

The New Plan for Immigration

About the Refugee Council

The Refugee Council is the leading organisation dedicated to supporting people seeking asylum and refugees in the UK. We provide a range of specialist services to adults and children and also work with them to ensure their needs and concerns are addressed by decision-makers.

Introduction

The Home Office is currently consulting on its [New Plan for Immigration](#), with the consultation closing on 6 May 2021. After that, the 'Sovereign Borders Bill' is expected to be announced in the Queen's Speech on 11 May.

The policy document outlining the New Plan for Immigration covers a huge range of proposals, some of which are not directly focused on refugees or the asylum system. Furthermore, the level of policy detail attached to each proposal varies; where the detail is lacking, a full analysis is difficult, because the proposal could mean a number of things, and have a range of different results.

This briefing only focuses on the policy proposals related to asylum reform, and safe and legal routes for refugees. These proposals have occurred against the backdrop of increased numbers of people trying to cross the English Channel to make an asylum claim in recent years, but this situation needs to be put in context.

Boat journeys have increased in the context of the coronavirus pandemic, where road routes were closed, and also because of increased security at the Channel Tunnel and ferry terminals. The overall number of asylum claims made in the UK in 2020 actually reduced by 18%.

Overall, the UK receives a much lower number of asylum applications than comparable countries in Europe like Germany, France, and Italy. In recent years, annual asylum applications in the UK have numbered 20,000 to 30,000. This is a minuscule number, whether you consider it in the context of global refugee need, or against the UK population, and the huge policy response currently in place – ostensibly to reduce these numbers - is simply disproportionate, costly, and unnecessary.

It is also worth noting that many of these proposals have been explored previously, by various different Governments going back many years, who then concluded they were not useful or practical approaches. In particular, without removal agreements in place with Europe, much of the policy is simply not workable.

In overall terms, the entire tenor of these proposals is focused on people seeking asylum as a threat, to be kept out at all costs. This is a completely erroneous and unjust judgement; instead, politicians should be promoting refugee protection as a point of pride, and recognising that people have a right to claim asylum, however they have arrived in the UK.

Inadmissibility of asylum claims, different treatment of irregular arrivals, and ‘temporary protection’ status

Since 1 January 2021, a new Immigration Rule has been in place that means the UK Government can class someone’s asylum claim as inadmissible if they have travelled through, or have a connection to, what is deemed a third safe country.¹ The new rules also give the Home Office the power to remove people seeking asylum to a safe country that agrees to receive them, even if they have never been there or have any connections to it.

Under this rule, if someone has not been removed from the UK after six months, their asylum claim can then be heard in the UK. At present the UK has no bilateral removal agreements with other countries, so the only outcome is to add six months to the asylum process, increasing the waiting time for individuals and the record-high backlog on asylum claims.

The new plan includes a proposal to further undermine the ability of those who arrive irregularly in the UK to claim asylum, meaning people who have travelled through a ‘safe third country’ will receive a new ‘temporary protection status’ if they cannot be removed from the UK when their claim is found to be inadmissible.

This will mean they do not have an automatic right to settle, with leave granted for a maximum time period of 30 months, and individuals will be regularly reassessed for removal from the UK. They will also have limited family reunion rights and possibly more limited access to financial support. The Government claims, without any evidence, that this will reduce the number of people arriving irregularly.

This central proposal could completely undermine the principle of asylum protection in the UK and runs counter to one of the basic tenets of the 1951 Refugee Convention – **that someone’s mode of arrival should have no influence on whether they have a right to make an asylum claim, or whether they are recognised as a refugee.**

The Refugee Convention protects refugees from being punished for having to enter a country without prior permission e.g. through clandestine means or using false documents. It also confirms that states with refugees in their territory should provide ‘the same treatment with respect to public relief and assistance as is accorded to their nationals.’

By thinking this will reduce irregular arrivals, the plan completely misunderstands how and why refugees flee their home. When fleeing persecution, people will use any means to get to safety, including irregular journeys. The vast majority of the world’s refugees have found safety this way.

Moreover, it should be made clear that there is no obligation in international law on people to make an asylum claim in the ‘first safe country’ in which they arrive. Refugees are trying to arrive in the UK for a range of reasons, including because family members live here, or because they speak English, or that they feel a connection to the country as people from former British colonies. The vast majority of people seeking asylum in Europe do so in other European countries; the UK should feel proud about the small numbers that it does offer protection to through the asylum system, rather than seek to reduce that number.

The UK currently has not negotiated any removal agreements with countries like France that would allow them to remove people who arrive irregularly. In that context, this proposal would create an insecure, impoverished group of vulnerable people who are unable to integrate and move forwards with their lives.

Under these proposals, two Syrian refugees who have fled the same city, the same neighbourhood, possibly even the same street, could have two very different experiences of what protection looks like in the UK.

Focusing, as these moves do, on penalising desperate people who have sought the assistance of a smuggler to facilitate their journey to safety fails to deal with the underlying issue; there are insufficient safe routes out of persecution and danger into the countries like the UK, currently hosting less than 1% of the world's refugees.

Restricting family reunion rights for those who arrive irregularly is a further punitive measure that will only keep loved ones separated from each other, after they have fled war and persecution. Family reunion is key to supporting refugee integration, and should be available to anyone seeking to rebuild their life in the UK. Restricting it would also cause further irregular journeys as family members travel to join others in this country, completely undermining the government's rationale behind its new plan.

New reception centres

As part of their proposals around inadmissibility, the Government's plan includes creating new 'reception centres' to hold those who have inadmissible claims, or who have temporary protection. They suggest it will be modelled on centres used in Denmark and Switzerland, though there are no further details.

The use of large-scale accommodation – such as military barracks and hotels - to hold people in the asylum system has come under increased scrutiny and criticism as it has proliferated during the COVID-19 pandemic. Stakeholders, including the Home Affairs Select Committee, have repeatedly shown that care of individuals has been poor, with a lack of access to legal advice and support services. Individuals have generally had very little information about their claims, leading to poor mental health and general distress. Proposals to extend these forms of accommodation are ill-thought out and dangerous, and undermine the UK's duties to support and protect those making asylum claims.

Age assessments

Some people who arrive to claim asylum in the UK, and say they are children, have their age disputed by the Home Office or local authorities. Current policy (resulting from a legal ruling that Government is appealing) is that a border official should only treat someone as an adult, if they are claiming to be a child, if that person's appearance and demeanour 'very strongly suggest that they are 25 year of age or over.'ⁱⁱ

The Government is proposing to legislate so that immigration officers and others who are not social workers can revert to a policy that has been found to be unlawful, so that someone can be treated as an adult where their physical appearance and demeanour suggests they are 'significantly over 18 years of age.' The Court of Appeal previously found this rule to be too vague, and we know that many children are assessed as adults, even under the current rules. This will result in insufficient safeguards for those who are children, putting them at risk though being housed in asylum accommodation with adult strangers, which can be devastating for already-traumatised individuals. Their developmental needs, including appropriate education and mental health support, will be denied to them by these mistakes.

The Refugee Council's Age Disputes helps individuals to challenge decisions that treat them as adults where we believe the wrong decision has been made. Even under the current 'significantly over 25 policy', our recent statistics show that of those we work with who have been assessed as adults, a large majority end up being found to be children.

The New Plan for Immigration also proposes establishing a National Age Assessment Board (NAAB) to set out the criteria, process, and requirements to be followed to assess age, which will then be set out in secondary legislation. The document makes reference to 'scientific technology' to assess age, but there is no agreed and objective method to assess someone's age. The UK's current processes recognise this and rely on the experience and expertise of trained individuals to make that judgement.

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Asylum appeals

Around two fifths of asylum appeals (39%) were granted in the calendar year 2020, and the appeal success rate has been steadily increasing over the last decade (up from 29% in 2010). In the last two years it has been around the 40% mark. In this context, where so many decisions are made incorrectly the first time around, it is extremely concerning to see that Government proposals include a new fast-tracked appeals process. Judges will be told to give "minimal weight" to evidence raised by an asylum seeker later in the process unless there are exceptional circumstances. This is accompanied by a misleading narrative that there is a significant problem with people lodging 'last minute' appeals by choice, when in fact there are multiple reasons for late disclosure of information or supporting evidence, including limited access to legal representatives for some individuals.

This proposal ignores the reality of how asylum claims are made, and how people seeking asylum are able to gather and submit evidence. Often evidence will be submitted later, or at appeal stage when it has not been possible during the initial asylum claim. Furthermore, traumatised people are not always able to provide a clear history when they first submit a claim; sometimes it is only later that crucial details emerge.

Given how important the appeals process has been in ensuring that people seeking asylum are able to be granted international protection, attempts to make it harder, or weaken chances of success, are extremely concerning. These changes will concern a few thousand people each year and do not require this kind of extreme reform. More work needs to be done to ensure decisions are correct the first time around, but this should not mean the weakening of the right to and process of appeal.

Safe and Legal Routes

The Government has claimed it wants to expand safe and legal routes by which refugees can arrive in the UK. Unfortunately, the proposals as set out in the New Plan for Immigration simply retains some existing routes, and seeks to reduce the numbers coming under others.

Resettlement

While it is welcome that the Government intends to grant all resettled refugees immediate Indefinite Leave to Remain – giving them certainty over their future and avoiding bureaucratic hurdles as they seek to integrate – this is something that is already provided to those who have come through the Gateway Resettlement Scheme.

More concerning is the refusal to provide a numerical target for the number of refugees resettled each year. The recently-closed Vulnerable Person's Resettlement Scheme was successful in meeting its quota of 20,000 people, and having a clear target allowed Government to plan capacity and coordination with local authorities.

Completely abandoning a target makes no sense when budgeting and future planning still needs to take place, and a target or clear numerical intention is the norm for every resettlement scheme across the world. In the case of the UK, Refugee Council has long argued that we should seek to resettle 10,000 refugees per year, on an ongoing basis. This is achievable and in line with the UK supporting its fair share of displaced people.

Refugee Family Reunion

The Government notes that 29,000 people arrived in the UK via refugee family reunion in the last five years. This figure is higher than those supported under resettlement schemes in the same period, yet the Government is proposing to radically restrict family reunion rights for those who arrive in the UK irregularly. Not only will this shut down an existing safe route – which is also key to good mental health and integration outcomes for refugees – but it will actually undermine Government efforts to close down irregular routes. If someone cannot reach their family member in the UK through family reunion rules, some will seek to enter irregularly to be with them.

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ⁱ <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1043-10-december-2020>

ⁱⁱ See <https://www.refugeecouncil.org.uk/latest/news/court-of-appeal-rules-the-home-office-age-assessment-policy-as-unlawful/>