



MME Council

MIGRANT AND MINORITY ETHNIC COUNCIL

STATEMENT ON THE UK GOVERNMENT'S 'NEW PLAN FOR IMMIGRATION'

JUNE 2021

Introduction

The UK Government launched a public consultation on their 'New Plan for Immigration' on 24 March 2021, with a closing date of 6 May 2021.

The MME Council believe the New Plan is deeply flawed, and should be rejected.

The following passage was submitted to the Consultation by the MME Council, 6 May 2021:

SUBMISSION

The document under consultation is entitled 'New Plan for Immigration: Policy Statement' (the New Plan). However, it is clear from the opening pages onwards that it is in fact concerned almost exclusively with implementing radical, and on balance negative, changes to the asylum system.

We hold that, a few positive suggestions in the document notwithstanding, the flaws in the New Plan are so fundamental, and the risk of damage to vulnerable people so great that it should be rejected.

With our partners, we will produce a public statement, to be uploaded to our website, looking in detail at the plan and setting out our grounds for rejecting it.

But we do not intend to engage any further with this consultation – which is in itself deeply flawed – other than to urge you to withdraw the New Plan, and to begin a fresh, open, and thorough consultation, such that a positive system of sanctuary, of which the people of the UK can be proud, can be co-designed and implemented.

The MME Council submitted the above response to the call for consultation on the Government's New Plan for Immigration. Our reasons for rejecting the proposals,

and for refusing to address the questions set out in the questionnaire, are set out in the following statement.

This is not intended as an exhaustive critique of the New Plan. Other organisations have published valuable analyses, notably the open letter signed by over [400 leading academics](#), and, from a Northern Ireland perspective, the comprehensive response of the [Refugee and Asylum Forum](#).

This statement was drafted by the MME Council, incorporating comments and suggestions from partners in our Research, Policy and Advocacy (RPA) Consortium.

The Government's 'New Plan for Immigration: Policy Statement', now apparently [incorporated into their legislative programme](#), claims to be designed for the purposes of creating a 'fair but firm' system in relation to those seeking asylum in the UK. The MME Council, and RPA Consortium partners, believe that, a few positive suggestions notwithstanding, the proposed plan is fundamentally flawed, and urge that it be rejected.

The following are six of the key problems with the proposals – though this is far from an exhaustive list.

1. Binary reduction

Asylum seekers are described throughout this document as either 'legal' or 'illegal'. The terminology is not related to the merits of their case, but rather in reference to their route of arrival in the UK.

To reinforce this binary reduction, the document repeats phrases such as 'illegal immigration' and 'illegal entry' over 70 times in 40 pages of text. In the Home Secretary's three-page Foreword the words are used 15 times. Throughout the text there are many passages where people seeking protection are grouped together with, and sometimes conflated with, criminals, including those of the most violent kind. The following sentence stands as an egregious example:

“More recently, child rapists, people who pose a threat to national security and illegal migrants who have travelled to the UK from safe countries have sought modern slavery referrals, which have prevented and delayed their removal or deportation”.

This persistent pattern of association is clearly intended to 'criminalise' anyone who does not arrive through the authorised channels - as though people fleeing persecution have the luxury of choice, the knowledge to make it, and the capacity to arrange matters to suit the demands of the UK Government.

We hold that this approach is prejudicial, firstly in terms of the fairness of the process and secondly in terms of public perception of asylum seekers. On the first issue, Solicitor Sheona York clarifies that, “No research has ever shown any link between the method of travel, the type of journey, or the stage at which asylum is claimed, and the strength of the claim. In fact, the great majority of those arriving recently in small boats have been granted asylum ([Kent Law Clinic, 2021](#)). Secondly, labelling a whole category of people 'illegal' is highly

likely to inflame public hostility against them, and indeed, by association, against asylum seekers in general a category of people recognised as vulnerable and in need of protection under international law.

2. Conflation of ‘smugglers’ and ‘traffickers’

Related to the repeated association of asylum seekers with illegality, there is a conflation of those who, for a fee, take willing clients to the UK by unauthorised routes (‘smugglers’), and those who are involved in violent, coercive trafficking, and exploitation through modern slavery (‘traffickers’).

The New Plan not only fails to make the distinction, but collapses it. The effect of this is that those providing support to asylum seekers, albeit for a fee, may face the same penalties as those involved in violent exploitation – up to and including life imprisonment. Rather than reducing risk, through such measures the New Plan may drive smugglers to seek more dangerous routes.

The New Plan claims this approach is fairer, arguing that access to the UK’s Asylum system “should be based on need, not on the ability to pay people smugglers”. This is a false dichotomy.

Those who use their resources in fleeing persecution, including having to pay for the transit, may be just as much in need as those who come by other routes.

Moreover, this apparent concern for fairness is undercut by other measures set out in the same document, which unfairly disadvantage some asylum seekers over others in terms of the resources at their disposal.

For example, those with the resources to master the legal complexities of the UK system, and to produce well-ordered, exhaustive paperwork at the outset, are, under these proposals, likely to be held in better standing than those without such resources.

3. Expansion of category of ‘inadmissible’ asylum seekers

The proposed New Plan states the Government will take forward reforms to:

“Ensure those who arrive in the UK, having passed through safe countries, or who have a connection to a safe country where they could have claimed asylum, will be considered inadmissible to the UK’s asylum system;

“Seek rapid removal of inadmissible cases to the safe country from which they embarked or to another safe third country”.

Effectively, this expansion of the category of ‘inadmissible’ claims will rule out a large proportion of asylum seekers in advance.

Potentially, people coming through *any* of the EU countries between the UK and the Middle East or North Africa, can now be ruled inadmissible without further scrutiny of their case.

Indeed, under this plan, someone can be ruled inadmissible as an asylum seeker in the UK if they have even ‘a connection’ to another safe country where they could have claimed asylum. Details of what ‘a connection’ means are not given in this document. This has implications for those seeking asylum, and also means the UK will expect other countries to shoulder a disproportionate share of the responsibility for offering sanctuary to those fleeing conflict and persecution.

The proposed New Plan pre-empts this criticism through misdirection. It states that, since 2015, the UK has “resettled almost 25,000 men, women and children seeking refuge from cruel circumstances across the world - more than any other European country”. This is true, as far as it goes, and on a casual reading, sounds generous. However, that claim refers to *resettlement* schemes whereby those already acknowledged as refugees are moved from one safe country to another. It is not about asylum seekers in general.

The UK has consistently fallen far behind many other European countries in terms of the number people seeking asylum. According to [figures from the European Parliament](#), France, for example, with a similar population and economy, received more than twice as many asylum applications as the UK over the decade from 2010-2019 (the most recent figures available); Italy, with a smaller population and economy, received 1.7 times more; whereas Germany, albeit with a larger population and economy, received fully 6.8 times more asylum applications.

This is just one example of a tendentious use of statistics and case-studies within the proposal. It produces an unbalanced view of the situation of asylum seekers and refugees in the New Plan.

4. Differential and harsher treatment

Those people who manage to lodge an asylum claim successfully who have arrived by an unauthorised route are discriminated against within the New Plan:

“For the first time, whether you enter the UK legally or illegally will have an impact on how your asylum claim progresses, and on your status in the UK if that claim is successful. Those who prevail with claims having entered illegally will receive a new temporary protection status rather than an automatic right to settle, will be regularly reassessed for removal from the UK, will have limited family reunion rights and will have no recourse to public funds except in cases of destitution”.

Even when it is accepted and acknowledged that the person is a genuine refugee, the UK will treat that person more harshly, and continually seek to deport them, for no other reason than that they arrived by a route that had not been authorised by the Government.

According to this proposal, people who are *acknowledged to be refugees* will be kept in a perpetual state of uncertainty; they will have public sources of support withdrawn, to the point of destitution; they will have family rights curtailed – all of this being openly stated in the New Plan.

This does not square with the Home Secretary’s stated “pride in fulfilling our moral responsibility to support refugees fleeing peril around the world”.

Indeed it is clear these proposals do not, at the moment, square with the Government’s legal responsibilities: the New Plan indicates they will seek to introduce new and amended legislation, some of which will allow the Government to remove asylum seekers while their claim or appeal is pending.

“This will keep the option open”, the document continues, if required in the future, to develop the capacity for offshore asylum processing”. This is extremely troubling given that other examples of offshore asylum processing have been shown to violate human rights.

5. Reduced and Prejudicial Appeals process

Those who make it far enough to submit a claim, and who then find themselves in the situation of having it rejected, will face a significant new barrier in making appeals.

The proposal in the New Plan is to “introduce a ‘one-stop’ process to require all rights-based claims to be brought and considered together in a single assessment upfront”. Those who submit all relevant evidence and lay out all grounds for appeal at once are to be regarded as exhibiting “good faith”. Where evidence is brought “late where it was reasonable to do so earlier”, it will be *presumed* as evidence of ‘bad faith’.

It is not ‘reasonable’ to expect that people fleeing conflict or persecution will have the means and capacity to gather and present *all* relevant evidence and *all* grounds of appeal, in ‘one-stop’, particularly within a system and language unfamiliar and foreign to them. Moreover, it is egregious to make moral judgements based on the technicalities of time and resources.

The document says: “There will be mechanisms for quickly disposing of unmeritorious claims”, which will “ensure better value for the taxpayer”. While this concern is important, it threatens the rights of the applicants.

At times, the impression is given is that the claims will be disposed of not just quickly, but in advance. An example is the passage that promises the “more efficient appeals system” will help by “preventing unmeritorious appeals”. How does one ‘prevent’ only the appeals that are unmeritorious? How does one know they are unmeritorious before they have been heard? It is difficult to avoid the impression of prejudice in passages such as this.

Moreover, the New Plan proposes to try to recoup costs of failed appeals from the asylum seekers themselves. This will act as a deterrent to asylum seekers with reasonable grounds to appeal, but who are without the means to pay should the appeal fail. This is surely a violation of procedural rights, and goes against the legal aid provisions which recognise the lack of means by many in accessing the legal system.

Conclusion

“The British people are fair and generous”, says the New Plan, “when it comes to helping those in need”, before warning that persistent failures in the system risk “eroding public support”. It is ironic that a warning about the erosion of public support should be contained in a document that seems designed to erode public support for the vast majority of asylum seekers and refugees. If the British people are indeed fair and generous, they are ill-served by a strategy that seems designed to prejudge, prevent and preclude asylum claims, rather than to give applicants a fair hearing.

The Government’s New Plan for Immigration clearly seems to be an attempt to revive and amplify the ‘hostile environment’ that led to the Windrush scandal. Indeed, the document itself cites the ‘Windrush Lessons Learned Review’. By way of conclusion, then, we would remind the Government of the warning contained in that Review.

“Members of the Windrush generation and their children have been poorly served by this country. They had every right to be here and should never have been caught in the immigration net. The many stories of injustice and hardship are heartbreaking, with jobs lost, lives uprooted and untold damage done to so many individuals and families.

“However, despite the scandal taking the Home Office by surprise my report sets out that what happened to those affected by the Windrush scandal was foreseeable and avoidable” ([Williams, 2020](#)).

Should the Government proceed to implement this New Plan, there could be ‘untold damage’, much of it both foreseeable and avoidable.

If there are ‘failures’ in the system, we urge that the Government look a little closer to home, and ask themselves why such a high proportion of their initial decisions on asylum are overturned on appeal.

We urge that the Government abandon the strategy of ‘criminalising’ asylum seekers, and to focus firstly on addressing the global challenges that lead to people seeking sanctuary in the first place, whatever route they take to reach the UK; and secondly on judging each case on its own merits.

This may take time and investment, it is true, but taking shortcuts is likely to make the system more expensive than it need be. Fighting and losing cases that should not have been rejected in the first place does not come cheap.

The UK governments recent decision to cut official development assistance to vulnerable people internationally will only exacerbate the instability and conflict that forces people to seek sanctuary. Moreover, achieving ‘value for money’ should not equate to cutting money regardless of values. It is difficult to imagine a policy more at odds with the values of “fair and generous” people than imposing 80% cuts to bilateral funding on water, sanitation and hygiene (WASH) programmes during a global pandemic.

Finally, we acknowledge that there are some good and sensible measures within the Plan. Providing *better access to legal advice* will help reduce the number of claims that have to go through otherwise unnecessary appeals. A *higher quality system of expert evidence* would be welcome – with the proviso that the experts must be genuinely independent. *Enhanced integration packages* should be implemented. The proposal to *expand resettlement programmes* does indeed resonate with the fair and generous impulses celebrated in the Plan. *Employment support arrangements* for refugees are important too.

However, the presumption of guilt is so closely and extensively woven throughout the ‘New Plan for Immigration’, that it must be withdrawn. If we are to have a system that lives up to the Home Secretary’s espoused aim to bring “lasting change to the system so that it is fair to everyone”, a new effort must be launched to draw up a co-designed plan in partnership with the communities and organisations most closely involved.

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