have prepared this brief supplementary response to our main submission in order to raise a specific concern that we have about the NHS concession announced by the Home Office on 3 April 2020. We raised concerns in our submission of 20 April 2020 about the exclusion of certain categories of health workers from the concession.¹ The first two groups we mentioned have now been included². We remain concerned about the exclusion of the third group, to which the bereavement leave concession was recently extended³, from this free extension of leave. They are among the lowest paid and the most in need of the extension.

Since then a further matter has arisen, as the NHS concession also excludes frontline health workers who, while they do not themselves require the extension, have family members who are in the UK with limited leave which is due to expire before October 2020. The requirements for a grant of leave under the concession are:

"To get the extension, you must:

- have a visa that's due to expire before 1 October 2020*
- work for the NHS or an independent healthcare provider in an eligible profession."*⁴

¹ <https://ilpa.org.uk/ilpas-submission-to-the-home-affairs-committee/> pages 6 to 8

² <https://www.gov.uk/government/news/home-secretary-announces-visa-extensions-for-frontline-health-and-care-workers>

³ <https://www.gov.uk/government/news/home-office-extends-bereavement-scheme-to-nhs-support-staff-and-social-care-workers>

⁴ <https://www.gov.uk/coronavirus-frontline-health-worker-visa-extension>

The family members of frontline health workers who meet those requirements will also be granted the extension of leave under the concession.

British Citizens, and those who have indefinite leave to remain, are of course unable to meet the first requirement. These frontline staff may have family members here with other types of immigration permission (for instance leave under Appendix FM of the Immigration Rules). Applications for leave extensions in such cases are generally far more onerous in terms of the requirements to be met (e.g. financial requirements) and the evidence to be gathered (including NHS being required to produce letters confirming salary and employment). This is potentially far more distracting and time consuming (both in terms of the frontline worker and the NHS) than a Tier 2 visa extension and the associated Points Based System Dependant applications. The family members of those frontline health workers with refugee leave or humanitarian protection (who are also entitled to sponsor family members under Appendix FM)⁵ should also be able to utilise the extension even if the sponsor's leave does not expire during the relevant period. We expect the latter to be a very niche category, affecting few if any people, however we have included it for the sake of completeness, as clearly if there are any people in this category then they should also be entitled to the concession.

There can be no rationale for excluding this group of frontline health workers, as the same reasons for providing the NHS concession to the existing group apply equally to British workers and those who hold indefinite leave to remain, namely to relieve frontline health workers and the NHS administration from the distraction of a visa renewal applications at a time when the Government wants the focus to be on saving lives. The Home Office would be unable to identify them in the same way they are for the current group, namely via the employer, but this group should not be excluded for administrative reasons. We do not believe that extending the concession in this way is likely to affect large numbers of people.

We have raised this with the Home Office who confirmed that this group are excluded from the concession, and they also confirmed that there are no plans to address the omission.

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⁵ <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-family-members>, E-ECP.2.1. and E-LTRP.1.2.