

Migrants' Rights Network

The People's Place
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www.migrantsrights.org.uk



we stand up for all migrants

Jim Harra
First Permanent Secretary and Chief Executive
100 Parliament St,
London,
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22nd February 2023

Dear Permanent Secretary,

I am writing to you from the Migrants' Rights Network to express our concerns about the treatment of Tier 1 visa holders in relation to self-assessment tax returns. We have had ongoing correspondence with the Home Office and relevant bodies for a number of years. However, we wish to highlight the differential treatment of Nadhim Zahawi MP and Tier 1 visa holders by the HMRC and the Home Office in relation to alleged tax discrepancies.

The Highly Skilled Migrants Group were denied indefinite leave to remain (ILR) in the UK by the Home Office on the basis of historical self-employment 'tax discrepancies'. Clause 322(5) was used to determine that the individuals in question were 'undesirable' to settle in the UK on the basis of their 'character' and 'dishonesty'. The undesirability of permitting the person concerned to remain in the United Kingdom in the light of their conduct (individual convictions which do not fall within paragraph 322 (1C), character or associations or the fact that they represent a threat to national security.

In 2019, the Migrants' Rights Network successfully intervened on behalf of the Highly Skilled Migrants Group and Tier 1 visa holders. The judgement stated that the Secretary of State at the time believed that the discrepancies were the result of deliberate misrepresentation to either HMRC or the Home Office. However, the Tier 1 visa holders stated that the errors were the result of "carelessness" or "ignorance", not dishonesty¹. Prior to the dismissal of Mr Zahawi from the Cabinet, HMRC concluded that he was "careless" rather than "deliberate" in relation to his taxes.

Under Part 6A of the Immigration Rules, "Tier 1 (General) Migrants" (T1GM) were entitled to apply for indefinite leave to remain after five years. The condition of any application was the ability to demonstrate a minimum level of earnings in the previous year. The Home Office stated that it was concerned that the information disclosed significant discrepancies amongst the T1GM. Specifically, it stated that T1GMs were claiming falsely inflated earnings and referred to paragraph 322 (5) of the Immigration Rules.

The aforementioned rule states that areas such as tax discrepancies which involve criminality calls into question their character and/or conduct and/or their associations to the extent that it is undesirable to allow them to enter or remain in the UK. While many of the

1

[https://www.judiciary.uk/wp-content/uploads/2019/04/balajigari-others-v-sshd-judgment16.4.19.pdf?mc_cid=2498c9a33b&mc_eid=\[UNIQID\]](https://www.judiciary.uk/wp-content/uploads/2019/04/balajigari-others-v-sshd-judgment16.4.19.pdf?mc_cid=2498c9a33b&mc_eid=[UNIQID])

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claimants have successfully appealed the decisions, some individuals' cases are still outstanding. This has caused destitution and a detrimental effect on their lives.

We believe that the differential treatment of Mr Zahawi in comparison to T1GMs demonstrates a significant contradiction that is of interest to the public. If Mr Zahawi has been acquitted, then we ask why migrants are being penalised.

In light of this, we are asking for relief from HMRC on behalf of the migrants. We also ask that HMRC publicly support a statement which states that minor tax amendments are not a criminal act and therefore should be treated as unintentional and not deceitful.

We have also contacted the Home Office about these concerns.

Yours sincerely,

Fizza Qureshi

CEO of the Migrants' Rights Network