



Consultation Response

Reforming support for failed asylum seekers and other illegal migrants

(a Home Office consultation)

September 2015

About NISMP

The Northern Ireland Strategic Migration Partnership is a cross-party partnership working across the spheres of government and between the public, private and third sectors to ensure that Northern Ireland effectively welcomes, supports and integrates new migrants in a way which contributes to future economic growth and vibrant, cohesive communities. The Partnership provides a regional advisory function which enables our partners and stakeholders to cultivate an appropriate Northern Ireland migration policy structure and works to ensure that Northern Ireland's needs and concerns in respect of immigration are recognised within the parameters of related UK wide policy.

This response has been approved by representatives on the Partnership. However this does not necessarily reflect the views of Partner Organisations, some of whom have not been canvassed.

Response to Consultation

1. The proposed repeal of section 4(1) of the 1999 Act

We do not support the repeal of section 4(1)(c) of the 1999 Act given that a bail address will be necessary for those released from detention to meet bail requirements. Without this provision we would be concerned that this would lead to longer detention periods, thus increasing cost to the public purse which is counter to the stated objective of this consultation, as well as being detrimental to the health and wellbeing of the detained asylum seeker.

For the same reason we also do not support the repeal of section 4(1)(b), which, although rarely used, can be used to ensure that detention release dates are not delayed because of a lack of accommodation.

- 2. The proposal to close off support for failed asylum seekers who make no effort to leave the UK at the point that their asylum claim is finally rejected, subject to continued support in cases with a genuine obstacle to departure at that point or in which further submissions are lodged with the Home Office and are outstanding.**

It is unclear in the consultation document exactly how this proposal differs from the current system of Section 4 support. Paragraphs 19 – 21 in the consultation document suggest that Section 4 support is available to all refused asylum seekers, and so acts as an incentive for refused asylum seekers to remain in the UK. However, in actuality, in order to be eligible for Section 4 support, asylum seekers must comply with strict eligibility requirements. These include taking all reasonable steps to leave the UK, unless there is a medical reason which impedes travel, or, in the opinion of the Secretary of State, there is no viable route of return available, or if further submissions have been lodged.

Furthermore, rather than being an incentive for refused asylum seekers to remain in the UK, Section 4 support has been purposely designed to “prevent an incentive [for asylum seekers] to remain and act as an extended drain on limited public funds” (UK Visas and Immigration, *‘Asylum Support, Section 4 Policy and Process’*).

The proposal therefore appears to be redundant.

- 3. The proposed changes for failed asylum seekers with children**
- 4. The length of the proposed grace period in family cases.**
- 5. The proposed transitional arrangements**

Safeguarding and promoting the welfare of children who are in the UK is an obligation under Section 55 of the Borders, Citizenship and Immigration Act 2009. Additionally, there are clear safeguarding duties on authorities in Northern Ireland under The Children (Northern Ireland) Order 1995.

It is stated in the consultation document that the proposals will retain important safeguards for children. However it is not made clear within this document how these safeguards will be retained if these proposals are progressed.

There have already been recent cuts to asylum support for children: e.g. 23% cut to payments for a single parent with 1 child, 17% cut for a couple with two children. We believe that an independent review of current asylum support rates and the effectiveness of these on safeguarding and promoting the welfare of children in the UK is required before any further reduction in payments, or change in mode of payment is contemplated. Any such review should consider the impact across the UK, including Northern Ireland.

6. The assessment of the impact of the proposals on local authorities

A 2013 Red Cross report on destitution among asylum seekers (British Red Cross, *A Decade of Destitution: time to make a change*), found that the principal reason for destitution was the removal of Section 95 support and particularly the transition period waiting for Section 4 support to start. Therefore, if Section 95 support is removed from families, it follows that there will be a greater risk of destitution to asylum seekers, including children.

Although two of the stated objectives of the proposals within this consultation is to i) ensure that asylum seekers who would otherwise be destitute continue to receive adequate support while their claim is under consideration and ii) retain important safeguards for children, there is no explanation within the consultation document as to how these objectives will be met. These objectives are vitally important as without such safeguards in place there will be an even greater risk of destitution to asylum seekers and their families.

Without safeguarding provisions in place it will fall on the relevant Health and Social Care Trust in Northern Ireland to ensure that safeguarding duties are met. This will result in costs essentially being transferred from the Home Office to the devolved institutions in Northern Ireland which are already operating within constrained budgets. Support organisations in Northern Ireland estimate that there are over 100 families in Northern Ireland who have been refused asylum and whose support under these proposals would transfer to the Health and Social Care Trusts. With asylum numbers rising year on year, this number will certainly also increase.

Increased rates of destitution among asylum seekers will also have financial implications for OFMdFM which provides a Crisis Fund for destitute migrants and funds many of the migrant

support organisations in Northern Ireland. If these proposals are implemented, there will be further demands on these already stretched funds. In addition to the impact on resources, these additional demands would compromise the ability of the Northern Ireland Executive to act in tandem with the other regions of the UK in proactively engaging with international efforts to address the current refugee crisis e.g. in relation to the UNHCR request that European countries consider offers of resettlement to a number of Syrian refugees.

The devolved authorities in Northern Ireland have led in the fight against human trafficking and modern day slavery. We are concerned that implementation of these proposals will force a greater number of people, including children, into destitution, thus making them more vulnerable to exploitation, including trafficking. This obviously runs counter to the efforts made by the institutions to eradicate modern day slavery in Northern Ireland.

Asylum claims made by families as a proportion of total asylum claims in Northern Ireland is more than double the national rate. This suggests that changes to support for asylum seeking families will disproportionately affect the devolved institutions in Northern Ireland. We are pleased to see that within the consultation document (paragraph 45) there is a commitment from the Home Office to discussions with the devolved administrations on the financial implications of the changes. However we believe that these discussions should be negotiated in advance with the devolved authorities and used to inform the outcome of the consultation rather than be held after the fact, to discuss implications of changes which have already been implemented.

7. Whether and, if so, how we might make it clearer for local authorities that they do not need to support migrants, including families, who can and should return to their own country.

The Health and Social Care Trusts are governed by Northern Ireland legislation and the Northern Ireland Assembly rather than Westminster. Changes in support to asylum seekers will therefore not automatically absolve local authorities in Northern Ireland of their responsibilities as set out in Northern Ireland legislation, to assess and address need.

It is clear from the Red Cross research (British Red Cross, 2013, *A Decade of Destitution: time to make a change*) that there is a risk of destitution when asylum seekers are transitioning from Section 95 to Section 4 support and, although it is stated in the consultation document that these proposals will retain important safeguards for children, there is no detail as to how this might be achieved. Without clarity around how the welfare of children will be guaranteed, it is impossible to see how these proposals if implemented will not result in additional costs to local authorities.

8. Any suggestions on how the Home Office, local authorities and other partners can work together to ensure the departure from the UK of those migrants with no lawful basis to remain here and minimise burdens on the public purse.

The Choices Assisted Voluntary Return Programme, managed by Refugee Action, has supported an average of 3,700 people per year to return to their home country with 99% of returnees stating that they are happy with the service ([www.refugee-action.org.uk/assets/0001/2605/Assisted Voluntary Return Letter.pdf](http://www.refugee-action.org.uk/assets/0001/2605/Assisted_Voluntary_Return_Letter.pdf)). In Northern Ireland there has been an average of 4 individuals or families per month who have availed of AVR support. We are therefore concerned to learn that this programme will be coming to an end in December, and is to be replaced by a slimmed down programme managed directly by the Home Office. In a letter to Immigration Minister James Brokenshire, the British Red Cross, Children and Families Across Borders, Refugee Council, Praxis Community Projects and Refugee Action, argue that this decision will not only jeopardise engagement with hard-to-reach people, but also result in significantly higher costs to the tax payer. We can only concur with the conclusions they have reached and therefore suggest that the reinstatement of the Choices programme would help avoid the inevitable increased costs to the public purse that will result from this decision.

Supporting refused asylum seekers in voluntarily returning to their home country is considerably cheaper than enforced removals. Research has shown that people are more receptive to the idea of assisted voluntary return if they have confidence in the system and organisations which have supported them in their asylum claim (Ceri Hutton and Sue Lukes, *'An interim external evaluation of Refugee Action's Access to Justice Project'*, Oct 2013). This includes those who have received a negative decision. The Home Office and other partners

should therefore work to ensure that the asylum system in the UK inspires confidence by working to improve the quality of initial decisions made. In the year to March 2015, 28% of initial decisions were overturned at appeal (www.gov.uk/government/publications/immigration-statistics-january-to-march-2015/immigration-statistics-january-to-march-2015#asylum-1), with a further percentage of initially refused asylum seekers given permission to submit fresh claims. Refugee Action's Access to Justice project found that 64% of the asylum seekers it supported had been wrongly refused a legal aid lawyer for their asylum appeal as well as revealing significant problems with the quality of legal advice given. Members of the Refugee and Asylum Forum in Northern Ireland have also reported problems with the quality of legal advice for asylum seekers. On this evidence we would suggest that improving the quality of the decision making process will increase the likelihood of those who have received a negative decision at the end of the process engaging with assisted voluntary return.

9. Any information or evidence that will help us to assess the potential impacts of the changes proposed in this consultation document and to revise the consultation stage Impact Assessment.

10. Any information or evidence that will help us to assess the potential impacts of the changes proposed in this consultation document on persons who have any of the protected characteristics as defined in the Equality Act 2010.

We believe there are limitations to the impact assessment as it restricts itself to an assessment of the savings on the public purse based on the assumption that if support is removed from asylum seekers who have exhausted all rights to appeal then this will reduce the number of people seeking asylum in the UK. We believe that this premise is faulty, firstly because the majority of those seeking asylum know nothing about the financial support provided before they arrive (Refugee Council, *'Chance or Choice? Understanding why asylum seekers come to the UK'*, 2010) and secondly because it ignores the costs which will be incurred by increasing numbers of refused asylum seekers who will be made destitute as a result of these proposed policy changes.

We also believe that even if the behavioural change model which underpins the rationale behind Option 2, the preferred option, holds true, the cost savings have been overestimated. Option 2 describes the system as it currently operates, with the exception that safeguards for children have been removed. The model furthermore fails to explain how these safeguards would be retained, which is one of the policy objectives of the consultation.