

Scottish Refugee Council's response to the UK Government's New Plan for Immigration

6 May 2021

1. Scottish Refugee Council has been a national refugee rights charity since 1985. We advocate and campaign for refugee rights as well as deliver advice and advocacy services in asylum, refugee integration and resettlement. We are a co-lead on Scotland's New Scots Refugee Integration Strategy and support a network of over 150 refugee-led and refugee-assisting organisations across Scotland. Evidence and experiences from our frontline and community services and research inform our response. We deliver the Scottish Guardianship in partnership with Aberlour Child Care Trust, which gives us considerable insight into the experiences of separated children who are seeking asylum and who frequently have survived trafficked exploitation.
2. The New Plan for Immigration (the New Plan), presented to the UK Parliament by the Home Secretary on 24 March 2021 comprises over 40 substantive changes to policies and legislation of the UK asylum and immigration system. This written response presents the views of Scottish Refugee Council and focuses on overarching comments as well as detailed comments on sections and proposals in Chapters 2, 4 and 6 of the New Plan.
3. In summary, Scottish Refugee Council rejects the premise of, much of the content in, and the "consultation" processes for the UK Government's [New Plan for Immigration](#). We urge the UK Government to rethink and scrap these dangerous proposals, which will exert significant harm on existing and new refugees seeking protection in the UK. Instead, we call on the Home Secretary to properly understand and uphold her government's commitments under international law and introduce reforms that respect these and will actually address the current evidenced and long-standing failings of the UK asylum system.

Unified opposition from across Scottish civil society, to the New Plan for Immigration

4. On 26 April 2021, over 75 charities, belief groups and community organisations from across Scotland wrote to the Prime Minister and Minister for the Union expressed shared concerns

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and unity in opposing the New Plan. This letter can be read [here](#). The letter conveys serious and wide-ranging concerns and opposition from across Scottish civil society to the New Plan. Similar views are reflected even more widely across the rest of UK, for example, [here](#).

5. In summary, the concerns are the New Plan will:

(a) *Detach the UK from international refugee law.*

If implemented, it will render many people seeking refugee protection, on arrival in the UK, ineligible for asylum. This shifts the basis for protection from the persecution that people flee to, instead, the way people travelled to the UK in order to seek safety. The 1951 Convention relating to the Status of Refugees (“Refugee Convention”) makes no requirement to claim asylum in the first safe country¹: family, community, and language ties may mean for some people the UK is where they judge they will be best-placed to safe, settled *and* to rebuild their lives.

(b) *Institute a two-tier refugee protection and support system.*

In discriminating protection and support based on how a refugee arrives in the UK, the New Plan routes all but those who have arrived via UK-authorized channels, into a lower tier system. This ignores what refugee flight is and that crossing borders without legal papers is often necessary to escape persecution and conflict. To penalise refugees for displacement journeys is unfair, unlawful and unwarranted. It is a fundamental misreading of the UK’s commitment to non-penalisation under Article 31(1) of the Refugee Convention. It ignores those seeking refugee protection, including women survivors of sexual abuse and discrimination as women², have no safe or official channels³ out of persecution. It further ignores the dual motivation in refugee flight: to be safe *and* to rebuild one’s life.

(c) *This two-tier divide widens, by routing those deemed inadmissible to asylum into holding centres, for at least six months and potentially indefinitely.*

We fear these centres will be isolated, separated from communities in the UK. For those institutionalised, constant anxiety of removal awaits with the only contingent respite, a grant of Temporary Leave with No Recourse to Public Funds, and no prospect to rebuild life in the UK or be reunited with family. This “inadmissibility – holding centre” nexus will damage the mental health of refugees, leave people more vulnerable to exploitation and abuse and its infrastructure costs *may* be prohibitively costly to the UK taxpayer. However, it will be lucrative

¹ [Why sticking to the Refugee Convention still matters | Free Movement](#) (April 2021)

² [Will I ever be safe?](#) Women for Refugee Women (February 2021), especially as an illustration of the: “The 106 women who participated in this research had all left their countries to find safety in the UK. More than three quarters of the women we spoke to were fleeing gender-based violence”.

³ [UNHCR - UK Immigration and Asylum Plans – Some Questions Answered by UNHCR](#) (April 2021), especially: “It is not illegal to seek asylum – the right is universal — whatever the means of travel or way of arrival. It is generally recognized that asylum-seekers, in exercising this right, are often unable to travel and arrive in a country via regular means.”

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for commercial accommodation contractors. This nexus will replace the refugee dispersal system, ran down for a decade by the Home Office and steadily privatised, with a new institutional accommodation regime.

(d) The New Plan reforms on asylum stem from a wilfully false premise of external pressures of numbers seeking protection.

It is a fact that the UK accounts for relatively few asylum seekers in Europe and a fraction of those displaced globally. The problem to be solved is internal: asylum decisions are notoriously slow, frequently lack requisite quality and gender sensitivity, and consign people to exist in limbo and severe poverty in the UK. The New Plan proposals will not address these issues. If anything, they will exacerbate them. This will not be likely to reduce the relatively modest number of people who come to the UK to seek asylum. It may, however, compel many of these people to try to avoid the authorities; and it may cause many others to be left in situations of limbo and deprivation, more vulnerable to exploitation and abuse.

(e) The New Plan seeks to pass responsibility to other states to protect refugees.

In doing so, this further undermines the global international protection system, commitments to equitable responsibility-sharing in the UN Global Compact on Refugees⁴, and renders aspirations of “Global Britain” nonsensical and insulting to countries that consistently take responsibility for those forcibly displaced, who have lost everything, to be safe and rebuild their lives. The New Plan reflects a UK Government looking inward and averting its gaze from those in need.

(f) Consultation on the New Plan has been planned and conducted in bad faith.

It is precisely concurrent with the purdah for devolved parliaments, local authority, and mayoral elections. This effectively silences a swathe of governance and communities they represent, many of which have insights and evidence of relevance to the consultation. There is no attempt to prioritise the experiences of those who have directly experienced the UK asylum system nor address multiple evidenced failures with the system.⁵

(g) The New Plan ignores devolution.

The New Plan makes no attempt to determine the territorial extent of any of the proposals. As presented, some proposals impinge directly on the competences of the Scottish Parliament and Scottish Government. These include, for instance, the legal system, anti-trafficking, age assessment and integration proposals. That interference, and without prior engagement with devolved institutions, undermines UK governance relations. It also implies that these

⁴ [Global Compact on Refugees](#), United Nations (September 2018)

⁵ <https://www.ein.org.uk/news/hundreds-leading-academics-criticise-governments-new-plan-immigration-being-completely>

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proposals have been rushed and not fully considered before being publicly presented⁶. Simply responding by stating asylum is a reserved matter, ignores the complexity and impact of the reforms proposed across the UK, and the role of devolved actors in the functioning of the UK's refugee protection system, in tackling modern slavery, in integration policy or the need to respect statutory duties upon the Home Secretary to consult with devolved Ministers on specific matters.

Overarching comments and concerns

6. The New Plan is being promoted in the midst of an immature, contrived but nonetheless dangerous political “culture war” with real life consequences⁷ against vulnerable refugees⁸, so-called “do-gooders” like solicitors⁹ and refugee charities and community organisations¹⁰ and against other human rights defenders; all of which are simply doing their best to help people. Home Office Ministers¹¹ have been instrumental in instigating this “culture war” and then, as the New Plan confirms, they are now seeking to make policy and legislation, justified by it. The New Plan lacks evidence therefore and is detached from and with seemingly no interest in learning about, what seeking refugee protection actually entails from those that have had to go through the system.
7. There are many proposals in the New Plan that concern us. Our submission does not address each individual proposal. However, we are in full agreement with the criticisms and opposition to these from migrant, refugee, anti-slavery, legal and other partner organisations. This solidarity is especially in terms of the proposals to “streamline” asylum claims and appeals. In particular, we urge a fundamental rethink on the One-Stop Process and Notice requirement. In forcing all evidence to be presented swiftly and in one go, one ignores that people are traumatised and there are mental health and practical barriers to presenting all evidence immediately¹². We urge the Home Office to be flexible and person-centred and gender-sensitive. They should reconsider this “One-Stop” proposal and actively listen to survivors and the mental health and legal specialists, such as Freedom from Torture, Women for Refugee

⁶ The review by Lord Dunlop of Review of UK Government Union Capability notes that: *An enhanced process has been introduced to support the write-round process within the UK Government to record the devolution or UK-wide implications of policy proposals being submitted for collective agreement.* This does not seem to be followed in this instance.

⁷ [The refugee crisis is fake. The culture war isn't](#), Politics.co.uk (August 2020) and [Patel's war](#), The Article (October 2020) and [Priti Patel says Tories will bring in new laws for 'broken' UK asylum system](#), The Guardian (October 2020)

⁸ [Far-right activists filmed hassling asylum seekers in hotels](#), The Guardian (August 2020)

⁹ [Man charged with right-wing terror plot to kill immigration solicitor](#), BBC News (October 2020)

¹⁰ [Hate crime and far right activity in Bulletin 7](#), Refugee Action (December 2020)

¹¹ [She sneers at do-gooders but Priti Patel has power to do bad. She's using it](#), The Guardian (October 2020)

¹² In particular, our colleagues at Freedom from Torture set out clearly and comprehensively how inappropriate and dangerous this One-Stop Process and Notice requirement is [here](#), especially: “There is a real risk that a ‘one-stop’ process will penalise those who have experienced trauma, like survivors of trauma, like survivors of torture, who need more time to process what has happened to them and to build trust before they feel safe to disclose their experience.”

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Women and Immigration Law Practitioners' Association. Left as is, this One Stop Process requirement will re-traumatise and lead to unjust protection refusals.

Detailed response to specific parts of the New Plan for Immigration

8. The rest of this response is on specific proposals in the New Plan. For ease of reference these relate mainly to:

- (a) Chapter 2 (“Protecting those fleeing persecution, oppression and tyranny”), which sets out very limited and underwhelming approaches to safe and legal routes to protection;
- (b) Chapter 4 (“Disrupting Criminal Networks and Reforming the Asylum System”); and
- (c) Chapter 6 (“Supporting Victims of Modern Slavery”).

Chapter 2: Protecting those Fleeing Persecution, Oppression and Tyranny

Safe and legal routes

- 9. We welcome the commitment to resettlement and emergency resettlement, but are very concerned that there is no numerical target or little detail behind proposals for resettlement and safe and legal routes. The proposal suggests that ‘capacity to integrate’ as opposed to vulnerability, may be a criterion for selection onto the future resettlement scheme. This is deeply worrying.
- 10. However, the proposals relating to safe and legal routes in the New Plan, as presented, will not protect significant numbers of refugees. By effectively seeking to close off the asylum protection route and, by association, family reunion, this represents a huge diminution in the UK protection system. The Home Office know well that asylum and family reunion gives protection to far more people every year, than resettlement has in the UK, crucial as refugee resettlement is. Accordingly, the Home Office proposals, if pursued, will undermine the means by which the majority of people are provided the protection to which they are entitled (i.e. via the asylum system) and also the means by which most of the minority of people who are provided protection by a safe and legal route can currently do so (i.e. via refugee family reunion).
- 11. We would remind the UK Government that resettlement and other legal routes to protection in the UK do not release the UK from its legal and moral obligations to people seeking asylum under its jurisdiction.

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12. On integration, it is positive that the UK Government intention is to grant all resettled refugees immediate Indefinite Leave to Remain (ILR). However, ILR status will provide clarity and stability for those resettled and those they seek to access services from. It gives a basis to rebuild one's life. We urge that it be extended to all protection routes.
13. It will be important that the requisite integration support is (a) provided to each resettled refugee; (b) that it is holistic in the needs it covers and is based on evidence of best practice (so not confined to employment and language only; and (c) that is sustainably funded by the UK Government but delivered by those closest to those resettled who know their areas, best, so local refugee rights organisations, local authorities and, where applicable, devolved governments. We have extensive experience in refugee integration support¹³. We urge the UK Government to apply its focus on integration support to all those seeking protection in the UK, no matter how people got here, and provide that support from arrival.

Chapter 4: Disrupting Criminal Networks and Reforming the Asylum System

Ending the asylum system in the UK

14. We reject the New Plan's Chapter 4. We regard it as a fundamental, wide-ranging and deeply regressive approach. Such is the extent of what is proposed, the New Plan less reforms, more destroys the asylum system altogether, and extinguishes the right to asylum in the process. This is shameful, wrong-headed, unlawful and must be stopped.

Defining test for persecution

15. We question why the Home Office is seeking to introduce a 'clearer and higher standard for testing whether an individual has a well-founded fear of persecution' and take a unilateral approach to interpreting the definition of refugee in the Refugee Convention. We are at a loss to how logically this will support improved decision-making. At its heart this proposal (amongst others) attempts to restrict the rights of people who make asylum claims rather than how the Home Office can improve the way it acts to improve its decision-making. There is a very high likelihood that the asylum system will become even more inefficient as injustices will ultimately need to be rectified. It will harm decision-making and critically harm individuals.

The New Plan's differentiated approach to refugee protection: the new two-tier system

16. The New Plan proposes a "differentiated" approach to refugee protection creates a sub-class of refugee. What is being proposed is to put into primary legislation new protection arrival in

¹³ [I want to participate: transition experiences of new refugees in Glasgow](#), Baillot, H., Mignard, E., and Strang A.B., (August 2017) and [New toolkits to support refugee integration in Scotland and beyond](#), Scottish Refugee Council (January 2021)

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the UK seeking asylum, will be considered as to whether they have passed through, or have a connection with a “safe third country” to be placed, for at least a 6-month period (perhaps indefinitely, in practice), into a category of persons deemed inadmissible to the UK asylum procedure. To compound that, these men, women and children will then be routed into a “reception” e.g. holding centre regime where only “basic” provision will be made, and efforts will be made to enforce the removal of those to “safe third countries” even those to which they have not passed through or have no connection with. If they cannot be removed then they may be provided, with up to 30 months Temporary Protection Status (TPS, which will replace the current 5 years Refugee leave). To add insult, TPS will be subject to No Recourse to Public Funds, unless someone is destitute. This is not about safety or seeking a durable solution. It is no more than temporary respite from removal.

The New Plan’s “reforms” to the asylum system stem from a false premise and problem

17. We are frustrated at the dishonest premise of the “problem” these reforms were apparently designed to resolve. The UK is one of the richest countries in the world. However, it accounts for relatively few asylum seekers in Europe and a fraction of those displaced: just 0.0008 of all asylum seekers in the world in 2019, were in the UK¹⁴. There is no crisis in numbers or pressures that the UK cannot bear. Despite the noise about people seeking protection by crossing the English Channel in 2020, asylum applications to the UK fell significantly in this period¹⁵. The real problem to be solved is internal: asylum decisions are notoriously slow, frequently lack requisite quality and gender sensitivity¹⁶, and the support system consigns people to exist in limbo and severe poverty in the UK¹⁷. We are gravely concerned by the

¹⁴ At the end of 2019, UNHCR estimates there were 79.5m people displaced, of which 26m were refugees, and 4.2m were seeking asylum: UNCHR Global Trends 2019. Also, at the end of 2019, there were 35,566 new asylum applications lodged in the UK: Asylum Statistics (February 2020). This means only 0.0008% of asylum applications globally are in the UK. In 2019, there were around 5 asylum applications for every 10,000 people living in the UK. Across the EU28 there were 14 asylum applications for every 10,000 people. The UK was therefore below the average among EU countries for asylum applications per head of population, ranking 17th among EU28 countries on this measure: House of Commons Library Research Briefing

¹⁵ <https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/> - NB: comparing new asylum applications at Q2 2019 and Q2 2020, the number of applicants fell by 41%, the lowest quarterly count since 2010.

¹⁶ Please find, for example, [We are still here \(2016\) Women for refugee women](#) and [Will I ever be safe \(2020\) Women for refugee women](#)

¹⁷ The most recent Home Office statistics for the year ending December 2020 showed that 46,796 people had been waiting for over six months for a decision on their asylum claim (72% of claims). Covid-19 exacerbated a trend in delays that predated the pandemic: for the years ending December 2019 and December 2015, respectively, the equivalent figures were 22,549(56% of claims) and 3,626 (20% of claims): Asylum Statistics (February 2021). Over the most recent 5 years for which data is available, from one-third to almost half of appeals against Home Office initial asylum refusals, are successful. That appellate success rate has driven a consistent uplift from initial to final asylum grant rates. Recent uplifts are 40% to 59% (2015); 32% to 51% (2016); 29% to 47% (2017), 42% to 56% (2018), 54% to 64% (2019): Asylum Statistics (September 2020). People seeking asylum also endure systemic denial of socio-economic rights: they are not allowed to work, those otherwise destitute have no choice of accommodation, and all are consigned to support to the value of around 40% of the UK social security minimum. The solution to each of these issues lies with the Home Office and could be resolved if they invested in high-quality and swift decisions; in an accommodation system operated in partnership and accountable with local and devolved governments, and if they allowed people seeking asylum to

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foreseeable and severe consequences for the men, women and children desperate for an asylum protection route to the UK that is open, is empathetic and helps them to be safe and rebuild their lives. The UK asylum system may lack those qualities but the New Plan regime will effectively shut down the asylum system altogether.

The New Plan's closing the asylum protection route = more risk and suffering for refugees

18. By closing off the asylum protection and associated family reunion route, the reality is that more people will be denied any authorised access to the UK. There is a direct likelihood that the New Plan system will force more people to consider perilous journeys to seek protection in the UK. Grimly, we fear that more people will die or risk their lives in this process. More will endure exploitation and mental health deterioration. Even if they reach the UK's shores, they will suffer, if this New Plan is implemented, a harsh and isolated existence in a holding centre, which will end with either the paltry and short-term TPS leave or, worse with forced removal to a "safe" third country or their country of origin, or destitution in the vulnerable irregular migrant population in the UK. The New Plan regime will be a boon for those criminal networks it purports, with no supporting evidence, to disrupt. All that these asylum reforms will do is push vulnerable people to the margins, where organised crime is. That this is so foreseeable exposes how irresponsible the New Plan's asylum and family reunion reforms are.

The New Plan and the operation of the inadmissible rules and forced return nexus

19. Furthermore, in rendering new arrivals seeking protection as ineligible to the asylum procedure – instead routing them for 6 months into a limbo inadmissible status – the UK Government are, senselessly and expensively, adding 6 months of new claims onto the tens of thousands already waiting at least 6 months for even an initial decision. Far from reducing the pressure on the Home Office and its asylum decisions system, this New Plan will exacerbate a failing system and increase costs. It will certainly embed a new and substantial layer of protection claims that have to be decided at some point, most probably after 6 months of a person being assigned to an inadmissible pool. The missing links in this part of the New Plan are crucial. First of all, the Home Office need to have returns or readmission agreements with both countries of origin and "safe" third countries, to return or remove those refused or deemed inadmissible. We know of only around 20 such agreements¹⁸ with countries of origin, and of no agreements with EU or non-EU States as "safe" third countries for the purpose of receiving persons who the UK deem inadmissible. Without such agreements, the New Plan on "asylum reform" cannot function.

work and to access to social security, whilst awaiting a final determination of their protection claim. All of these problems are internal to the Home Office. None will be resolved by the New Plan.

¹⁸ <https://questions-statements.parliament.uk/written-questions/detail/2021-02-04/149254> - NB: please note that this PQ was itself based on, and only possible because of an FOI response disclosing the existence (not the content) of certain such agreements, which we recently obtained from the Home Office.

Reception centres as the new official asylum accommodation policy

20. Long-term institutional accommodation is simply inappropriate for people seeking refugee protection. What people desperately need is the stability, privacy and sense of safety of a home in communities¹⁹. During the ongoing Covid-19 pandemic, institutional settings with shared facilities, limited space and unwanted contact with others, have been especially unsuitable. The human rights debacle at the military barracks in Penally and Napier since last autumn exposed the chronic neglect of the safety and care of vulnerable people by the Home Office and its contractors and sub-contractors²⁰. It is depressingly instructive that some of the decisions to move asylum seekers to Napier barracks, for example, were tainted by political matters²¹. It is wholly irresponsible that Napier barracks remain in use for asylum accommodation. We fear that the New Plan's "reception" centres, worrying limited to "basic" provision only, confer institutional accommodation as the UK Government's official policy on asylum accommodation. If so, that confirms that the clear shift towards it before and accelerating since Covid-19 was no accident or "contingency", but constitutive of an underlying political and commercial endeavour to effectively warehouse people seeking safety, with the economies of scale and profit that institutional accommodation enables. Hotel room isolation, in particular, grew exponentially during Covid-19. At the end of December 2020, over 12,000 people, most of whom indefinitely, were stuck in hotel rooms with no discernible control over their lives. It was only in January this year, that they started to receive any financial support (a paltry £8pw), and that decision was forced on the Home Office, from a successful legal challenge²².
21. At the heart of our concerns of this shift to institutional accommodation and the New Plan's holding centres are both that it separates people from housing in communities, as well as the severe and negative impact it exerted, in the process. Any protection and support system should be measured against precisely that: does it make people safe and supported and able to make choices and live life independently again. Leaving an increasing number of people in rooms alone or sharing with strangers, with no monies, for months or a year, will fail those tests. That fate has been suffered by thousands of people before and since Covid-19. Reports have consistently noted an escalation in mental health problems²³, in suicide ideation and

¹⁹ [Far from a home: why asylum support accommodation needs reform](#) (2021) British Red Cross

²⁰ [Report condemns Home Office failures at barracks used to house asylum seekers](#), The Guardian (April 2021) and [An inspection of the use of contingency asylum accommodation – key findings from site visits to Penally Camp and Napier Barracks](#), ICIBI and HMIP (March 2021)

²¹ [Letter on Institutional accommodation from the Home Secretary to the Chair of the Home Affairs Committee](#), 15 March 2021 NB – specifically the "Equality impact assessment" at the letter's pp.14-26

²² <https://www.theguardian.com/global-development/2020/dec/01/home-office-faces-legal-challenge-over-asylum-seeker-payments-during-covid> - NB: we understand that this £8pw has only started to reach asylum seekers since early January 2021, despite the High Court Order that this be paid, being made in October 2020.

²³ [I sat watching the world go by my window for so long](#) (April 2021) Refugee Council

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attempts. We witnessed this in Glasgow last year, with the deaths of three people in the asylum process and a wider deterioration in mental health; please refer to our Covid-19 research [here](#) and the Scotland in Lockdown report [here](#). Additionally, we have identified a rapid increase in deaths in asylum support system across the UK, from April to November 2020 (inclusive), with at least 25 people having lost their life in those 8 months, as compared to the 7 deaths in the preceding two financial years. If the Home Office go further down the path of holding centres, there must be fully independent and adequate safeguarding and regulation of centres. We note that the proposals do not mention the territorial extent of these holding centres.

22. The irresponsible, inhumane political messaging and imagery about military barracks as camps has pandered to Far-Right sentiments²⁴. Institutional accommodation has worked for commercial private contractors seeking the economies of scale to realise greater profits. These being possible as a result of the substantial risk transfer²⁵ the successful asylum accommodation tenders negotiated off their balance sheets, and onto the Home Office's and Exchequer's, in the new accommodation contracts. However, it does not work for who matter most, refugees. The UK Government has not bothered to follow the evidence in this New Plan or, indeed, that as they move to a warehousing regime, that they do so at a time when the disgraced Direct Provision in the Republic of Ireland is being dismantled²⁶. It is not too late for the UK Government to change course, scrap the idea of "reception" centres and do what it has been urged to for the past 5 years. That is to address the structural problems²⁷ in the refugee dispersal scheme and, in particular, invest in the changes articulated²⁸ by devolved

²⁴ <https://www.theguardian.com/world/2020/aug/28/far-right-activists-filmed-hassling-asylum-seekers-in-hotels> and <https://www.bbc.co.uk/news/uk-england-kent-54297574> and also the recent exposure of the equality assessment conducted by the Home Office which sought, perversely, to justify use of military barracks as accommodation for asylum seekers, as to provide too generous support is justified by the need to control immigration and more generous support would undermine public confidence in the asylum system, at <https://www.theguardian.com/commentisfree/2021/feb/02/napier-barracks-fire-britain-asylum-system-priti-patel>

²⁵ [NAO inquiry \(2020\)](#) - NB: please note in particular at its paras. 2.7-2.11: "The Department set out to make the contracts more sustainable than COMPASS by transferring risk away from providers through changes to the pricing mechanism. Providers told us that this positively influenced their decisions to bid for the accommodation contracts. For the new contracts, the Department negotiated with providers on contract pricing rather than using an auction. We estimate that the new service costs some £560 per month for each person compared with £437 under COMPASS – a 28% increase, although this estimate is sensitive to the assumptions used. The Department estimates that the increase is currently 26%." (Our emphasis). It follows that the more people that can be put in a shared bloc, the greater economies of scale that can be achieved and, hence, profit. This is especially if the shared bloc is "cheaper", as confirmed in relation to barracks, by the Home Office Minister statement ([here](#)), with institutional accommodation reducing the need for multiple contracts with landlords for flat accommodation.

²⁶ [Direct Provision: 'Suffocating' Irish asylum system to be replaced - BBC News](#) (February 2021)

²⁷ Structural problems in the asylum dispersal system have, inter alia, been well documented in major national regulatory inquiry reports, including *since* Covid-19: [Public Accounts Committee inquiry \(November 2020\)](#); [Home Affairs Committee inquiry \(July 2020\)](#); [NAO inquiry \(July 2020\)](#) and *before* Covid-19: [Home Affairs Committee inquiry \(December 2018\)](#); [Independent Chief Inspector of Borders and Immigration inquiry \(November 2018\)](#); and [Home Affairs Committee inquiry \(January 2017\)](#)

²⁸ There has been a plethora of recommendations made in the above inquiry/inspection reports, the vast majority of which were not accepted by the Home Office but which are desired by devolved and local government and NGOs in refugee communities. None got into the present asylum accommodation contracts, which started in September 2019. The subjects of the recommendations were wide-ranging including: (a) accommodation standards at [Chapter 3 HAC](#)

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governments, local authorities and communities participating in it, as well as to ensure its private housing contractors are accountable locally for how they plan and operate this public service of asylum accommodation.

Offshore processing of asylum claims

23. We remain deeply concerned that the New Plan continues to float the concept of offshoring asylum claims. Yet six months since this radical shift in UK Government policy was publicly and widely promoted by the Home Office in multiple media outlets, there is zero detail within this plan (so we question why this even included at all in a consultation). The consultation only notes that this option will remain open and would be developed “in line with our international obligations.” With no information it is impossible to make any informed assessment whether this is indeed the case. We would urge the UK Government to desist from this cavalier approach to policy development in relation to its international obligations.

The New Plan’s proposed changes to asylum support = destitution of families and children

24. Far from supporting the local communities and areas in refugee dispersal, often with the deepest multiple poverty in the UK. Instead the Home Office propose resurrecting the harmful changes to asylum support entitlements made in the Immigration Act 2016 that are as yet un-commenced. In summary, these changes, if the same as proposed by the Home Office in 2015-16, will restrict access to asylum support for those refused asylum, to a narrower criterion, as well as introduce time limits for applying for such support (the so-called “grace period”), which at the time was to be 21 days for individuals and 90 days for refused asylum seeking families and children²⁹. Whereas the New Plan does not commit the UK Government to bring these asylum support changes into law (it would be done by secondary regulations), the fact it is in the New Plan at all is very worrying. In particular, if these changes in asylum support eligibility and timescales were introduced – and at the time it was not clear if the UK Government could do this without the legislative consent of the Scottish Parliament³⁰ – then they will mean far more street homelessness of refused asylum seekers across existing dispersal areas, including Glasgow. This destitution will include families and, children. Again, this is shameful. It is a kick in the teeth also to those local authorities and communities, across the poorest parts of country, who have in practice made the refugee dispersal work for the

2018; [Chapter 7 ICIBI 2018](#); and [Chapters 5 and 6 HAC 2017](#); (b) pressures on dispersal system at to [Paras.89-92 HAC 2018](#); (c) responsibility/cost-shunting from Home Office to local areas at [Paras.79-80, 89 HAC 2018](#) and [Para.118 HAC 2017](#); (d) failing performance management system at [Chapters 8 and 9 ICIBI 2018](#) and [Paras.83-91 HAC 2017](#); (e) need for direct funding to local dispersal areas at [Chapter 4 especially paras.74 and 90 HAC 2018](#); (f) imperative for joint working and plans between Home Office and local authorities on dispersal policy at [Paras.44 and 48 Home Affairs Committee \(2017\)](#) and [Paras.18, 34-35, 37 and 91 HAC 2018](#); (g) case for an open and effective performance management system with formal local authority inspection role at [Chapter 9 and, especially, Conclusions 3.10-3.22 and Recommendations 2-4 ICIBI 2018](#).

²⁹ [Overview of the changes to asylum support in the Immigration Act 2016](#), ASAP (April 2021)

³⁰ [Hostility enacted](#), Ang, J., and Craig, S., The Journal (July 2016)

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benefit of people, despite getting no direct funding from the UK Government for doing so. There is a high risk, if these provisions were commenced of both rapid increases in homelessness as well as egregious UK Government cost-shunting to devolved and local government. We strongly urge the UK Government to repeal this legislation.

Interpreting non-refoulement

25. We are gravely concerned by the proposal to reduce the bar that may trigger the application of Article 32 (2) of the Refugee Convention to asylum applicants. Article 32 requires States not to “*expel a refugee lawfully in their territory save on grounds of national security or public order.*” And provides at 32(2): “*The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law.*” The plan proposes that refugees convicted and sentenced to 12 months’ imprisonment would now be deemed as serious criminals. This egregiously seeks to render the truly exceptional nature of Article 32 (2) from a measure of last resort into allowing the Home Office to routinely bypass the fundamental right of non-refoulement and expose refugees convicted of a wide-range of criminal offences, including immigration offences, to persecution. In addition, the arbitrarily sentence length as the threshold raises major concerns to us, as indeed it should the Home Office, in relation to evidenced racial disparity in sentencing.

Age assessment

26. Section 12 of the Human Trafficking and Exploitation (Scotland) Act 2015 regarding the presumption of age is the domestic implementation of Article 10 of ECAT. It is impossible to fully comment of proposals regarding age assessment as the proposals made in Chapter 4 of the New Plan are lacking in detail. While some of the detail was presented verbally in a workshop by Home Office staff it was very unclear which provisions were intended to be implemented in Scotland and which were not. What is clear is that the Scottish Parliament has devolved competence over Human Trafficking, childcare and local authority support. The Scottish Government has produced age assessment guidance aimed at equipping Social Workers with to assess eligibility for support under section 25 of the Children Scotland Act 1995³¹.
27. There are many reasons why young people may not know or be able to prove their age, including that their age had less importance in their country of origin, or that documents were lost or destroyed by smugglers or traffickers. It is important to bear in mind that smugglers and traffickers will often use false documents that deliberately make a child appear older in order to attract less scrutiny and that children should not be penalised for the actions of the adults that they depend upon for their survival. In the absence of official documents, there is no precise way to determine an individual’s age, and all assessment methods carry a margin

³¹ paras 130 & 131

of error. We are not aware of any recent developments in technology that would enable 'scientific' assessments without a significant margin of error³², unethical exposure to radiation³³ or the potential breaches of Article 3 ECHR that sexual maturity assessments carry³⁴. It is in the context of not having any way to precisely determine age, that the risks associated with excluding children from child protection and children's rights frameworks arises and that is precisely why the principle of the 'benefit of the doubt' is crucially important. We are concerned at the Home Secretary's stated intention to effectively eliminate the 'benefit of the doubt' replacing the test of 'physical appearance and demeanour strongly suggests they are over 25 years of age' with 'significantly over 18 years of age' as our experience tells us that the risk is greater when children are placed in adult contexts like asylum support accommodation, immigration detention and prisons than when adults attempt to gain entry to the comparatively well monitored and supported children's contexts.

28. Even if there are limits to which proposals regarding age assessment are implemented in Scotland, this proposal will impact Scotland through the asylum dispersal regime as it will inevitably increase the number of children wrongly placed in adult accommodation. It is noted from the recent workshop on age assessment that the Home Office then expect these age disputed young people to approach the local authority of dispersal to pursue a further age assessment. However, the reality is that age disputed young people placed in adult asylum support accommodation usually lack the knowledge, language skills, confidence and perseverance to do so. Often further assessments are only carried out after significant concerns are raised by health professionals, voluntary sector support workers and lawyers. The Home Office expresses concern about local authority resources but should not underestimate how much pressure it will displace onto those professionals, as supporting age disputed young people when they are not receiving statutory support appropriate to their developmental stage is extremely labour-intensive work. Most importantly though, this proposal will increase the risk to children of being placed in adult contexts where they are at increased risk of intimidation, abuse and exploitation by adults.

Chapter 6: Supporting Victims of Modern Slavery

Human Trafficking

29. We are alarmed to see no cognisance in the New Plan, of the legislative competence of the Scottish Parliament or existing and highly relevant devolved legislation to the proposals in Chapter 6, notably the Human Trafficking and Exploitation (Scotland) Act 2015.

³² Council of Europe Children's Rights Division <https://rm.coe.int/age-assessment-council-of-europe-member-states-policies-procedures-and/168074b723> 2017 para 129

³³ FN33, paras 130 & 131

³⁴ 39 Royal College of Paediatrics and Child Health <https://www.rcpch.ac.uk/resources/refugee-unaccompanied-asylum-seeking-children-young-people-guidance-paediatricians>

Scottish Refugee Council response to the New Plan for Immigration

30. We strongly oppose the inclusion of human trafficking and exploitation proposals within an immigration plan as that this represents a conflation of policy areas that has potential worrying consequences. Human Trafficking is a serious crime that affects many nationalities within the UK, as is evidenced by British Nationals being the highest nationality referred into the NRM³⁵. Child trafficking is fundamentally a child protection problem and, as such, should be led by child protection expertise. Indeed, the Home Office has begun to recognise the centrality of child protection expertise in this area by piloting devolved NRM decision making. It is bewildering that these proposals would be made prior to the learning from this proposal being available. We are baffled by the premise of the reforms proposed in section 6 - that the NRM is being abused - given the exceptionally high proportion of decisions that are positive at both the reasonable grounds and conclusive grounds stage. The most recent single competent authority annual statistic shows that 94% of children referred receive a positive reasonable grounds decision and 95% of conclusive grounds decisions for children are positive³⁶. We therefore see no evidence or rationale for changes to be made regarding the evidential thresholds and standards of NRM decisions.
31. We are deeply concerned about proposals to withhold support and protection on public order grounds and indeed think that they will only benefit organised crime groups and be to the serious detriment to communities across the UK. We note that the government has referenced public order grounds under ECAT, however, the proposals demonstrate no cognisance of the recent ECtHR judgment in the A.N & VCL v's the UK case, which was decided under article 4 & 6 of ECHR³⁷. We support the intervention that Liberty made in this case, arguing that safeguards across the UK need urgent and whole system review. We therefore believe that the public order provisions will have disastrous consequences for those that are criminally exploited and will not comply with our international obligations to provide protection from trafficking *without discrimination*. Former U.N. Special Rapporteur on trafficking Maria Grazia Giammarinaro cautions "It is to be appreciated that the more traffickers can rely on a State's criminal justice system to arrest, charge, prosecute and convict trafficking victims for their trafficking-related offences, whether criminal, civil or administrative, the better are the conditions for traffickers to profit and thrive, unencumbered in their criminality and undetected by the authorities"³⁸.

³⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/970995/modern-slavery-national-referral-mechanism-statistics-end-year-summary-2020-hosb0821.pdf page 6

³⁶ FN36, p9

³⁷ <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-207927%22%7D>

³⁸ <https://www.ohchr.org/EN/Issues/Trafficking/Pages/non-punishment.aspx>

Scottish Refugee Council response to the New Plan for Immigration

Principles of International Protection

In our 30th anniversary year in 2015, Scottish Refugee Council published “Principles of International Protection” - detailed principles for a fair, human and effective protection system. You can find these [here](#).

These fall under the following areas:

- (a) Global solidarity and responsibility-sharing;
- (b) Effective access to an asylum procedure;
- (c) Fair and efficient asylum process;
- (d) Reception conditions that promote dignity, empowerment and integration;
- (e) Refugee integration; and
- (f) Dignity and humanity for those found not to be in need of protection.

The New Plan drifts far from our principles.

To implement a fair, humane and effective protection system, we urge the UK Government to implement our principles. That means scrapping the New Plan. We hope the UK Government will do so.

Scottish Refugee Council

6 May 2021