

## New Plan for Immigration: Asylum Matters' Consultation Response

6th May 2021

### 1. Introduction

- 1.1. Asylum Matters is a charity working in partnership locally and nationally to improve the lives of refugees and people seeking asylum through social and political change. Our Campaign Managers work with people with lived experience of the asylum system, the voluntary sector and communities, local authorities and devolved governments, and politicians in North East England, North West England, Wales, West Midlands and Yorkshire and Humberside.
- 1.2. We have chosen to respond to this consultation in this format as we do not believe the online platform allows us to fully express our views on the complex substance of the New Plan for Immigration. We focus our responses on the areas of work where we have expertise, and we have chosen not to answer certain questions where we feel the framing does not allow for a meaningful response.
- 1.3. We would like to be clear that a lack of response to any specific question should not be taken as support by Asylum Matters for any of the proposed changes.
- 1.4. We would be glad to discuss this response and the issues raised further. Please contact us with any questions or comments you may have at [info@asylummatters.org](mailto:info@asylummatters.org)

### 2. Comments on the consultation process

- 2.1. Along with many other partner organisations in the refugee and migration sector, we have serious concerns about the consultation process for the New Plan for Immigration. These concerns have already been raised directly with the Home Office in meetings and written communication.
- 2.2. It is our opinion that the consultation does not meet the standards of objectivity, accuracy and genuine engagement expected of a public consultation and will provide an insufficient basis for Parliamentary scrutiny and debate on a major piece of legislation.
- 2.3. Contrary to [published guidance](#), the consultation is only open for six weeks, giving organisations and individuals limited time to respond.
- 2.4. We also have concerns that a consultation on such an important and wide-ranging piece of legislation has been contracted to a private company, with little transparency or accountability. Whilst there has been direct interaction with the Home Office as part of the consultation process, the full methodology - including sampling - remains unclear and not publicly available.
- 2.5. Many of the proposals in the New Plan for Immigration and the consultation itself are also confusing and lacking in detail. Crucially, the design of the consultation creates barriers for many who may want to share their views: the documents are only available in English and Welsh; many of the questions are only in multiple choice format; and many of the questions also appear to be leading and leave no possibility for organisations or individuals to respond in a meaningful way.
- 2.6. We note that across parts of the New Plan for Immigration, the document refers to internal management data or internal records to substantiate some of the reasoning behind the proposals. Without having access to this information, people responding to the consultation do not have the full picture of the proposals. We ask that the Home Office makes this information available.

- 2.7. We are concerned that there has been incredibly limited efforts on the part of Britain Thinks or the Home Office to involve those with lived experience of the asylum system in this consultation process, instead asking NGOs to facilitate this in addition to their own participation in the consultation process just over a fortnight ahead of the deadline.
- 2.8. Fundamentally, the timeline for the consultation, combined with a proposed introduction of primary legislation in summer or autumn 2021 means that we have concerns about the ability of the department, or even Ministers, to take full consideration of the views shared by stakeholders in the process. The proposals within the New Plan for Immigration are wide-ranging and represent some of the most drastic reforms of the asylum system for decades. The stakes are simply too high for what seems to be a rushed and partial process of engagement.
- 2.9. The Government has stated this is a public consultation and this is an opportunity for individuals and organisations to share their views and propose alternatives. However, due to the issues with the consultation process itself outlined above, there is a fundamental question as to whether the UK Government is approaching this consultation in good faith and is genuinely seeking to draw on people's insight and experience.

### 3. Response to the consultation questions

**Below, we outline our responses to the consultation questions as ordered in the questionnaire for organisations. As explained above, we have not answered some questions, either because we do not have the expertise to do so, or because we do not believe that the question allows for a meaningful answer.** We reiterate that a lack of response to any specific question should not be taken as support by Asylum Matters for any of the proposed changes.

1. The foreword provides a high-level outline of the New Plan for Immigration, including reforms to make the system fair, but firm. Overall, how far do you support or oppose what is being said here? Please refer to the foreword of the New Plan for Immigration to support your answer to this question.

**Strongly oppose.** Asylum Matters strongly opposes the proposals outlined in the foreword to the New Plan for Immigration. We believe that the reforms proposed here are unfair, unevidenced and inhumane.

2. The UK Government is committed to building an asylum system that is firm and fair, based on three major objectives:

- To increase the fairness and efficacy of our system so that we can better protect and support those in genuine need of asylum.
- To deter illegal entry into the UK, thereby breaking the business model of criminal trafficking networks and protecting the lives of those they endanger; and
- To remove more easily from the UK those with no right to be here.

How effective, if at all, do you think each of the following will be in helping the UK Government achieve this vision?

- Strengthening safe and legal routes for those genuinely seeking protection in the UK.
- Reforming legal processes to ensure improved access to justice
- Reforming legal processes to ensure speedier outcomes.

- Requiring those who claim asylum and their legal representatives to act in 'good faith' by providing all relevant information in support of their claim at the earliest opportunity.
- Enforcing the swift removal of those found to have no right to be in the UK, including Foreign National Offenders.
- Eliminating the ability for individuals to make repeated protection claims to stop their removal, when those follow-up claims could have been raised earlier in the process.
- Preventing illegal entry at the border, for example, by making irregular channel crossings unviable for small boats or deterring other activities such as hiding in the back of lorries.

**Asylum Matters chooses not to respond to this question as we do not accept its premise.**

The framing of this question focuses on whether the actions listed above will be effective in achieving the aims of the Government's proposals. While there are elements in the statements above that we might broadly support in isolation, we fundamentally disagree with the wider aims and approaches the Government is proposing. As the framing and format of this question provides no opportunity to give meaningful feedback on the broader aims of the proposals, we are not prepared to rate the effectiveness of the statements above.

**3. Please use the space below to give further detail for your answer. In particular, if there are any other objectives that the Government should consider as part of their plans to reform the asylum and illegal migration systems.**

These proposals threaten the very right to seek asylum in the UK; will make life harder for those people who do claim asylum here; put people seeking safety more at risk; and we believe are largely unworkable.

We agree that the UK asylum system must be reformed to better protect people seeking sanctuary and support communities to welcome them. However, we do not believe the proposals here address why people are forced to take dangerous journeys to seek safety, nor will they address the [record backlog](#) of people waiting in inhumane conditions for a decision on their claim for asylum. Further, they do nothing to address the longstanding issues of [unsafe and inappropriate accommodation](#), [poverty](#) and [destitution](#) that people seeking sanctuary in the UK face.

Reform of the UK asylum system should be based on the following principles:

- Effective access to the asylum process – all people seeking protection should have the opportunity to be able to do so.
- A fair, humane, and efficient asylum system – all people seeking asylum should have their claims assessed fairly, humanely, and efficiently.
- Reception conditions that promote dignity, liberty, empowerment, and integration – support provided during the asylum system must ensure liberty, promote dignity, empower people, and support their integration in the community from the moment of arrival.
- Integration – policies should support people to realise their full potential and empower them to make a positive contribution to their communities.
- Dignity, liberty, and humanity for those found not to be in need of protection – people refused asylum should not be detained and be treated in a safe, dignified, and humane way at all times.
- Global solidarity and responsibility sharing – the UK should play a role in providing sustainable solutions to forced migration.

The Government must listen to people seeking sanctuary and the organisations that work with them, as well as the majority of people in the UK who support a compassionate approach to refugees and reconsider these harmful and irrational plans. An alternative approach is possible that will allow vulnerable people to rebuild their lives and support communities across the UK to welcome them.

#### **Asylum Matters will not answer questions 4 - 6.**

**7.** Please use the space below to give further feedback on the proposals in chapter 2. In particular, the Government is keen to understand:

**(a)** If there are any ways in which these proposals could be improved to make sure the objective of providing well maintained and defined safe and legal routes for refugees in genuine need of protection is achieved;

and **(b)** Whether there are any potential challenges that you can foresee in the approach the Government is taking to help those in genuine need of protection.

We agree with the objective of providing well maintained and defined safe and regular routes for refugees in need of protection, however we do not believe that the Government's proposals will achieve this, and indeed could have the opposite of the intended effect.

Contrary to the Government's rhetoric, the New Plan will in fact restrict existing safe routes. We share the concerns of the [Families Together coalition](#) that the proposals to restrict access to family reunion for people seeking asylum who arrive in the UK through an irregular route will close one of the most used safe and regular routes for thousands of people.

If the Government were serious about providing safe and regular routes to sanctuary, it would commit to restarting, maintaining, and expanding resettlement programmes on a much larger scale than is presented in the Plan, which provides little detail and no timetable or targets for how this will be done.

People fleeing war, persecution, torture, and disaster are desperate for safety and a chance to rebuild their lives. When safe routes to do this are not available, riskier journeys will be attempted. If the Government were serious about stopping dangerous journeys across the Channel and deterring exploitation, they would increase the availability of safer routes, rather than shutting down existing routes and creating a two-tier system.

Creating a two-tier system of refugee rights and protection will not deter dangerous journeys and will only further embed destitution and poor living conditions in the asylum system. Punishing those who have entered the UK through means other than resettlement programmes by restricting their rights will not solve any of the problems the Government seeks to address, and the Plan provides no evidential basis for how it is expected to do so.

Furthermore, the proposals are fundamentally impractical and ill-thought through as they rest on an assumption that it will be possible to return people seeking asylum to third countries, contingent on securing agreements with those countries which do not currently exist, and the Plan presents no realistic proposals for how they will be secured.

There are other options the Government could and should pursue to provide genuine safe and regular routes. For instance, the proposals by JCWI, Detention Action, Refugee Rights Europe, Choose Love and Kent Refugee Action Network on [a safe and legal route from France to the UK](#) through a humanitarian visa scheme.

Dangerous journeys, exploitation and loss of life are not inevitable features of our borders but are the outcome of irrational migration policy and a lack of collaboration between states. Basing our approach on a recognition of the genuine and human need to seek sanctuary would go a long way towards improving safety, deterring exploitation, and building an asylum system that works for everyone.

#### **Asylum Matters will not answer questions 8 - 13.**

**14.** Are there any further observations or views you would like to share about safe and legal routes to the UK for family reunion or other purposes for protection claimants and/or refugees and/or their families that you have not expressed?

Please write in your answer and provide as much detail as you can.

When you answer please indicate if your views relate to protection claimants and/or refugees and/or their families in the EU and/or the rest of the world.

We are extremely concerned that the Government's proposals will restrict the right to family reunion for many refugees, including some of the most vulnerable. Family reunion, as one of the only safe and regular routes to protection available, enables families to rebuild their lives here together and should be available for all refugees regardless of their route to the UK.

Rather than restricting access to family reunion, we support the calls by the [Families Together coalition](#) that the Government should change these plans and instead:

- Expand the criteria of who qualifies as a family member for the purposes of refugee family reunion allowing adult refugees in the UK to sponsor their adult children and siblings who are under the age of 25; and their parents.
- Give unaccompanied refugee children in the United Kingdom the right to sponsor their parents and siblings who are under the age of 25 to join them under the refugee family reunion rules.
- Reintroduce legal aid for all refugee family reunion cases.

#### **Asylum Matters will not answer questions 15 - 18.**

**19.** To protect life and ensure access to our asylum system is preserved for the most vulnerable, we must break the business model of criminal networks behind illegal immigration and overhaul the UK's decades-old domestic asylum framework.

In your view, how effective, if at all, will the following proposals be in achieving this aim?

- Ensuring that those who arrive in the UK, having passed through safe countries, or have a connection to a safe country where they could have claimed asylum will be considered inadmissible to the UK's asylum system.
- Seeking rapid removal of inadmissible cases to the safe country from which they embarked or to another third country.
- Introducing a new temporary protection status with less generous entitlements and limited family reunion rights for people who are inadmissible but cannot be returned to their country of origin (as it would breach international obligations) or to another safe country.
- Bringing forward plans to expand the Government's asylum estate. These plans will include proposals for reception centres to provide basic accommodation while processing the claims of inadmissible asylum seekers.
- Making it possible for asylum claims to be processed outside the UK and in another country.

**Not at all effective.** The Government's reference here to 'preserving' access to the asylum system does not reflect the reality that relatively [few people](#) seek asylum in the UK, nor that many of the ongoing problems and delays in the asylum process lie with the [Home Office itself](#).

As [UNHCR statistics show](#), in the year ending September 2020, the UK received 31,752 asylum applications from main applicants. This is compared to 155,295 in Germany, 129,480 in France and 128,520 in Spain (all applicants). UNHCR estimates that there are a total of 133,094 people living as refugees in the UK, and a further 61,968 people currently awaiting a decision on their asylum claim.

Furthermore, the vast majority of refugees worldwide do not travel far from their country of origin when displaced, and an estimated 85% are hosted by countries neighbouring conflict zones. The Government's rhetoric and the proposals in the Plan are therefore wildly out of step with the reality of the geography of refugee protection and the UK's role in the global refugee protection system.

**20.** To protect the asylum system from abuse, the Government will seek to reduce attempts at illegal immigration and overhaul our domestic asylum framework.

In your view, how effective, if at all, will the following proposals be in achieving this aim?

- Changing the rules so that people who have been convicted and sentenced to at least one-year imprisonment and constitute a danger to the community in the UK can have their refugee status revoked and can be considered for removal from the UK.
- Supporting decision-making by setting a clearer and higher standard for testing whether an individual has a well-founded fear of persecution, consistent with the Refugee Convention.
- Creating a robust approach to age assessment to ensure the Government acts as swiftly as possible to safeguard against adults claiming to be children and can use new scientific methods to improve the Government's abilities to accurately assess age.

**Not at all effective.** We do not accept the premise of this question as there is no evidence in the New Plan for Immigration [Policy Statement](#), or elsewhere, of widespread 'abuse' of the asylum system. We provide further analysis around decision-making below at question 22.

21. The UK Government intends to create a differentiated approach to asylum claims. For the first time how somebody arrives in the UK will matter for the purposes of their asylum claim. As the Government seeks to implement this change, what, if any, practical considerations should be taken into account?

There should not be a differentiated approach to asylum claims, either while people are waiting for a decision to be made or once status is granted. Everyone who seeks protection in the UK should be able to live in safety and dignity and be supported to rebuild their lives.

Fundamentally, there is [no obligation](#) under the Refugee Convention to claim asylum in the safe first country someone reaches. Beyond the reality that most refugees do seek safety in countries neighbouring those in conflict, the Refugee Convention explicitly recognises the fact that refugees may have to take circuitous routes to safety in other states, and in fact safeguards refugees against penalisation for irregular entry.

A person's route of entry to the country has no bearing on their need for protection or their right to fair treatment. A differentiated approach to asylum claims will only cause people in the asylum system to wait longer for a decision while housed in harmful, inappropriate accommodation, and will prevent people granted status from getting on with rebuilding their lives. Beyond the principled objection to a differentiated system, we have extreme concerns about the following:

**Reception centres:** The proposed use of reception centres is an alarming and extremely concerning direction of travel for asylum accommodation. Throughout the COVID-19 pandemic, the Home Office has increased the use of institutional accommodation - some very similar to reception centres - and the devastating impact this has had on people seeking asylum is plain to see. As reports by the [Independent Chief Inspector of Borders and Immigration](#) (ICIBI) and the [British Red Cross](#) have demonstrated beyond doubt, the use of institutional accommodation such as former [MOD sites](#) and [hotels](#) has left people seeking asylum unable to access basic essentials, isolated from the wider community, and at serious risk of deteriorating mental and physical health.

The New Plan's proposals to house people who are deemed to be 'inadmissible' in reception centres will not only force people seeking asylum into completely inappropriate accommodation which has been proven to cause harm to those seeking safety, but will exacerbate existing delays in the asylum decision making process. The Plan claims that those deemed to be 'inadmissible' will be subject to efforts to remove them to a third safe country within six months of arriving in the UK. However, rapid removal relies on reciprocal agreements which are not yet agreed and few countries are likely to agree to. In effect, this will result in people being warehoused for six months, unable to enter the UK's asylum system, just creating longer delays in people's cases being decided.

Beyond the UK, this type of institutional provision has been deeply problematic; for example, Direct Provision in Ireland is now [being wound down](#). Similarly, proposals for 'offshoring' have been around for [decades](#) and have always proved unworkable. The use of offshoring by Australia has resulted in widespread [breaches of human rights](#). We do not believe that reception centres - onshore or offshore - should ever be a feature of the UK's asylum system.

Critically, the introduction of reception centres will do nothing to fix the long-standing issues within the asylum accommodation estate. Parliamentary committees, local authorities and NGOs have provided [repeated recommendations to the Government](#) over the years outlining how the department can address

persistent problems in the asylum accommodation estate, such as by providing adequate funding and support for Local Authorities participating in asylum dispersal and urgently addressing the long-standing issues in the management and monitoring of contracted provision.

Rather than expanding the use of harmful institutional accommodation, the Government should be making a full commitment to housing people seeking asylum in communities - as has been the case since 1999 - and investing in housing provision that is fit for purpose.

**Temporary Protection Status:** The differentiated system proposed by the New Plan threatens to create a three-tier protection system, whereby certain refugees are granted lesser rights than others, despite having the same protection needs recognised. The proposals to create a new temporary protection status for those the UK deems to be inadmissible, but not returnable, will unfairly penalise certain refugees solely due to their route of arrival into the UK. The imposition of limited leave to remain, no recourse to public funds and limited family reunion rights will leave thousands of recognised refugees at risk of extreme homelessness and poverty and will hinder people's abilities to settle in the UK.

The harms caused by no recourse conditions have been [extensively evidenced](#). Additionally, there is [no substantive evidence](#) that no recourse conditions - either on those with leave or those without - have any impact on voluntary or enforced returns. We do know that complex immigration systems, whereby individuals are expected to renew their leave to remain, often accompanied by large fees, too often force people into irregularity. We also know that the instability caused by restrictive and short leave to remain will have harmful impacts on individuals and families' abilities to settle, and thrive, in the UK.

In summary, a differentiated asylum system whereby the UK government withholds rights due to every refugee, based on of route of entry into the territory, would be disastrous for the individuals seeking safety, and will do nothing to address the very real operational issues facing the UK's asylum system.

**22.** The UK Government intends on introducing a more rigorous standard for testing the “well-founded fear of persecution” in the Refugee Convention. As the Government considers this change, what, if any, practical considerations should be taken into account?

The Government has provided no good reason to make the standard to test for a well-founded fear of persecution more rigorous. As it stands, the percentage of successful appeals demonstrates that people already aren't receiving protection when they should; in 2019/20, the First-tier Tribunal success rate in [asylum appeals was 48%](#).

The systemic and historical failures of Home Office decision-making are extremely [well-documented](#), including that Home Office decisions rely on [unrealistic and unlawful demands](#) for evidence, and that Home Office decision makers have a default position that people are [not telling the truth](#). This proposal does not address those failings.

Free Movement has highlighted that the courts found a split standard of proof [overly complex and impractical](#) in the 1990s. The Government has not provided any detail as to why this would work now.

**23.** The Government is aware that currently it can take many months to consider asylum applications and intends to ensure that claims from those who enter the UK illegally are dealt with swiftly and efficiently.

To help achieve this, in your view, which of the following steps would be the most important? Please rank the following statements from most to least important.

- To use asylum processing centres to accommodate those who enter the UK illegally, whilst they await the outcome of their claim and / or removal from the UK.
- To have an expedited approach to appeals, particularly where further or repeat claims are made by the individual.
- To ensure there are set timescales for considering claims and appeals made by people who are in immigration detention, which will include safeguards to ensure procedural fairness. This will be set out in legislation.
- To ensure those who do not qualify for protection under the Refugee Convention, but who still face human rights risks, are covered in a way consistent with our new approach to asylum.

**Asylum Matters chooses not to reply to this question as we do not accept its premise.**

We do not believe it is appropriate to rank steps in this manner as all the proposed approaches are deeply harmful to people seeking asylum and are not reasonable responses to addressing the current backlog of asylum applications, which is primarily due to issues with the Home Office itself. We reiterate that 'asylum processing centres' have no place in the UK asylum system and should never be used.

**24.** The Government is committed to strengthening the framework for determining the age of people claiming asylum, where this is disputed. This will ensure the system cannot be misused by adults who are claiming to be children.

In your view, how effective would each of the following reforms be in achieving this aim?

- Bring forward plans to introduce a new National Age Assessment Board (NAAB) to set out the criteria, process and requirements to be followed to assess age, including the most up to date scientific technology. NAAB functions may include acting as a first point of review for any Local Authority age assessment decision and carry out direct age assessments itself where required or where invited to do so by a Local Authority.
- Creating a requirement on Local Authorities to either undertake full age assessments or refer people to the NAAB for assessment where they have reason to believe that someone's age is being incorrectly given, in line with existing safeguarding obligations.
- Legislating so that front-line immigration officers and other staff who are not social workers are able to make reasonable initial assessments of age. Currently, an individual will be treated as an adult where their physical appearance and demeanour strongly suggests they are 'over 25 years of age'. The UK Government is exploring changing this to 'significantly over 18 years of age'. Social workers will be able to make straightforward under/over 18 decisions with additional safeguards.
- Creating a statutory appeal right against age assessment decisions to avoid excessive judicial review litigation.

**Not at all effective.** We share the [serious concerns](#) raised by Coram Children's Centre and Social Workers Without Borders that these proposals will increase the likelihood that children will wrongly be identified as adults and will be placed in accommodation with adults or held in adult detention centres.

**25.** Please use the space below to give further feedback on the proposals in chapter 4. In particular, the Government is keen to understand:

**(a)** If there are any ways in which these proposals could be improved to make sure the objective of overhauling our domestic asylum framework is achieved;

and **(b)** Whether there are any potential challenges that you can foresee in the approach being taken around asylum reform. Please provide as much detail as you can.

The proposals outlined in this chapter should be abandoned. While it is clear that the UK asylum system is in need of reform to better protect people seeking refugee protection, the rationale behind these proposals is deeply flawed and clearly [not based on evidence](#).

The approach the Government sets out, in particular establishing a differentiated approach to asylum claims, will only cause further harm to and delays for people seeking asylum without addressing any of the issues the Government says it seeks to solve. The proposals also fail to engage meaningfully with the many long-standing issues facing the UK asylum system and will cause increased harm to people seeking refugee protection.

The proposals do not address the real underlying problem, which is the quality and efficacy of Home Office decision-making and processes. In the year ending Dec 2020, [38% of appeals were allowed](#). Freedom from Torture have found that torture survivors leave asylum interviews feeling [dehumanised and re-traumatised](#) and UKLGIG has highlighted that Home Office application of the correct standard of proof is [problematic](#) and leads to incorrect refusals.

The proposals in Chapter 4 include potentially harmful changes to age assessments, running contrary to the direction of travel of best practice in this area of work, as shown in [Scotland](#). They also do nothing to address the devastating [impact of Home Office delays on children](#).

The Government has failed to include proposals for asylum reform that would promote dignity, liberty, empowerment and integration, including (but not limited to) [restoring the right to work](#) and ensuring asylum support truly [meets people's needs](#).

**26.** The Government wants to ensure the asylum and appeals system is faster, fairer and concludes cases more effectively. The Government's end-to-end reforms will aim to reduce the extent to which people can frustrate removals through sequential or unmeritorious claims, appeals or legal action, while maintaining fairness, ensuring access to justice and upholding the rule of law.

In your view, how effective, if at all, will each of the following intended reforms be in achieving these aims?

- Developing a "Good Faith" requirement setting out principles for people and their representatives when dealing with public authorities and the courts, such as not providing misleading information or bringing evidence late where it was reasonable to do so earlier.
- Introducing an expanded 'one-stop' process to ensure that asylum claims, human rights claims, referrals as a potential victim of modern slavery and any other protection matters are made and considered together, ahead of any appeal hearing. This would require people and their representatives to present

their case honestly and comprehensively – setting out full details and evidence to the Home Office and not adding more claims later which could have been made at the start.

- Considering introducing a ground of appeal to the First Tier Tribunal for certain Modern Slavery cases within the 'one-stop' process.

### **Not at all effective.**

**27.** The Government wants to ensure the asylum and appeals system is faster, fairer and concludes cases more effectively. The Government's end-to-end reforms will aim to reduce the extent to which people can frustrate removals through sequential or unmeritorious claims, appeals or legal action, while maintaining fairness, ensuring access to justice and upholding the rule of law.

In your view, how effective, if at all, will each of the following intended reforms be in achieving these aims:

- Providing more generous access to advice, including legal advice, to support people to raise issues, provide evidence as early as possible and avoid last minute claims.
- Introducing an expedited process for claims and appeals made from detention, providing access to justice while quickly disposing any unmeritorious claims.
- Providing a quicker process for Judges to take decisions on claims which the Home Office refuse without the right of appeal, reducing delays and costs from judicial reviews.
- Introducing a new system for creating a panel of pre-approved experts (e.g. medical experts) who report to the court or require experts to be jointly agreed by parties.
- Expanding the fixed recoverable costs regime to cover immigration judicial reviews (JRs) and encouraging the increased use of wasted costs orders in Asylum and Immigration matters.
- Introducing a new fast-track appeal process. This will be for cases that are deemed to be manifestly unfounded or new claims, made late. This will include late referrals for modern slavery insofar as they prevent removal or deportation.

### **Asylum Matters chooses not to reply to this question.**

There is not enough detail on the proposals to make an accurate assessment, and the framing of the question does not allow for a meaningful response.

**28.** The Government believes that all those who are subject to the UK's immigration laws, including those who have arrived here illegally or overstayed their visa, should be required to act in good faith at all times. Currently, the system is susceptible to being abused and there has to be an onus on individuals to act properly and take steps to return to their country of origin where they have no right to remain in the UK. This duty will apply to anyone engaging with the UK authorities on an immigration matter.

As a part this requirement, to what extent do you agree or disagree with each of the following principles:

- Individuals coming to the UK (as a visitor, student or other legal means) should leave the country on their own accord, by the time their visa expires.
- Individuals seeking the protection of the UK Government should bring their claims as soon as possible.
- Individuals seeking the protection of the UK Government should always tell the truth.
- Failure to act in good faith should be a factor that counts against the individual, when considered by the Home Office or judges as part of their decision making.

- Where an individual has not acted in good faith, this will be a relevant and important factor which decision makers and judges should take into account when determining the credibility of the claimant.

### **Asylum Matters chooses not to reply to this question as we do not accept its premise.**

The framing of the question is leading, not based on any evidence and does not allow for a meaningful response to the proposal as it focuses on whether the actions listed above will be effective in achieving the aims of the Government's proposals.

**29.** The Government propose an amended 'one-stop process' for all protection claimants. This means supporting individuals to present all protection-related issues at the start of the process. The objective of this process is to avoid sequential and last-minute claims being made, resulting in quicker and more effective decision making for claimants.

Are there other measures not set out in the proposals for a 'one-stop process' that the Government could take to speed up the immigration and asylum appeals process, while upholding access to justice? Please give data (where applicable) and detailed reasons.

We do not agree with the aim of introducing a 'one-stop process' for claims, as we do not believe this is compatible with upholding access to justice, will not improve the quality of asylum decision making and will have a negative impact on people in need of protection.

There are many clear and well-established reasons why it may not be possible for an individual to present all relevant information in support of their claim at the earliest opportunity. These include not having access to relevant documents or records; delays in accessing suitable legal advice; or being too traumatised to be able to immediately provide all relevant information. Many people go on to have their claims recognised [following appeals](#) or lodging fresh claims.

These proposals particularly impact certain groups and more vulnerable people. Women for Refugee Women [have highlighted](#) how women who have experienced gender-based violence often require support and legal advice before they can feel confident to disclose their experiences. UKLGIG has highlighted that for many similar reasons delay is a frequent feature of claims based on [sexual orientation or gender identity](#) (pg 22).

In general, this proposal would mean people with a well-founded fear of persecution may be denied asylum, or the right to claim it, through no fault of their own. The consequences of decisions like this have very real, and very serious consequences for people fleeing persecution.

We note that the Policy Statement's proposal relating to a "new legal advice offer" is not sufficiently detailed for us to make a meaningful comment. Nevertheless, we would reiterate that any new legal advice offer must ensure better access to free, high quality and independent legal advice.

### **Asylum Matters will not answer questions 30 - 37.**

**38.** It is an essential responsibility of any Government to enforce and promote compliance with immigration laws, ensuring the swift return of those not entitled to be in the UK. The Home Secretary is also under a

duty to remove any foreign national offender who has been served a sentence for an offence in the UK of 12 months or more.

In your view, how effective, if at all, will each of the following reforms be in helping us to build on these principles?

- Consulting with Local Authority partners and stakeholders on implementing the provisions of the 2016 Act to remove support from failed asylum-seeking families who have no right to remain in the UK.
- Considering whether to more carefully control visa availability where a country does not cooperate with receiving their own nationals who have no right to be in the UK.
- Increasing the early removal provision for Foreign National Offenders who leave the UK from 9 months to 12 months to encourage departure and also add a new 'stop the clock' provision so that they must complete their sentence if they return. This would be in addition to any sentence for returning in breach of a deportation order.
- Amending the list of factors for consideration of granting immigration bail and the conditions of immigration bail.
- Placing in statute a single, standardised minimum notice period for migrants to access justice prior to enforced removal and confirm in statute that notice need not be re-issued following a previous failed removal, for example where the person has physically disrupted their removal.

### **Not at all effective**

To be clear, any attempt to revive the provisions in the 2016 Act must be preceded by a full, meaningful, and detailed consultation with Local Authorities and other stakeholders. Our response to the above question relates to whether the reform in question (i.e. the introduction of the provisions in the 2016 Act) is effective, rather than the act of consultation.

It is our understanding that the Government committed to further consultation on these provisions during the passage of the 2016 Act into law, and as such, the existence of a secondary consultation on this is not up for debate.

**39.** The Government intends on amending the list of factors for consideration of Immigration Bail in paragraph 3 of Schedule 10 to the Immigration Act 2016 ([legislation.gov.uk](http://legislation.gov.uk)), to include an individual's compliance with proper immigration process.

To what extent, if at all, do you agree or disagree with this proposal?

### **Strongly disagree**

**41.** Please use the space below to give further feedback on the proposals in chapter 8. In particular, the Government is keen to understand.

**(a)** If there are any ways in which these proposals could be improved to make sure the objective of enforcing and promoting compliance with immigration laws, ensuring the swift return of those not entitled to be in the UK is achieved; and

**(b)** Whether there are any potential challenges that you can foresee in the approach the Government is taking around removals.

Asylum Matters strongly opposes the proposed approach outlined in Chapter 8 of the New Plan for Immigration, which will create further barriers to justice for people seeking asylum and will increase destitution, including among families with children. Our response will focus on the proposed approach to removing support for families who have been refused asylum.

We note with concern that this proposal around asylum support entitlement for people who have had a claim refused has been placed in a broader chapter that focuses on Foreign National Offenders. People who have been refused asylum are not foreign national offenders, and the two should not be conflated.

To be clear, any attempt to revive the proposals in the 2016 Act must be preceded by a full, meaningful, and detailed consultation with Local Authorities and other stakeholders. It is our understanding that the Government committed to this during the passage of the 2016 Act into law, and as such, the existence of further consultation is not up for debate. The current consultation on the New Plan is not a sufficient mechanism to do this.

As in 2016, when these proposals were first put forward as part of the Immigration Act 2016, we object wholeheartedly to the proposed changes to asylum support eligibility which will increase homelessness and poverty amongst people seeking refugee protection, including children.

We would reiterate that there is nothing in the Policy Statement or elsewhere that details how the department will now overcome the very serious practical, ethical and moral challenges inherent in the proposals to remove support from families who have been refused asylum. These concerns were raised by Local Authorities and other stakeholders in 2015, including (but not limited to): increased destitution amongst adults and children; the impact on statutory services which engage with the welfare and safeguarding of children; and incompatibility with legal duties to protect children under both international and domestic law.

For years, enforced destitution has been part of the Home Office's approach to force people to return to their country of origin following a refusal of asylum. However, numerous reports have not only highlighted the [inhumanity of this approach](#), but equally the fact that ['hostile environment' measures are not effective](#) even on the Government's own terms.

By needlessly creating homelessness and destitution, these policies cause harm to people in the asylum system and the communities where they live. It is Local Authorities and local voluntary and community groups who are left to support people who have nowhere else to turn. The proposals presented here will create an ever greater demand on services that are already stretched and underfunded, and it is vulnerable people who will suffer.

Enforced homelessness and poverty should never be a built-in feature of the UK's asylum system; our asylum system should be designed to protect, not to punish. Local Authorities and communities should be funded and supported to welcome people seeking asylum and help them to play a full part in their new communities, rather than left to deal with the fallout of disastrous Home Office policies.

**42.** Below is a list of protected characteristics under the Equalities Act:

- Age

- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

From the list of areas below, please select any areas where you feel intended reforms present disproportionate impacts on individuals protected by the Equalities Act.

Please expand on your answer for any areas you have selected, providing data (where applicable), further information and detailed reasons.

- Protecting those Fleeing Persecution, Oppression and Tyranny (Chapter 2)
- Ending Anomalies and Delivering Fairness in British Nationality Law (Chapter 3)
- Disrupting Criminal Networks and Reforming the Asylum System (Chapter 4)
- Streamlining Asylum Claims and Appeals (Chapter 5)
- Supporting Victims of Modern Slavery (Chapter 6)
- Disrupting Criminal Networks Behind People Smuggling (Chapter 7)
- Enforcing Removals including Foreign National Offenders (FNOs) (Chapter 8)
- None of these

### All of the above

**43.** And in which areas, if any, of the intended reforms do you feel there are likely to be the greatest potential equalities considerations against the listed protected characteristics? (tick all that apply)

- Strengthening safe and legal routes (Chapter 2)
- Delivering fairness in British nationality laws (Chapter 3)
- Reforming the asylum system (Chapter 4)
- Streamlining and speeding up removals (Chapter 5)
- Reforming the Modern Slavery System (Chapter 6)
- Defending the Border and strengthening enforcement (Chapter 7)
- Enforcing removals, including of Foreign National Offenders (Chapter 8)
- None of these

### All of the above

**44.** Thinking about any potential equality considerations for the intended reforms in each of the areas, are there any mitigations you feel the Government should consider? Please give data (where applicable) and detailed reasons.

The impact of these proposals on people with protected characteristics under the Equality Act is certain to be disproportionate and deeply harmful, and we can see little evidence of any safeguards against this. The

whole approach outlined in the New Plan for Immigration demonstrates a disregard on the part of the Home Office to its statutory duties under the Equality Act which has been shown time and again.

According to the [Equality and Human Rights Commission](#), the Home Office failed to comply with the Public Sector Equality Duty (PSED) when developing, implementing and monitoring the 'hostile environment' policy agenda. This meant that the department neglected to consider the impact its policies would have on people with protected characteristics, particularly Black members of the Windrush generation. [Wendy Williams' independent review](#) also found serious failings within the Home Office.

The [Home Office has recently agreed](#) to a two year action plan, signed through an agreement with the EHRC, that commits the department to make improvements. However, we continue to see evidence of ongoing deficiencies in the Home Office's approach to assessing, preventing, and safeguarding against adverse impacts on protected groups when developing or delivering its policies. For example, an equality impact assessment prepared by the Home Office in relation to the [use of barracks](#) as accommodation for people seeking asylum (which has recently been made publicly available [here](#)) was heavily criticised for being inadequate.

It is clear from the contents of the New Plan for Immigration, and the Home Office's approach to this consultation, that none of these lessons have been learnt and this Plan represents an ongoing approach that disregards statutory obligations and will have a deeply negative impact on already marginalised groups within the broader population of people seeking refugee protection.

We are aware that the Home Office has produced an equality impact assessment for the proposals within the New Plan which is a live document. We strongly believe that for proposals of this magnitude, this equality impact assessment should have been provided as part of the consultation document.

**45. Is there any other feedback on the New Plan for Immigration content that you would like to submit as part of this consultation?**

As we have outlined earlier in this document, we have serious concerns about the consultation process for the New Plan for Immigration. For a public consultation on such wide-ranging proposals, this six-week consultation window is simply not sufficient. People we work with - organisations and individuals across the UK - have struggled to navigate the consultation documents, online platform, and policy document, with people citing difficulties understanding the proposals themselves, and in having their views truly heard when faced with leading questions. People seeking asylum themselves have found the proposals deeply distressing.

We understand that significant primary legislation relating to proposals in the New Plan for Immigration will be presented in the Queen's Speech on the 10th May, just 4 days after the consultation closes. We also understand that the Home Office will still be consulting with devolved administrations and some lived experience led groups in that same week. It remains unclear exactly what forms the full methodology of the consultation on the New Plan for Immigration, or when or how the results of the consultation exercise will be published. With the condensed time frame for consultation, the intention to fast-track legislation, and the fact that much of the New Plans proposals can be operationalised without primary legislation, we remain deeply concerned about the department or Ministers' ability to meaningfully engage with the views of stakeholders or the public in their development of policy.

Broadly, we wish to register our opposition to the proposals in the New Plan for Immigration, which will do very little to improve our asylum system but will instead inflict significant harm on those seeking refugee protection. We share the serious concerns voiced by [UNHCR](#) and many others relating to both the workability, and legality, of the proposals. We urge the Home Office to listen to people in the asylum system, and those who work to support them, and rapidly reconsider the aims, objectives, and proposals within the New Plan for Immigration.