

## THE HOME OFFICE 'NEW PLAN FOR IMMIGRATION'

This paper presents key features of the '[New Plan for Immigration](#)', a lengthy Home Office policy consultation paper published on 24 March 2021, and highlights potential issues and implications for those working in this field in the West Midlands.

### Summary

1. The plan has 3 objectives: fairness and efficacy of the system; deter illegal entry; and, remove people with no right to be here. A repeated theme is 'fair but firm' and key ideas are that the asylum system should be based on need rather than the ability to pay smugglers and should not reward people who enter the UK 'illegally'.

2. Specific policies proposed that would bring about significant change include:

- More generous arrangements for refugees: enhanced integration support focused on progress to employment.
- Numbers of refugees resettled directly from overseas could be related to local capacity. Refugees may be prioritised for resettlement in different ways. There will be stronger links between community sponsorship and local government.
- People will be designated as 'inadmissible' to the asylum system if they arrive 'illegally', passing through a 'safe country' en route to the UK
- There will be a legal definition of 'persecution' and higher standard for testing for a 'well-founded fear of persecution' in asylum decision-making. A previous opportunity to make an asylum claim in another country will impact on the credibility of a claimant.
- Reception centres will replace hotels as asylum accommodation for people who are not admissible to the asylum system. The number / capacity of such centres and the proportion of asylum claimants to be accommodated in this way is unknown but could have a significant impact on existing dispersal areas.
- Those who enter the UK illegally but cannot be returned can be given a temporary status with restricted entitlements and no right to settle
- Local authorities will be consulted on ending support to refused asylum seekers
- Changes to age assessment of unaccompanied children include creating a national board that can undertake age assessments, use of newer technology for determining age, and a reduction from 25 to 18 years in the apparent age of a young person for them to be treated as a child.
- The definition of family members for the purpose of family reunion for unaccompanied children will be reconsidered
- People face greater sentences for 'illegally' entering the UK
- There will be more stringent appeal rights to prevent 'late claims' when people are facing deportation, either on asylum or modern slavery grounds. Refugees with a one-year prison sentence may have their refugee status revoked.
- Changes to modern slavery decision-making will centre on increased efforts to distinguish between 'genuine' and 'vexatious' accounts.
- Flexibility in naturalisation decisions will enable people from the Windrush generation to be granted citizenship despite temporary absence from the UK.

3. Common concerns raised by commentators include whether the UK is adhering to the Refugee Convention [e.g. in relation to making a claim 'inadmissible' if someone travels through a safe third country, and a higher standard in relation to defining persecution] and the differentiation between resettled refugees and people who are granted a form of protection through the asylum system. Other issues to consider are the risks of assessing a child's age using potentially unreliable, intrusive methods and by immigration officers rather than trained social workers, and the impact of changing arrangements in local communities through the introduction of new reception centres for asylum seekers with 'inadmissible' claims and the potential cessation of support provided to refused asylum seekers.

4. The consultation period closes on 6 May.

### **Contents of the 'New Plan for Immigration'**

5. Key proposals cover these key aspects of the immigration system:

- Incentives and deterrence in relation to reaching the UK, and removals action.
- Process for determining asylum claims.
- Asylum support arrangements.
- Unaccompanied asylum seeking children.
- Identifying and supporting victims of modern slavery.
- Refugee resettlement and integration support.
- Correcting 'anomalies' to British Nationality law [citizenship applications].

6. Incentives, deterrence and removals:

- There will be a new way to help people in extreme need of safety in their country of origin.
- People will be 'inadmissible' to the asylum system if they passed through a safe country or have a connection to a safe country where they could have claimed asylum, and will be rapidly removed to the safe country they most recently left or another third country [depending on securing returns agreements].
- EEA nationals and people from designated safe countries [such as the US] will not be able to claim asylum [except in exceptional circumstances].
- There will be increased sentences for illegally entering the UK e.g. in lorries, containers, small boats or by air without documentation [currently maximum 6 months' imprisonment plus a fine] and will include those *seeking* to enter illegally, and increased maximum sentences for facilitators [e.g. by piloting a small boat] from 14 years to life imprisonment.
- An increased penalty will be imposed on a haulier or driver for a person found concealed on board vehicles travelling into the UK, currently up to £2,000 per person found, and penalties for those with unsecured vehicles
- Additional Border Force powers will enable them to redirect vessels away from the UK where people are suspected of seeking illegal entry.
- The maximum sentence for foreign national offenders returning to the UK in breach of a deportation order will rise from 6 months to 5 years imprisonment.
- Electronic Travel Authorisations will be introduced so that before a person travels to the UK they need to declare any criminality.
- The paper estimates 42,000 'failed' asylum seekers have not left the UK [the references p.45 cite *Immigration and Protection: UK Visa & Immigration Transparency Data Q4 2020* - see tab *asy\_03*, cell F14]. Local authorities and stakeholders will be consulted on removing support

from 'failed' asylum seekers with no right to remain in the UK and removing them under the 2016 Act.

- People who have been sentenced to at least a year imprisonment can have their refugee status revoked and considered for removal.

#### 7. The asylum claim process:

- There will be a clearer and higher standard for testing for a 'well-founded fear of persecution' consistent with the Refugee Convention. The definition of 'persecution' will be clarified in law. Whether the person had the opportunity to make a claim in another country could impact on their credibility.
- There will be a differentiated approach to asylum claims: how somebody arrives in the UK will matter. A 'new temporary protection status' will be applied for up to 30 months to those facing human rights risks but entered the UK illegally, did not claim without delay, or did not show good cause for their illegal presence, and cannot be returned or removed to another safe country. They will be expected to leave the UK. They will have no right to settle, will have regular assessments for removal, limited family reunion rights, less generous entitlements and no recourse to public funds [unless they are destitute].
- There will be a 'one stop' single assessment of an asylum or human rights claim, or referrals for potential victims of modern slavery. All issues are to be brought together at the start of the process ahead of any appeal, rather than an opportunity to submit multiple claims, appeals and judicial reviews. More generous access to [legal] advice to provide evidence as early as possible.
- Those facing removal will have access to legal advice when they are notified of removal action to avoid last minute claims. A new fast-track appeal process will cover 'manifestly unfounded' cases, new claims made late, and late referrals of modern slavery that seek to prevent removal. A 'good faith' requirement will apply to those [and their representatives] bringing a claim or legal challenge to act in good faith at all times e.g. lodging claims as soon as possible, telling the truth, leaving the UK when they have no right to remain – failure to do so may affect their credibility.
- Legal costs for judicial reviews will be set out and recovered from the losing party to make clear the potential costs of contesting a case. 'Wasted Cost Orders' may be used in immigration and asylum matters in court in response to 'specified events or behaviours' including failure to follow court directions or promoting a case that is bound to fail.
- Only pre-approved experts [e.g. medical experts] will be able to provide evidence to corroborate a case, to ensure independence of witnesses.

#### 8. Asylum support arrangements:

- Hotels will no longer be used as asylum accommodation. The asylum estate will be expanded to include 'reception centres' [comparable to Denmark and Switzerland] providing 'basic accommodation' while processing claims of 'inadmissible' asylum seekers, during a fast-track appeal process on-site, and while they await removal.
- There will be a 'fuller use' of existing bail powers i.e. residence conditions, reporting and monitoring.
- It will become a possibility for asylum seekers to be moved outside the UK while their claim or appeal is being processed, by amending the 2002 Act to allow the development of offshore asylum processing. [The document doesn't specifically name potential locations, although media reporting has suggested [Gibraltar](#), the Isle of Man and [Turkey](#), and last year a suggestion of [Ascension Island](#)].

#### 9. Unaccompanied asylum seeking children:

- This consultation fulfils the previous commitment to review legal routes from the EU including family reunion for unaccompanied children.
- A 'robust' approach to age assessment will swiftly identify adults claiming to be children using 'new scientific methods' [as per EU countries like Sweden and Norway; this may refer to bone scanners]. A new National Age Assessment Board [NAAB] will set criteria, process and requirements to assess age, which will be in secondary legislation. The NAAB could be the first point of review for a local authority age assessment decision and can directly conduct age assessments where required or invited by a local authority. There will be a requirement on local authorities to undertake full age assessments or refer to the NAAB. Front line immigration officers and other staff will be able to make their initial assessments of age with a changed threshold for treatment as an adult if an individual's appearance and demeanour strongly suggest they are 'significantly over 18' rather than [as currently] over 25. A fast-track statutory appeal right against NAAB age assessment decision will avoid 'excessive judicial review litigation.'
- Options for family reunion limits range from defining family in terms of spouse or partner to another family member such as uncle, aunt, nephew or niece. This approach is regardless of the family member's location. A separate information sheet *Annex A* gives background to the consultation questions on this issue.

#### 10. Modern slavery proposals:

- There will be measures to identify victims quickly and enhance their support. Those with long-term recovery needs and those helping the police with prosecutions may be eligible for temporary leave to remain. There will be flexibility in future support models and enhanced specific mental health support, plus funding to increase prosecutions and specialist workers to support victims to engage with the criminal justice system. Professionals in local authorities, police and health workers will be involved in decision making in identifying child victims of modern slavery.
- Training of First Responders [including local authorities and police] who refer to the National Referral Mechanism [NRM] will be improved.
- 'Genuine' and 'vexatious' accounts will be distinguished more effectively. The Home Office will consult on and define 'public order grounds' that can overturn the 30-day recovery and reflection period for potential victims and allow for removal.
- Processes for considering 'Reasonable Grounds' decisions [to believe that an individual has been a victim of trafficking] will clarify the threshold to test concerns about misuse of the system [from an assessment that an individual 'may be' a victim of slavery to 'is' a victim]. Guidance on the threshold will consider a more careful analysis of credibility e.g. contradictions and previous opportunities to raise modern slavery matters.

#### 11. Refugee resettlement and refugee integration support

- Arrivals: A long-term, multi-year commitment to refugee resettlement [no quota but numbers depending on circumstances and capacity] including a broader range of persecuted minorities e.g. Christians in some parts of the world, those systematically persecuted for gender, religion or belief, with referrals from global charities and international partners. There will be a broader range of countries than under the Vulnerable Persons Resettlement Scheme, but only from regions of conflict rather than EU countries. The UK will resettle refugees who are at immediate risk more quickly. There will be 'a new means' for the Home Secretary to help those in 'extreme need of safety' in their country of origin. There will be a review of refugee

family reunion routes for those who arrive through 'safe and legal' routes [specifically whether to raise the age from 18 to 21 for unmarried dependent children to join both parents who are refugees in the UK]. Refugees might be prioritised based on: their potential to integrate [e.g. English language, pre-existing ties to the UK, or skills]; persecuted minority groups; or, family members of refugees already in the UK. International partners will support refugees who could qualify to enter the UK through the points based system [i.e. if highly skilled, can speak English and can secure a job offer].

- Integration and support: resettled refugees will be granted a more secure legal status immediately [ILR] with full rights and entitlements. Enhanced, tailored integration support for refugees [we infer this would be directed at refugees who come through the asylum system, but this isn't explicit in the paper] will focus on progress to employment, as well as wellbeing, language, and social bonds. Government will improve the offer of English language teaching.
- Integration support providers: The number of people resettled will be linked with the capacity of local areas to provide support. Government wishes to encourage more community sponsorship and stronger partnerships between local government and community groups. Integration support will be delivered locally to a national framework.

12. Correcting 'anomalies' to citizenship rules will to affect hundreds of people a year:

- Children from British Overseas Territories [e.g. Bermuda, Montserrat] will be able to gain citizenship more easily.
- A child will be able to acquire their father's citizenship if their mother was married to someone else.
- A new discretionary power will grant citizenship to adults in compelling and exceptional circumstances where there was historical unfairness beyond a person's control [this already exists for children].
- There will be flexibility and discretion regarding residence requirements for naturalisation in exceptional cases. For example, someone from the Windrush generation won't be prevented from qualifying for citizenship if they could not return to the UK [to meet residency requirements] through no fault of their own.
- The registration route for stateless UK-born children will prevent cases where parents purposefully do not register their child in their own nationality.

### **Commentary and potential implications for the West Midlands**

13. These critical insights are drawn from a range of sources.

14. The scale of change to asylum support arrangements is unclear; the paper implies [p.21] that a majority of asylum seekers who make their asylum claim within the UK to will be designated 'inadmissible' and only likely to be eligible for Temporary Protection Status [[the Independent](#) notes that 60% of asylum seekers enter via unauthorised means]. It is not clear how someone might be granted a form of refugee status other than by the refugee resettlement route e.g. it may be limited to someone who flies directly to the UK and makes an asylum claim at the airport.

15. Changes to the volume and location of asylum accommodation [stopping use of hotels, expansion of the asylum estate for those with inadmissible claims, and the cessation of support for refused asylum seekers] will have a significant impact on local areas, local government and support organisations. Locations of any new accommodation [press speculation is that reception centres will be in the [south of England](#)] will be of great consequence to local communities and will require rapid development of local support infrastructure, assuming that residents will be able to leave that accommodation and mix with the local community.

16. Much more detail is needed regarding the National Age Assessment Board [NAAB], its composition, structure and authority, as well as its relationship with local authorities and expectations of partnership working. If local authority social workers are no longer charged with undertaking age assessments of young people, this would take a statutory duty out of their hands. The extent of and rationale for this change in responsibility needs confirmation. There needs to be a clear process by which a local social worker could challenge an age assessment if, for example, new evidence comes to light regarding a young person's age, and clarification of where legal responsibility lies in cases of judicial reviews of NAAB age assessments.

17. Increased resources for refugee integration support services and for support to survivors of modern slavery will be welcomed.

18. Determining the number of arrivals through the refugee resettlement scheme in proportion to local capacity seems fair. The lack of government commitment to a specific number of refugees to be resettled contrasts with a previous commitment to around 5,000 places per year, and could at some point lead to fewer refugees able to come to the UK under this 'legal' route.

19. Faster resettlement of refugees [including through a new way to help people in extreme need of safety in their country of origin] means there will be a need for good information flow regarding quick moving plans, and receiving areas will need the resources to react more quickly to urgent cases of need. It is not clear what kind of immigration status and associated rights those individuals arriving in the 'new way' would receive upon arrival in the UK.

20. Differentiation between asylum seekers according to their entry route suggests refugee status will not be wholly based on need for protection but partially by the way that they have travelled to the UK; this is described as shameful by the [Refugee Council](#) and a 'false distinction' that potentially breaks international law by IPPR, as the Refugee Convention allows for illegal entry with good cause and asylum seekers are not required to make an asylum claim in the first safe country they reach. Local support services may face greater demand from the potentially huge group only granted Temporary Leave rather than a more permanent form of refugee status, as it will undermine their ability to integrate locally.

21. There is widespread agreement from commentators that the asylum system would benefit from reform, but there has been an immediate clamour of criticism of the specific proposals [described as a 'wrecking ball' by [Refugee Action](#)] from refugee organisations and opposition MPs. Shadow immigration minister [Holly Lynch](#) described offshoring plans as 'inhumane and utterly unworkable'. Noticeably, the planned changes do not include improving the administrative and casework systems for making decisions, rather the paper states that it is an increasing number of asylum claims that has hindered the efficient running of the system.

22. Instead, the consultation paper emphasises identifying and punishing those who seek to abuse protection systems [namely asylum and modern slavery frameworks] over those who need protection partly by adjusting associated thresholds [definitions relating to assessment of protection and age ranges]. [Migration Watch](#) expects the public to strongly support plans to remove people who have passed through safe countries and those who have made 'false claims'.

23. However, prioritisation in this way risks increasing safeguarding threats. For example, greater risks posed to children who are wrongly assessed as over 18 by placing them in shared accommodation with adults. Further, there is no evidence that these kinds of interventions stop criminal gangs from trafficking people, nor stop people seeking protection by any means available to them. The Home

Office intends to increase returns, but the UK no longer has current returns agreements with other countries, including the EU.

24. The language and terminology in the paper is, at times, confused and inaccurate. 'Trafficking' and 'smuggling' are conflated, as are 'asylum seekers' with 'illegal entry' and asylum seekers with criminal offenders and economic migrants. 'Illegal' is applied repeatedly to anyone applying for asylum. It is not made explicit whether entering the country 'illegally' is synonymous with having travelled through a 'safe country' and the impact that categorisation might have on an individual; for example, whether an asylum seeker who has travelled via Calais will receive a prison sentence for illegal entry, will be sent to a 'reception centre', or if it is possible that they will be sent to existing dispersal accommodation.

25. The proposals will likely lead to further polarisation between asylum seekers and resettled refugees, 'genuine' and 'vexatious' potential victims of modern slavery, and exacerbate notions of 'deserving' or 'good' refugees versus their binary opposites. We anticipate such distinctions will create confusion and misinformation among asylum seekers, refugees, modern slavery survivors, support services and the general public, and might fuel hostility towards any of these groups. It could easily pit one group against another in debates on 'deservedness', such as comparing those who make it to the UK on their own with vulnerable people overseas in need of protection who cannot make that journey independently.

#### **Next steps**

26. The consultation period lasts 6 weeks and closes on 6 May. There are 45 questions. Respondents are expected to register online; this is the only way to view the consultation questions and the information sheet in the Annex regarding family reunion for unaccompanied asylum seeking children. However, it is also possible to complete the consultation in another format such as email or by letter.

27. We encourage all affected organisations and individuals in the West Midlands to submit their own response to this consultation. The West Midlands Strategic Migration Partnership will respond to the consultation, engaging with relevant stakeholders to feed into that response.

#### **Sources**

[Home Office](#), the Guardian [[overview](#) and [on returns agreements](#)], [BBC](#), [JCWI](#), [IPPR](#), [the Independent](#), [Freemovement](#), [Migration Watch](#), [Refugee Council](#) [plus commentary in [the Guardian](#)], [Refugee Action](#), [Labour Party](#).

*This briefing was originally compiled by the Migration Yorkshire SMP in March 2021.*