

Social Justice and Social Security Committee

Note by the Clerk

6th Meeting, (Session 6), 3 February 2022

The Committee is holding two evidence sessions on Asylum Seekers and Refugees on 3 February and 10 February.

Each witness was invited to submit a written briefing in advance of the session. To date the Committee has received four submissions detailed below and attached:

3 February

- [COSLA Migration, Population & Diversity](#)

10 February

- [Scottish Refugee Council](#)
- [Bridges Programmes](#)
- [Maryhill Integration Network](#)

Please note submissions for 10 February have helped inform the SPICe briefing for today's meeting and are included for Members' reference.

**Note by the Clerk
31 January 2022**



COSLA Evidence to Social Justice and Social Security Committee Refugee and Asylum Session: 3 February 2022

COSLA welcomes the opportunity to support the Social Justice and Social Security Committee as it develops its work programme. The briefing provides an overview of our work to support refugees and asylum seekers in Scotland. We have outlined areas that the Committee might want to give consideration to, and have sought to respond to the request for information on key issues highlighted in our invitation to attend the evidence session.

About COSLA and the Migration Population and Diversity Team

COSLA is the voice of Local Government in Scotland. We work on councils' behalf to focus on the challenges and opportunities they face, and to engage positively with governments and other key partners on policy, funding and legislation.

COSLA's Migration, Population and Diversity Team has responsibility for work across Local Government relating to support for people seeking asylum, refugee integration and current resettlement programmes in addition to the UK Immigration system, EEA migration, population and demographic change. We also provide oversight of equality and human rights issues for COSLA.

We have provided a summary of some of our key priorities below, followed by more detail on specific areas that the Committee may wish to consider in more detail. We would be happy to discuss any of these further with the Committee.

Shaping and delivering programmes which support people seeking sanctuary

COSLA provides ongoing support to local authorities participating in resettlement programmes, including working with the UK and Scottish Government to influence the design of resettlement programmes and to ensure they meet the needs of local authorities and their communities.

We support local authorities participating in the National Transfer Scheme for Unaccompanied Asylum Seeking Children, ensuring that local authorities are supported to participate in the transfer rota and that any changes to the system are delivered in a manner that meets the needs of the young people and local communities.

We support adult asylum dispersal and work with the Home Office, their contractors and local authorities as we seek to ensure that dispersal is effectively planned and resourced and that statutory services and key agencies are equipped to provide the support that asylum applicants and local communities require. We also support local

authorities that host asylum contingency hotels which are procured by the Home Office and their accommodation contractor and have been lobbying UK Government to take a more sustainable approach to accommodating people who are seeking asylum, and to resource public services accordingly.

Ensuring that refugees and migrants are better integrated into local communities

As a core partner along with Scottish Government and Scottish Refugee Council in the New Scots Refugee Integration Strategy, we lead work to ensure that local authorities and key partners can effectively support the integration of refugees into local communities, and we seek to ensure that the provision of support is better resourced and coordinated. In addition, we play a leading role in ensuring that local authorities and key partners understand migrants' rights and entitlements and we support the design and delivery of services that can meet their needs. This includes producing national guidance and information resources and co-ordinating practice networks.

We have a particular priority in supporting work to address migrant destitution through the Ending Destitution Together strategy. As part of this we support local authorities to put in place effective policies and support services and work with Scottish Government to drive policy changes that can address risks of extreme poverty and homelessness for migrants and asylum seekers. We also continue our work with the Home Office, Scottish Government and local authorities to identify and support vulnerable people to access their rights through the EU Settlement Scheme and more recently have been designing and delivering a programme to support Hong Kong British National (Overseas) migrants who have been settling in the UK under that new visa route.

Proactively responding to demographic change

We assist local authorities to have a more strategic and cohesive response to addressing their demographic challenges, and we are working towards policy being shaped and resources secured to enable them to respond effectively to population change. We work with Scottish Government and local authorities on the delivery of the Population Strategy (A Scotland for the Future: Opportunities and Challenges of Scotland's Changing Population), which was published in March 2021. We are represented on the Population Programme Board, which informs the Ministerial Population Taskforce.

Equality and Human Rights

We continue to press for the streamlining of the various requirements from different legislation on equality, inequalities and human rights in order to make the most of scarce resources. We are working with Scottish Government and local authorities on the Scottish Government commitment to develop an equality and human rights mainstreaming strategy and review of the Public Sector Equality Duty.

Further to the publication of the Human Rights Taskforce report in March 2021, we continue to support the recommendations and new statutory framework set out in the report, through our membership of the Human Rights Bill Advisory Board and the

Human Rights Executive Board. We are working with Scottish Government Human Rights Bill Team to ensure a robust consultation process is undertaken regarding the forthcoming bill.

We also have a priority focus on tackling some of the significant social justice issues impacting upon Gypsy/Traveller communities and, to that end, are working in partnership with Scottish Government on an Action Plan to improve the lives of Gypsy/Travellers.

Suggested Priorities for the Committee Programme

We welcome the Committee's focus on asylum and refugee issues. A focus on social justice and social security issues for people seeking humanitarian protection is timely, particularly in light of the significant changes that are forthcoming through the UK Government's Nationality and Borders Bill; the ongoing role that local authorities and communities play in responding to humanitarian crises globally and the needs of people seeking asylum in the UK; and rising social justice concerns for people who are living with No Recourse to Public Funds (NRPF) across Scotland.

We would suggest that the Committee considers broadening its focus to also include other migrants, including people who have moved to Scotland to be with family, to work or to study, and particularly those with NRPF. We would also encourage the Committee to consider the social justice and social security issues facing migrants with NRPF and EEA National whose entitlements to public services have changed significantly following the UK Exit from the EU. The immigration system, and devolved responses to it, has significant implications for how we: prevent homelessness and rough sleeping in Scotland; ensure access to safe and dignified housing for everyone; facilitate rights to social security; support employment; and tackle poverty and inequality in our communities.

We suggest that the Committee programme could helpfully include a focus on progress made at devolved level to achieve the aims of the Ending Destitution Together strategy as a priority for this Parliamentary term. The Committee could also scrutinise the extent to which other national strategies and policies such as the Ending Homelessness Together strategy and the development of devolved social security, are effective at supporting people with NRPF and at addressing social justice issues faced by migrants and people who are seeking asylum.

The Committee may specifically want to consider Action 3 in the Ending Destitution Together Strategy, which is a commitment to support the development of a five year delivery plan on a 'route-map' to end destitution for adults with NRPF; Action 4, which is a Local Government and Scottish Government led commitment to strengthen access to financial assistance and wider local authority support to destitute families with children and vulnerable adults; and Action 10 which is a Scottish Government-led commitment to extend financial support (using devolved social security powers) to people with NRPF, where that is possible.

The Committee may also want to consider the support that is provided by UK Government and Scottish Government to local authorities and their partners, including third sector organisations, to enable successful integration, tackle poverty and safeguard and protect vulnerable people. We are deeply concerned at the impact of pressures on Local Government funding and the lack of central government funding (from either the UK or Scottish Government) to enable local authorities to manage the impact of the immigration system on communities, fulfil their statutory duties towards some of the most vulnerable migrants and asylum seekers, as well as to invest in meaningful integration supports and the alternative safety nets and approaches needed to tackle poverty and destitution. We provide further detail on these points later in this briefing, in our response to your request for information on NRPF.

Evidence Session – Key Issues

1. Potential implications of the UK Nationality and Borders Bill

The Nationality and Borders Bill poses a range of issues for the rights of migrants, asylum seekers and refugees as well as for the delivery of public services by Scottish Local Government. COSLA has undertaken work to assess the implications from a Local Government perspective and is concerned about the impact that some of the provisions could have on the treatment of asylum seekers and refugees, and the consequences of its implementation on public health and safety in our communities.

The Bill could harm the ability of local authorities to protect vulnerable people and will place additional pressure on the provision of essential services in Scotland. These concerns are compounded by the current context which is seeing local authorities playing an increasingly important role in supporting refugees, Unaccompanied Asylum-Seeking Children, EEA nationals, and other migrants. The Bill also puts Scottish Local Government in a difficult position by making our safeguarding duties unclear. In practice, councils' duties to protect vulnerable migrants may come into conflict with new regulations created by this Bill.

The Committee may particularly want to assess the extent to which local authorities and partners will be able, and are supported, to mitigate these risks. They may also want to consider the ways in which changes impact on devolved safeguarding and protection duties. We have produced a briefing to support members of the House of Lords as they consider the Bill. This is attached as an appendix and provides more detail on our perspective on the Bill.

2. No Recourse to Public Funds

As outlined earlier in this briefing, supporting people with NRPF is a priority for us and an area we feel that the Committee could helpfully include within their current programme. NRPF rules create significant barriers to the provision of social security for migrants and asylum seekers and are deeply concerning from a social justice perspective. People with this status are restricted from accessing most mainstream

benefits including Universal Credit, local authority housing allocations and homelessness services and are often at high risk of destitution.

Local authorities have discretionary powers and some statutory duties to provide assistance under devolved legislation. This permits them to provide financial support to meet essential housing and living costs to some especially vulnerable people / households with NRPF in order to adequately safeguard their welfare and prevent a breach of their human rights. The amount of support that is typically provided is discretionary and based on the needs identified by social services. However, it is also balanced against the resources available to the local authority. At present there is no dedicated funding stream to support local authorities to meet these costs which must be met out of existing budgets (typically budgets allocated for child and adult protection in line with the legislative basis for provision). Support can and may require to be provided for long periods of time, until the person is no longer destitute and in need of support.

The UK Government's immigration rules set out the parameters for this support, requiring local authorities to act only in cases of destitution and where there is a legal or practical barrier to the person or household with children resolving their destitution. In 2020 we submitted evidence on these issues to the [Local Government Committee](#). We have also produced evidence for the UK Parliament's Department for Work and Pensions Committee (we have provided this as supplementary evidence to this briefing for further information). Local authorities have since seen a rise in levels of need and a continuation of the social justice risks and inequalities associated with these policies. This includes acute challenges for local authorities in meeting the needs of families with children and adults with care needs as well as concerns about support for adults who do not typically have eligibility for local authority assistance because of their immigration status.

Councils have played a leading role throughout the pandemic in addressing additional public health risks for people with NRPF who were facing destitution. COSLA produced a [framework](#) to support councils to use public health legislation and discretionary powers to provide emergency accommodation and support to adults who would typically not be able to access benefits or housing. The framework is currently being updated and we would be happy to share an updated version with the Committee should this be useful.

These supports have been delivered in a context of significant budget pressures, which has been deepened by the implications of the current Local Government Settlement (which represents a real-terms cut in core funding of £371 million). The Local Government funding context significantly impacts on local authorities' ability to respond to these acute social justice issues and to deliver on our commitments to prevent destitution. There has not been additional central government funding from UK or Scottish Government to meet these costs. We fear that destitution and other social justice issues will deepen and worsen as we continue to manage the

pandemic and see the impact of new UK immigration changes, and continue to manage the impact of changes to EEA nationals' rights.

As set out earlier, we suggest the Committee could consider these issues and progress being made in delivering the Ending Destitution Together strategy, particularly actions that relate to the potential to use devolved social security and other powers to address poverty, homelessness and rough sleeping.

3. Issues around current resettlement programmes

The UK Government currently operates three key humanitarian protections schemes in Scotland: the UK Resettlement Scheme (UKRS), the Afghan Relocation and the Assistance Policy (ARAP) and the Afghan Citizens Resettlement Scheme (ACRS). Scottish Local Government has continued to demonstrate its commitment to the protection of people fleeing their countries due to war and persecution through its participation in each of these schemes.

Scottish local authorities are playing a disproportionate role in the efforts to accommodate people who have arrived from Afghanistan in recent months and all 32 councils have committed to participating in both ARAP and ACRS. Nearly a hundred families (around 400 individuals) have arrived in Scotland and are making their homes here while a further c. 40 properties are awaiting families to be matched to them. There are also a number of bridging hotels operating in several local authority areas. The local authorities and their community planning partners continue to work tirelessly to ensure that the families who are in the hotels are able to access all the services and information they need before being relocated to their new permanent homes.

Since the mass evacuation of people at risk from Afghanistan in August there continue to be significant issues around the matching and transfer processes from bridging hotels to local authority accommodation. This has had a negative impact for the Afghan families and has also had an impact on local authorities' ability to fulfil their commitment to support Afghan people. With regard to UKRS, Scottish local authorities have continued to offer placements to families arriving through that scheme. However, the number of referrals through this scheme remain low and it is unclear the extent to which UK Government intends to increase the number of families being offered relocation to the UK under this scheme.

A key issue that the Committee may want to consider is the current lack of clarity on and implications of the different immigration statuses that people entering the UK on the different schemes will be granted and the implications of this for their future access to rights, entitlements and protection. The Committee may wish to keep a watching brief on the extent to which the resettlement and relocation programmes meet the needs and protect the rights of people seeking refuge in the UK, and their receiving communities, and the extent to which local authorities and receiving communities are resourced and supported to implement the necessary support.

We would be happy to provide further information any of the issues raised in this briefing. Key contacts:

Andrew Morrison – Chief Officer

Eloise Nutbrown – Policy Manager

More details about the work of the Migration, Population and Diversity Team can be found on our website at: <http://www.migrationscotland.org.uk>.

You can follow the work of the team on Twitter at: [@migrationscot](https://twitter.com/migrationscot).



BRIEFING FOR MEMBERS OF THE HOUSE OF LORDS

NATIONALITY AND BORDERS BILL

ABOUT COSLA

COSLA, the Convention of Scottish Local Authorities, is the representative voice of all 32 of Scotland's councils. We are a councillor-led, cross-party organisation that champions councils' vital work to secure the resources and powers they need. We engage positively with both Scottish and UK Governments on funding, policy and legislation. Every day, people rely on the services that Local Government in Scotland delivers. Together, Scotland's councils spend over £19 billion a year and employ over 240,000 people – almost 10% of all jobs in Scotland.

COSLA's Migration, Population and Diversity Team has responsibility for policy issues relating to migration to Scotland in all its forms (including policy on asylum seekers and refugees), human trafficking, population and demographic change, equality and human rights.

INTRODUCTION

This briefing is designed to inform members of the House of Lords as they consider the Nationality and Borders Bill, and the impacts it could have on Scottish Local Government.

COSLA has a long-standing position which recognises the many benefits that migrants bring to Scotland's communities. Scottish councils recognise the importance of providing a welcoming environment for new migrants, and are fully committed to playing their part in providing a place of safety for those who are fleeing oppression.

The Nationality and Borders Bill poses a range of issues for the rights of migrants, asylum seekers and refugees as well as for the delivery of public services by Scottish Local Government. We are also concerned about the consequences of its implementation on public health and safety in our communities. In particular:

- Scottish Local Government is concerned that the Bill, as it is currently drafted, could harm the ability of local authorities to protect vulnerable people, and will place additional pressure on the provision of essential services in Scotland.
- These concerns are compounded by the current context which is seeing local authorities playing an increasingly important role in supporting refugees, Unaccompanied Asylum-Seeking Children, EEA nationals, and other migrants, including new arrivals from Hong Kong.

- The Bill puts Scottish Local Government in a difficult position by making our obligations unclear. In practice, councils' duties to protect vulnerable migrants may come into conflict with the obligations created by this Bill.

This briefing seeks to provide Members of the House of Lords with essential background information to raise in debates and in scrutinising this draft legislation.

CREATING CONFUSION ON ASYLUM AND REFUGEE ISSUES

- Scottish Local Government is concerned about the introduction of differential treatment for people seeking asylum according to their manner of entry into the UK.
- These clauses will create significant inequalities in the rights and treatment of individuals and may breach international convention rights. They will also create complexity, administrative burden and financial pressure for local authorities, who will be required to assess the rights and entitlements of people seeking asylum and other migrant groups based on their status. The scope of Clause 10(5), in particular, is unclear and there is a lack of detail regarding the kinds of differential treatment that are to be permitted.
- We recommend that these clauses be amended to delete the words "for example" in Clauses 10(5) and (6) so that the provisions are clearly limited to the listed matters. We also call on the UK and Scottish Governments to make resources available to enable local authorities to provide support to destitute migrants.
- The Bill and its accompanying documents do not provide clarity on how they interact with devolved legislation. Of significant concern is the apparent power to alter the impact of devolved legislation as it relates to immigration issues. This could have profound effects on local authorities' practices, communities and individuals. For instance, there are concerns that the Secretary of State may use this power to introduce the 'Right to Rent' checks which were implemented in England but not Scotland and which have been highlighted as fostering racial discrimination in landlords.
- We have concerns that these clauses could empower the Secretary of State to authorise differential treatment in devolved areas of Local Government service provision, such as the provision of healthcare, education, homelessness and housing services. This would create confusion, risk and ambiguity for public service delivery and potential inequalities. Scottish councils would be unclear on their obligations under this legislation.

CHALLENGES AROUND NO RECOURSE TO PUBLIC FUNDS

- Councils are concerned that this Bill will lead to a rise in people with No Recourse to Public Funds (NRPF) who are destitute and at risk of

homelessness and rough sleeping. This would have significant financial implications for councils.

- Councils do not currently receive any central government funding to support people with NRPF. However, local authorities are often called upon to provide support to NRPF individuals who have social care needs that trigger our statutory responsibilities. Councils must pay for that assistance out of their own funds, often at great cost. By increasing the pool of NRPF people, councils will inevitably be called upon to provide more assistance out of their own funds. This at a time when council budgets are particularly strained after a decade of cuts and the demands of the pandemic.
- Most people who councils have to support in this way are eventually permitted to access the mainstream benefit system – but the interim delay comes at a high financial cost to councils. The data show that the majority of families (79%) and adults (51%) exit support due to a grant of leave to remain, or change in immigration status granting recourse to public funds, with only a very small proportion of families and adults returning to their country of origin.
- Should the Secretary of State seek to use the new powers to exclude or restrict the access of Group 2 refugees to healthcare, education and other services, Scottish public authorities would also have to take a view on the lawfulness of that decision and how they should respond in terms of continuing or ceasing to exercise their functions in respect of Group 2 refugees. There is a lack of clarity that is unhelpful and risks encroaching on local authority functions.

COMPLICATING RIGHTS TO LOCAL AUTHORITY SUPPORT

- The Bill proposes to create a distinction between those who arrived through legal routes, such as a resettlement programme, and those who arrive by other means, such as irregularly or through ‘safe’ countries. We have significant concerns about this approach, and the implications for the rights and entitlements for people who are seeking humanitarian protection, many of whom may be destitute or otherwise at risk. Even if they secure refugee status, it is proposed that those who arrive irregularly will not have a pathway to permanent settlement and will, instead, have a lesser period of leave which will need to be renewed regularly and which may be revoked.
- This creates several issues from the perspective of Scottish Local Government. First, it is unclear that it is possible to restrict the universal human right to asylum underpinned by the 1951 Refugee Convention. This places local authorities in an uncertain legal position. Second, it is the experience of frontline council workers that the distinction between asylum seekers who require a greater or lesser degree of support does not correlate with whether they arrived through regular or irregular routes to the UK. Creating differential categories of those seeking refuge in the UK would result

in the requirement for differential support depending on someone's route to the country, rather than on the basis of their need for support. This could result in councils being unable to support some asylum seekers in the greatest need, while also providing support to those less needy, but who have arrived through a resettlement scheme.

- The recent situation in Afghanistan is a clear illustration of the impact that this new multi-tiered approach could have. An individual arriving through the new Afghan resettlement programme will be entitled to housing, benefits, and ultimately a pathway to citizenship. Meanwhile, another individual who has been forced to flee the same country for the same reasons, yet who arrives through irregular means, will not have the same entitlements or path to citizenship. Thus, people's rights will be based not on need or links to the UK, but on their method of travel, which is often out of the control of those who are fleeing oppression in their country of origin.
- Other issues are posed by the changes to end admissibility, differentiate leave, and place time constraints on providing evidence to support an asylum application. Many of the provisions prevent a trauma-informed, person-centred approach to evidence gathering and applications in the asylum process. The introduction of 'bad faith' assumptions and time limits on evidence does not recognise the impact of trauma on memory or the ability to talk about experience, nor the barriers that asylum seekers face in accessing and providing evidence.

DIFFICULTIES SUPPORTING UNACCOMPANIED ASYLUM-SEEKING CHILDREN

- Almost all unaccompanied asylum-seeking children arrive in the UK through irregular routes. If they have a lesser entitlement to support, this raises questions about the interaction with Scotland's ['Getting It Right For Every Child' \(GIRFEC\)](#) approach, devolved children's legislation and corporate parenting responsibilities. This could impact local authorities' ability to participate in the National Transfer Scheme.
- Further, there are concerns about the impact changes to the age assessment process could have on the young people and local authorities involved. Age assessments can be difficult processes for all involved and must be done in a child-centred and trauma-informed way. Any changes must be developed in partnership with local authorities and devolved governments to ensure that they improve the experience and process and do not conflict with devolved child protection legislation.
- The provisions in this Bill would remove the discretion of local authority professionals on when to undertake an age assessment. That decision should remain with the professional officer who is best placed to make an informed decision about whether an age assessment is required. Furthermore, the Bill mandates the outcomes of the age assessment be shared with the Home Office. It is not appropriate to mandate child protection officials to provide

evidence that may be used in immigration enforcement action; that decision should remain discretionary. Child protection decisions should be undertaken purely with the child's welfare in mind, without the officer having to consider how it may influence Home Office practice.

- We are concerned that the use of medical methods to determine age is being introduced without the required level of discussion and debate. We note objections that have been raised regarding the use of invasive and inaccurate medical age assessments, and would argue that much more detailed consideration of age assessment processes and practice is required, involving expert input from a variety of stakeholders, including Local Government, before legislation is brought forward.
- We also have concerns about how reception centres will impact unaccompanied asylum seeking children, particularly in the light of GIRFEC, their rights to education and support under existing children's legislation and the incorporation of [UNCRC](#) into Scottish law. There will also likely be challenges to any local authorities where reception centres exist in terms of age disputes.

REFUGEE RESETTLEMENT

- The implementation of this Bill means that those refugees arriving through resettlement routes post July 2021 have been granted Indefinite Leave to Remain. This is to be welcomed. However, there is a lack of clarity as to whether this status will be retrospectively applied to those who arrived through the UK Resettlement programmes pre-July 2021. Given the lack of easy access to biometric testing and immigration advice across the UK, local authorities would welcome this being addressed.

CHALLENGES ON HUMAN TRAFFICKING

- In relation to the Bill's provisions on human trafficking, several proposals cause concern. Firstly, it is unfortunate that provisions on human trafficking have been included in a bill relating only to the treatment of foreign nationals, if only because this undermines significant efforts to emphasise that UK nationals as well as foreign nationals can be victims of trafficking.
- We also have concerns that toughening the criminality provisions will undermine the aims of the Bill and will be harmful for victims who may be less likely to come forward if they fear arrest, and who may find the process retraumatising as a result, thereby impeding their recovery. Thus, the Bill may make it more difficult for victims to be identified, more difficult for victims to engage with their rescuers, and more difficult to tackle modern slavery and human trafficking overall.

MORE INFORMATION

COSLA is willing to provide more information to Members of the House of Lords seeking more detail on any of the points raised above, or any local issues relating to migration. We are also willing to meet to provide further background briefings on migration-related topics.

Please contact Chris Murray for any further information.

Scottish Government and COSLA Joint Submission

Department for Work and Pensions Inquiry – Children Experiencing Poverty: NRPF

30 September

1. This is a joint submission from the Scottish Government and COSLA (the Convention of Scottish Local Authorities). As immigration is reserved to the UK Parliament, the Scottish Government cannot lift or amend NRPF policy. As a result, there are limits on action that can be taken in a devolved context.
2. COSLA is the organisation that represents Local Government in Scotland. This response highlights concerns that are shared by our partners in Local Government across the UK, and that have also been set out in the joint submission from the Association of Directors of Children’s Services, the Local Government Association and the NRPF Network.
3. This response provides evidence based on learning from the development of our joint strategy, Ending Destitution Together¹, which sets out our approach, over the next few years, to prevent destitution and tackle the effects of the No Recourse to Public Funds (NRPF) policy in Scotland. It also draws on data collected by COSLA from fifteen Scottish local authorities regarding the support that has been put in place to assist people with NRPF during the pandemic.

Introduction

4. COSLA and the Scottish Government welcome this inquiry into the impact of NRPF policy on children experiencing poverty. This is an issue of significant concern to communities in Scotland.
5. There is longstanding evidence of the damaging effects of the NRPF restrictions on children’s rights and wellbeing.²³ A 2019 Child Poverty Action Group study found that some of children from the most severely deprived families with NRPF did not have access to food during the day⁴. By restricting access to benefits, local authority housing and homelessness services for adults with children, the NRPF rules place families on low incomes or facing financial insecurity at high risk of poverty and destitution.
6. This issue has only been worsened by the experience of the pandemic and will likely become even more acute as we manage the recovery period, along with changes to EEA nationals’ rights following the UK exit from the EU, and prepare for the impact of provisions in the Nationality and Borders Bill, should this legislation be enacted as currently drafted.
7. It is our view that changes are urgently needed to the UK Government’s immigration system and particularly the NRPF policy, to protect children’s rights

¹ [Ending destitution together: strategy - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/ending-destitution-together/strategy/pages/1.aspx)

² [Not Seen, Not Heard – Project 17](#)

³ [Access Denied](#) – The Unity Project, June 2019

⁴ [Living Hand to Mouth](#) – Child Poverty Action Group, Apr 2019

and wellbeing and to reduce poverty and inequality.

8. In Scotland we are committed to tackling child poverty. The Child Poverty (Scotland) Act 2017 sets out statutory targets to tackle and ultimately eradicate child poverty by 2030 and monitor progress in line with the UN Convention on the Rights of the Child (UNCRC).
9. The Act requires Scottish Ministers to publish child poverty delivery plans at regular intervals, with annual reports to measure progress. Local authorities and health boards must also jointly publish annual reports on what they are doing to reduce child poverty in their local area. Tackling child poverty is also part of the Fairer Scotland Action Plan, which sets out our overall strategy for tackling poverty and inequality in Scotland. The core principles of the Act are further strengthened by the Children and Young People (Scotland) Act, the Getting it Right for Every Child (GIRFEC) approach, and the Early Years Framework. They are all designed to ensure that children's interests and rights are placed at the centre of our policy considerations.
10. Our national and local efforts to eradicate child poverty are severely impacted by the NRPF rules. The national delivery plan – Every Child, Every Chance: the Tackling Child Poverty Delivery Plan 2018-2022 – identifies the three main drivers of child poverty: employment – when income from parents' work and earnings is insufficient to lift them from poverty; household costs – when income is too low to meet daily living costs; and social security – when benefits are too low to lift families out of poverty.
11. The NRPF rules both increase the chances that children will experience poverty, but also limit the actions that can be taken at a devolved level to address this. They prevent people from accessing benefits designed to support people at times of financial insecurity such as job loss; they also prevent local authorities from being able to provide social housing to families with NRPF as another means of improving living standards and reducing household costs; and prevent local authorities from using their homelessness services to prevent crises. For families who are in the asylum system, immigration rules also restrict their right to work, preventing them finding a route out of poverty through employment.
12. In addition, the NRPF rules have implications for the role that Scottish Government can play in using devolved benefits to increase the role of social security in tackling child poverty. Key support such as the Scottish Welfare Fund are restricted under NRPF. In the case of the Scottish Child Payment, which uses top-up powers to deliver enhanced support to families, this cannot be provided to people subject to NRPF because they are restricted from accessing qualifying UK benefits. The issue also remains that the Home Office could choose to impose restrictions on any benefit paid by Scottish Ministers through changes to immigration rules.
13. The rules create significant barriers to our ability to deliver our ambitions for every child in Scotland, regardless of their immigration status or country of origin. The Ending Destitution Together strategy is part of our approach to ensure that, as far as possible, we can meet the specific needs and mitigate the unique risks of poverty for people with NRPF, including families with children. A key focus of our initial actions will be strengthening the statutory safety net that local authorities are able to provide and seeking to bolster the role that other services that are not

restricted by NRPF rules can provide.

14. The Scottish Government and COSLA would be happy to support the Committee's inquiry in any way that would be helpful and look forward to your report which we hope will add further weight to the calls for the UK Government to remove NRPF restrictions from families with children to help to address child poverty and inequality.
- 1. Approximately how many children in the UK live in households that have NRPF? What are the challenges involved in estimating this accurately?**
15. The Home Office does not routinely collect or publish data on the number of people who are subject to NRPF across the UK, and they do not systematically monitor the impact of the policy on individuals or public services.
16. We understand that the Home Office's Chief Statistician made a commitment in 2020 to investigate the administrative data held by the Home Office and whether it can provide "any meaningful information on the issue of hardship"⁵ – we would be keen to understand whether the Committee has any detail of the outcome of this.
17. The gaps in available information make it challenging for the Scottish Government and local authorities to determine the numbers of people in Scotland with NRPF and to plan for and meet their needs. An inquiry by the Scottish Parliament's Equality and Human Rights Committee⁶ in 2017 concluded that there are significant hidden needs because of the NRPF rules.
18. We therefore urge the committee to press the Home Office for routine and transparent collection, publication, and analysis of data on the application of the NRPF restrictions and its impact on people and public services, particularly as they relate to children and people who intend to remain in the UK in the long term.
19. Despite the limitations of existing data, COSLA assumes that the majority of local authority areas in Scotland will have some residents who have NRPF or EEA nationals with similar restrictions on their entitlements to benefits. Migrants who are subject to immigration control living in the UK are able to move within and between local authority areas. Informal exercises conducted by COSLA have highlighted that Glasgow, which is an asylum dispersal area, as well as Edinburgh, typically have the highest number of people in Scotland requiring assistance because they have NRPF, followed by Dundee and Aberdeen. Other areas including Perth and Kinross, Dumfries and Galloway and Highland Council also indicated awareness of temporary residents working in seasonal employment such as food processing and agricultural work, as well as hospitality and tourism. Fifteen Scottish local authorities responded to a recent informal snapshot survey conducted by COSLA to capture information on support provided to people with NRPF.

⁵ [Response from Daniel Shaw to Ed Humpherson: Parliamentary question response – Office for Statistics Regulation \(statisticsauthority.gov.uk\)](#)

⁶ [Hidden Lives - New Beginnings: Destitution, asylum and insecure immigration status in Scotland \(azureedge.net\)](#)

2. How many children in the UK are undocumented or have an insecure immigration status?

20. The Scottish Government and local authorities in Scotland do not collect data on the immigration status of people living in Scotland, as this is a reserved matter. We do not have direct access to Home Office data. We are also unable to develop a figure for Scotland due to the lack of consistent data recorded and published by the Home Office to identify people who are not currently within the immigration system or whether they reside in the UK.
21. We understand that a report published by the Mayor of London and Wolverhampton University has estimated that there are around 215,000 undocumented children across the UK⁷. Previous research into the population of undocumented children within the UK⁸ was undertaken in 2011 and estimated that there were 120,000 undocumented children. On these calculations we assume the population of undocumented children has likely increased significantly.
22. Data has also been provided from the NRPF Network. This showed the support provided by 66 local authorities across the UK and is included in their joint response to the Committee.
23. We are exploring ways to develop collection of data from local authorities and third sector organisations working in Scotland to improve our understanding of the scale and impact of destitution associated with NRPF and will consider this as part of the delivery of our Ending Destitution Together strategy.

3. What other financial support from the Government is available for families with NRPF who are facing financial hardship? How effective is this support?

24. Not all public funds and services are restricted under NRPF. The Immigration and Asylum Act 1999 establishes the application of NRPF and paragraph six of the immigration rules sets out the funds that are classed as public funds for immigration purposes, which includes most forms of social security and local authority housing and homelessness allocations.
25. The UK immigration rules definition of public funds also include “a payment made from a welfare fund under the Welfare Funds (Scotland) Act 2015” which further restricts emergency welfare payments to families in crisis through the Scottish Welfare Fund, a devolved crisis grant administered by local authorities. This limits the effectiveness of this policy as a means to address financial hardship and creates further challenges for tackling poverty in Scotland.
26. There are a number of benefits which have been devolved to the Scottish Government or introduced using new social security powers. Although the Scottish Government can determine eligibility for each of the benefits it administers, the UK Government retains control of the list of restricted public funds for immigration purposes and qualifying benefit requirements can restrict

⁷ [London's children and young people who are not British citizens: a profile \(london.gov.uk\)](https://www.london.gov.uk/press-releases/major/london-children-young-people-not-british-citizens-profile)

⁸ [Undocumented Migrant Children in the UK \(Compas\)](#)

eligibility. As with the Scottish Welfare Fund, the UK Government may add any devolved benefits to the list, restricting access for people subject to NRPF. Where possible, the Scottish Government has worked with the Home Office to ensure access to devolved benefits has been permitted for those restricted by NRPF. The benefits are:

- The Best Start Grant Pregnancy and Baby Payment. This is one of a range of measures aimed at giving children the best start in life and helps with expenses associated with pregnancy or with having a new child. Home Office confirmation has been received that parents under eighteen with NRPF can apply for the Pregnancy and Baby Payment without it affecting their immigration status. For applicants over the age of 18, the Home Office continues to require people to be in receipt of a qualifying benefit, thus excluding people subject to NRPF who are restricted from accessing a qualifying benefit.
- The Young Carers Grant provides financial support to young people with caring responsibilities. Following a change on 1 April 2020, young carers with NRPF can now access the Young Carers Grant.

27. Scottish local authorities can provide limited forms of financial support to families with children with NRPF, in circumstances where statutory powers and duties are engaged to safeguard the welfare of a child in need (s22 Children Scotland Act 1998). They also have statutory duties to support adults with care needs and former looked after children who qualify for leaving care support until they are 26 years old.

28. Councils are providing an essential safety net to destitute families who are restricted from accessing mainstream benefits. This includes regular financial support to help to meet daily living and housing costs as well as supporting families to access immigration advice and other services and support to safeguard and protect children's welfare. Local authorities can also apply their discretion to provide entitlements to Free School Meals for older children from NRPF households and to funded early learning and childcare placements for two-year-old children.

29. COSLA and the Scottish Government commissioned national guidance in 2019⁹ which outlines the circumstances under which these and wider forms of devolved assistance can be provided to people with NRPF. Interpreting the rights and entitlements to support for families with NRPF is challenging for local authorities and can be very time consuming for frontline staff and therefore the Scottish Government has also provided funding to enable COSLA to provide training workshops and to facilitate ongoing support to councils.

30. The costs of providing support to families are high and unsustainable for local authority services and the lack of UK Government funding to meet these is a significant challenge. The financial pressures are particularly acute for Glasgow City Council and City of Edinburgh Council, as both local authorities have higher numbers of families experiencing poverty who have NRPF. They also face significant pressures in terms of meeting the accommodation needs of destitute families with NRPF who are not eligible for local authority housing or

⁹ [Migrants Rights and Entitlements to Local Authority Services \(migrationscotland.org.uk\)](https://migrationscotland.org.uk)

homelessness services. The costs are also disproportionately high for smaller local authorities who may have less capacity to co-ordinate this assistance, less access to third sector support and less experienced staff to deal with complex immigration cases.

31. Despite the best efforts of councils and the Scottish Government to ensure that there is available support at a devolved level, the rising levels of need and significant financial implications mean that there remain significant gaps in the provision of statutory support, high ongoing risks of poverty and challenges for devolved services in meeting rising needs alongside wider pressures within communities. There are also hidden needs. For example, because families are often afraid to request local authority support for fear of immigration enforcement action, they may not present to a local authority or public service unless in crisis, or because they do not understand that it may be possible for them to be assisted by local authorities, they may seek to survive through the support of friends, family or the third sector. People with lived experience who participated in engagement to inform the Ending Destitution Together strategy highlighted significant concerns about any perception that they might need support impacting on their long term status in the UK and that this fear can prevent them from seeking support.
32. These challenges contribute to the broader pressure on public services and harm our efforts to eradicate child poverty. The issues are replicated across the UK. The NRPF Network data for the financial year 2020-21¹⁰, suggested that supporting all groups with NRPF cost 68 local authorities across the UK £57 million at the end of March 2021. The data also demonstrate that the majority of families (79%) and adults (51%) will exit support due to a grant of leave to remain or change in immigration status granting recourse to public funds, with only a very small proportion of families and adults returning to their country of origin. This evidence raises significant questions about the proportionality and fairness of the NRPF of rules.
33. We are working, through the Ending Destitution Strategy, to strengthen as far as possible the devolved support in Scotland, but this will remain challenging. NRPF rules are a reserved matter and the UK Government continues to control decisions regarding entitlements to social security and housing for people with NRPF, which are two of the most crucial levers for tackling child poverty.

4. How have families with NRPF benefited from the new support that the Government introduced in response to the pandemic, such as the Coronavirus Job Retention Scheme and the COVID Local Support Grant?

34. Most of the support provided to help people protect themselves and comply with public health restrictions was delivered through existing welfare distribution mechanisms, including Universal Credit and the Scottish Welfare Fund, which are inaccessible for people subject to NRPF. However, because of the public health emergency, it has been possible for the Scottish Government and local authorities to directly fund the provision of support and services to reduce public health risks. The Scottish Welfare Fund provided an existing route to support quick distribution of grants to people in need, but its inclusion on the restricted

¹⁰ [NRPF Connect Data Report 2020-21 \(NRPF Network\)](#)

public funds list prevented it being used to support everyone in Scotland. Instead, alternative means of supporting people subject to NRPF had to be identified.

35. The Scottish Government and local authorities responded quickly to provide accommodation and support to everyone who needed it during the Covid-19 pandemic. On 18 March 2020, a £350 million Communities funding package was announced. This has been used to provide resources to local authorities, third sector organisations and community groups so that they can support those most affected by the pandemic and enable swift response according to local need. Some of this funding bolstered the Scottish Welfare Fund, which is restricted under the UK Government's NRPF policy. However, the new funding routes supported by this resource were not restricted and enabled Scottish Government partners and funding recipients to support people based on their needs and not their status. This included over £500,000 Immediate Priorities funding to organisations supporting people subject to NRPF to meet their essential needs.¹¹
36. The Scottish Government was able to fund services, provided they did not relate to the reserved matter of immigration, including making over £1.5 million available to enable third sector organisations to acquire emergency hotel accommodation for people experiencing, or at risk of experiencing, homelessness. This provision was on the basis of public health requirements, both for the individual who would be at risk of contracting Covid-19 and the general need to reduce the spread of the virus in the community. Where possible, Covid-19 support was extended on the same basis to people subject to NRPF, including through the Social Isolation Support Grants for those asked to self-isolate by Test and Protect, and Winter Hardship Payments to families in receipt of free school meals.
37. The Scottish Parliament's Local Government and Communities Committee undertook work to scrutinise the actions of the Scottish Government in its response to the Covid-19 public health emergency, including support for local authorities and the third sector, during the last Parliament. Papers and evidence are published on the Scottish Parliament website, including a letter from then Cabinet Secretary for Communities and Local Government of 23 September 2020 setting out in detail how the £350 million Communities funding package was being utilised.¹² It also includes evidence gathered from local authorities in August 2020, detailing the support that was provided during the pandemic and the impacts on people with NRPF.¹³
38. In June 2020, the Social Renewal Advisory Board was created to build on shifts in policy and practice which had taken place as part of Scotland's response to Covid-19 and consider how reducing poverty and disadvantage, embedding human rights based approaches and advancing equality could progress as Scotland emerges from the pandemic. The Board's independent report, *If Not Now, When?* was published in January 2021.¹⁴
39. At the start of the public health crisis, COSLA produced a Covid-19 specific

¹¹ [Funding to prevent destitution during Covid-19 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/funding-to-prevent-destitution-during-covid-19/pages/1-10.aspx)

¹² [COVID-19 - Parliamentary Business : Scottish Parliament – Scottish Government](https://www.parliament.scot/parliamentary-business/covid-19)

¹³ [COVID-19 – Parliamentary Business: Scottish Parliament - COSLA](https://www.parliament.scot/parliamentary-business/covid-19)

¹⁴ [If not now, when? - Social Renewal Advisory Board report: January 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/if-not-now-when/pages/1-10.aspx)

framework¹⁵ which outlined measures local authorities could lawfully take to assist people in need during the pandemic, under existing statutory duties and through emergency Coronavirus legislation and Public Health legislation at a devolved level. This framework built on the guidance already available for local authorities and outlined additional measures that may need to be taken to assist during the pandemic, including consideration of increased payment levels to meet the increased costs of living and education related costs for families with school age children. The guidance also outlined the need to include children with NRPF within policies to provide free school meals during this period.

40. The framework additionally outlined the range of UK Government support that can be accessible to people with NRPF to ensure local authorities could play a role in raising awareness of individuals rights and entitlements. COSLA's survey of local authorities highlighted that this framework was successful in strengthening the assistance that local authorities put in place, although we do not have information that enables us to evaluate the success of UK Government measures such as the Coronavirus Job Retention Scheme.
41. In terms of the local support provided at a devolved level, the survey showed that during the pandemic councils in Scotland have attempted to find ways to open up emergency support to people with NRPF and provided a range of local welfare support to communities regardless of people's immigrations status or country of origin. Additional support was also provided as needed for families with children. City of Edinburgh Council, for example, assessed the extra stresses on families with NRPF through weekly phone contact with families; translating information about coronavirus and self-isolation support where possible; and sharing with families other information about how to keep safe. Social Work services put in place access to food parcels and weekly payments of financial support were increased in recognition that families are not receiving free school meals. Risks of face-to-face contact were reduced by weekly payments and emergency money being given via Paypoint, whereby families can receive a code to their phone and access money in shops and supermarkets that provide this service. In circumstances where a family did not have a phone, these were provided to families to receive financial support and also improve communication. Mobile apps were used to aid communication.
42. COSLA officers also established an NRPF Consortium which brought together multiagency partners to monitor the communities' needs during the pandemic. Through these meetings, we were able to identify emerging risks to migrants with insecure immigration status and better inform our responses. Consortium members raised a number of suggestions for how national and local government could build on our response to Covid-19.
43. To support people at risk of financial hardship when required to self-isolate, the Scottish Government established the Social Isolation Support Grant (SISG)¹⁶ for people on a low income who need to self-isolate and would experience reduced earnings as a result. The SISG was administered by local authorities on behalf of the Scottish Government using existing statutory provisions in the Welfare Funds (Scotland) Regulations 2016 and therefore restricted under NRPF. COSLA and the Scottish Government worked together to ensure an equivalent discretionary

¹⁵ [Covid-19 Framework: Local Authority Support for People with NRPF](#)

¹⁶ [Self-Isolation Support Grant \(£500\) - mygov.scot](#)

grant was accessible for people subject to NRPF, administered using statutory provisions in the Public Health (Scotland) Act 2008. Councils and local partners have indicated that there has been some confusion and a lack of awareness that the support was available for those with NRPF, and that the grant requires additional resources locally to administer support and also to make sure there is awareness of what assistance is available. However, there was consensus that this was a positive outcome, enabling an important public health and poverty mitigation measure to reach everyone who requires it.

44. Scottish Government and COSLA both called on the Government to suspend NRPF during the pandemic, as did local authorities across the UK¹⁷, to enable us to fully support those within the community facing destitution to access all of the support that is available, and to protect public health.

5. The Government has extended eligibility for free school meals to some categories of children with NRPF on a temporary basis. What has been the impact of this policy?

45. In Scotland, free school meals are available on a universal basis to children during their first four years of Primary School, with universal provision being expanded to include Primary 5 from January 2022. Free school meals are available to older pupils where their families are in receipt of qualifying benefits, although local authorities also have the flexibility to make discretionary offers to families who do not meet the regular eligibility criteria, including for children from families subject to NRPF.

46. The pandemic exposed the need for food security measures to be provided to children in low-income households regardless of their parent's immigration status, alongside the importance of being clear on access and entitlements to services provided by local partners. Our view is that low-income families with NRPF should be able to access the same range measures in place to tackle poverty that are available for other children and families in Scotland.

47. In November 2020, Scottish Ministers announced a Covid Winter Hardship Payment of £100 to be paid for children receiving free school meals on the basis of low income – this includes children and young people receiving support based on local discretion, such as those from households subject to NRPF. This has been further bolstered by the announcement of Scottish Child Payment Bridging Payments of £520 in both 2021 and 2022. Whilst this support is available for school age children, levels of household income for those with NRPF can often be so low that this would not be enough to mitigate deprivation of itself.

6. What role do other bodies, such as local authorities and third sector organisations, play in supporting children with NRPF?

48. In addition to support outlined in response to questions 3 and 4, relating to the crucial role of local authorities in providing support, there is also a vital role for other organisations and the third sector in supporting children with NRPF.

¹⁷ [Local Government Association written evidence, May 2020](#)

49. Charities can provide support to people with NRPF because their services are not restricted public funds and many provide vital services and safety nets to mitigate the impact of NRPF rules. We know that charities in Scotland have provided emergency food to families who remain at risk of hunger because of NRPF rules and targeted crisis grants to families who are typically ineligible for the welfare fund and may not be in receipt of statutory support from the local authority.
50. In November 2020, as part of the Scottish Government's Winter Plan for Social Protection, funding was provided to British Red Cross to top-up their existing Hardship Fund and meet pandemic pressure. As part of the Ending Destitution Together strategy, the Scottish Government is continuing to fund British Red Cross for a further year. The Hardship Fund project operates inclusively, distributing cash grants to support people in vulnerable positions facing destitution, including those who have NRPF and people facing difficulty accessing public funds, through the British Red Cross Scottish Crisis Fund. The Hardship Fund project also supports a community of practice, involving advocacy and support organisations, and will capture data to improve our understanding of where and why destitution is occurring to help inform our long term approach.
51. There is a significant network of support provided to families within the asylum system in Glasgow. Some third sector organisations and community projects focus on providing additional support to families with children experiencing poverty and surviving on low levels of asylum support.
52. Access to healthcare and confidence to engage with health services is important. There is a role for the NHS and community-based health practices for supporting people with NRPF to access primary health care, to understand their rights, support them to take up the Covid-19 vaccination programme, and to understand the changing public health restrictions. We are concerned that reluctance to access public services, including healthcare, because of fear of immigration enforcement action can prevent people receiving the support and care that they need. NHS Scotland does not pass patient details to the Home Office for the purpose of immigration enforcement. NHS Inform provides information on accessing healthcare in Scotland for people who have come to the UK from overseas, including overseas visitors¹⁸, who are likely to be subject to NRPF as part of their visa conditions, and people seeking asylum¹⁹.
53. Local authorities and third sector organisations also provide specialist support for women and children experiencing domestic abuse, including support provided through refuges. Where a woman and her children are reliant on the perpetrator of abuse for their immigration status in the UK, NRPF restrictions can increase the risk that they remain in or return to abusive or exploitative relationships. Charities and councils have to find ways to meet the costs of providing accommodation and meeting essential living costs for women with NRPF, but the lack of clarity around their entitlements and absence of UK government funding means there are gaps in access to services. Refuge spaces often rely on housing benefit to cover the cost of provision and can therefore be inaccessible for people subject to NRPF.
54. There is a Domestic Violence Concession which enables people who are in the

¹⁸ [Healthcare for those coming from overseas - Health rights | NHS inform](#)

¹⁹ [Healthcare for refugees and asylum seekers - Health rights | NHS inform](#)

UK on a partner visa to claim public funds, while applying to settle in the UK, following the breakdown of their relationship due to domestic violence. However, the concession does not extend to people whose partner has limited leave and should be available to anyone who is in the UK as a dependant on someone else's visa or protection status, regardless of the timescales of that status. The concession should also be available for people who have status in their own right in the UK and experience domestic abuse.

55. COSLA and Scottish Government's updated Ending Homelessness Together Action Plan committed to develop and implement human rights-based accommodation pathways for women and children with NRPF who are experiencing domestic abuse. This work will build on the specific recommendation in the Improving Housing Outcomes for Women and Children Experiencing Domestic Abuse report and will be progressed by the Implementation and Monitoring Group set up to oversee the implementation of all the report's recommendations.

56. Another important area is the provision of immigration and legal casework, advocacy and advice. The complexity of the UK asylum and immigration systems can make it challenging to navigate. The solution for many people subject to NRPF is to get good quality legal advice and representation. During development of the Ending Destitution Together strategy, people with lived experience raised concerns about the capacity and availability of qualified legal professionals, people's awareness of how to access legal advice, and the benefits of trusted advocacy to support people to engage while also helping with essential needs like food insecurity and accommodation. The Scottish Government has taken steps to increase provision, for example funding OISC accredited case work support, including to assist EEA national families and Looked After Children to secure Settled Status and to support families with NRPF who are supported by local authorities.

7. What impact has the pandemic had on these organisations' capacity to support children with NRPF?

57. Public services and third sector organisations have had to manage rising demand for and pressure on their services in addition to staff shortages as people require to self-isolate and the need to deliver support in a Covid-safe environments. The Accounts Commission's Local Government Overview report for 2021²⁰ provides evidence of the disruptive impact on the public sector and communities. Whilst highlighting the positive ways in which local government and communities came together to support communities, assisted by Scottish Government funding, it concludes that councils continue to face significant financial challenges, and these have been exacerbated by the pandemic.

The report specifically found that services such as education, social care and culture and leisure were badly affected. These are services that families with NRPF often rely on most heavily as these are not restricted by NRPF rules. The report shows that other core services also continued on a reduced basis. COSLA has estimated that the total net financial impact of Covid-19 in 2020/21 was £767 million. This includes forecast financial pressures of £855 million, with loss of

²⁰ [Local Government Overview 2021 \(Accounts Commission\)](#)

income accounting for around £400 million of this total. The financial pressures have been offset slightly by estimated cost reductions of £88 million from a range of areas such as lower property costs and reduced school meal costs.

58. COSLA also undertook a snapshot survey in August 2021 of support provided by Scottish local authorities to people with NRPF. This indicated that the pandemic made it practically difficult to provide support to families with NRPF, as many services came under rising pressure from demands from across the wider community, staff shortages and the need for services to change the way in which they delivered support. For example, operating a remote service created significant difficulties when working with families. Local authorities and charities quickly changed the way they operated; for example some local authorities provided mobile payments instead of cash to NRPF families and increased the amount that was provided to take account of the changing cost of living.
59. There was a general rising demand on social services as a result of the pandemic including issues related to domestic abuse, mental health, poverty and substance misuse, which were the most common reasons for children and families needing help from children's social care. This meant the financial pressure on local authority support increased. Loss of employment has also placed families with NRPF into poverty and destitution who would previously have had a reliable income. This has increasingly become an issue for EEA nationals who have not yet secured Settled Status and are now subject to NRPF rules, as well as families with children who have Pre-Settled Status and face restricted eligibility for benefits.
60. These pressures continue as we move into the recovery stage and the ability for local authorities to provide effective support for destitute families with NRPF needs to be placed in the context of current pressures on children's services in addition to pressures on temporary housing as a result of having to provide accommodation and support to adults with NRPF who are at risk of rough sleeping.
- 8. People with leave to remain on family or human rights grounds can apply to have the NRPF condition lifted in some circumstances. How effective has this measure been at preventing families from falling into serious hardship?**
61. It is very challenging for local authorities to identify people at risk of destitution with NRPF. Applying to have the NRPF condition lifted is typically drawn upon to help to resolve and alleviate hardship at the point of destitution; it is therefore not effective in our view as a measure to prevent hardship.
62. The Committee will be aware of recent legal challenges which have seen some minor changes to the eligibility to apply to have the NRPF condition lifted, allowing for imminent risk of destitution rather than requiring people to be destitute before they can apply. However, eligibility remains restricted to leave on the British National (Overseas) visa or granted on the basis of family or private life, in which case it requires people to be on the 10 year route to settlement or otherwise accept that they will be considered to have moved to the 10 year route

if their application to have NRPF lifted is successful while on the 5 year route.²¹

63. During engagement to inform Ending Destitution Together serious concerns were raised by legal professionals and support organisations that people need to reapply to have the NRPF condition lifted each time they need to renew their status and that if they no longer need support and wish to return to the five-year route, which is subject to NRPF, then none of the time previously accumulated will count toward a new five year period. People who intend to remain in the UK permanently, particularly those with British children, may therefore be eligible to apply to have the NRPF condition lifted but there are significant disincentives, presuming that people are aware that they can apply in the first place.
64. Local authorities in Scotland are concerned that families have to rely on social work assistance whilst they wait for their immigration status issues to be resolved and for the Home Office to process the applications – both those to lift NRPF conditions and other immigration status change applications e.g. settlement applications. In some cases, local authorities report that the process can be swift and straightforward but in others there are delays creating ongoing hardship for children and costs for councils. Local authorities are not provided with resources from the UK Government in order to undertake outreach work or to support the process of applying for changes of immigration status.
65. Additionally, the change of conditions process is not an option for all families who have leave to remain with NRPF, such as people with a UK Ancestry visa, leaving some families without the opportunity to gain access to benefits in this way if they lose their income or employment. When such families qualify for local authority support, their need for this could be open-ended.
66. This process also does not resolve issues relating to destitution for EEA national families who have Pre-Settled Status depending on their family circumstances. While EEA nationals with pre-settled status can apply for public funds, some will currently not meet the habitual residence test. Guidance and policy should be changed so that people who have pre-settled status should automatically meet the habitual residence test.
67. This leaves local authorities with a growing number of families with children experiencing poverty or destitution who require local authority support and are unable to easily resolve their destitution either through employment or through demonstrating eligibility for Settled Status.
68. Our view is that families with children should not be subject to NRPF restrictions. However, to make this current measure more effective, the UK Government should provide information to families with NRPF conditions advising them of their rights to apply to lift this condition and also provide resources for outreach, casework and advice support to resolve any immigration status issues as quickly as possible.

Conclusion

²¹ [Application for change of conditions of leave to allow access to public funds if your circumstances change - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/application-for-change-of-conditions-of-leave-to-allow-access-to-public-funds-if-your-circumstances-change)

NRPF rules are creating severe poverty and destitution for children living in low-income families. Our Ending Destitution Together Strategy aims to improve support but recognises that immigration, including NRPF policy, is reserved and outlines Scottish Government and COSLA's joint position on changes that are required at UK policy level to help prevent destitution and enable people to find a route out.²²

²² [Ending destitution together: strategy - gov.scot \(www.gov.scot\)](https://www.gov.scot/ending-destitution-together-strategy)

Written Briefing from Scottish Refugee Council

Dear Members,

As promised, please find below a note that I hope is helpful to you all in advance of the oral evidence session on 10 February (just to add that I have deliberately placed *hyperlinks* in this note, and suggest connecting through these to the more detailed subject materials).

Some relevant issues on refugee and asylum policy in or relating to Scotland

1. *UK government's "rights-removing" New Plan for Immigration and Nationality and Borders Bill*

In March 2021, the Home Secretary on behalf of the UK government, published for consultation its [New Plan for Immigration](#), with our witness statement supporting the legal challenge against the inadequacies of this consultation is referred to [here](#), and the statement itself is attached (in redacted form). Scottish Refugee Council's response to that New Plan is [here](#). With JustRight Scotland, we co-led a 86-strong Scottish coalition of charities, community organisations and belief groups, against this "New Plan" in a letter to the Prime Minister, which you can find [here](#). The UK government's response arrived in June 2021, and is available [here](#). This "New Plan" is the policy framework that wraps around the [Nationality and Borders Bill](#), which was introduced into the UK parliament in June 2021, and is now at its Committee stage in the House of Lords.

We expect and fear that this Bill will become an Act by May this year. We have opposed this "New Plan" and proposed legislation (often termed the "anti-refugee bill") from the outset. At the Bill's Second Reading in the House of Commons in July 2021, we set out our substantive concerns on the Bill, including on its adverse devolved impacts, with our letter briefing to MPs in Scottish constituencies, which you can find [here](#). In that letter, we articulated how this Bill (a) severs the UK's relationship with the Refugee Convention itself; (b) substituting a refugee punishment regime for the current (flawed but nonetheless extant) refugee protection system; and (c) effectively closes off this asylum route to safety for the vast majority of refugees arriving in the UK, including criminalising de facto, the act of seeking asylum in UK territory.

To be clear, if this Bill passes, it constitutes a complete break with current and past policy that has, fundamentally been moored to the Refugee Convention and related international legal instruments. In that sense, this Bill constitutes a new nadir in UK refugee policy and law. We urge this Committee and indeed, the wider Scottish parliament to fully grasp that fact and its grim implications for prospective and current refugees in the UK and here in Scotland. These implications include, but are not confined to, (a) criminalisation with at least 12 months or at most 4 years in prison, with the knock-on effect that for those so criminalised who were actually trafficking survivors too, then they would, unless Scottish Ministers prevent this through devolved trafficking regulations, such persons will also be disqualified under the Bill from access trafficking support and assistance in Scotland – a double injustice, and a triple one if they are subsequently deported by the UK government; (b) placement possibly indefinitely in institutional holding accommodation akin to detention with (i) no right to work, (ii) no choice over food and nutrition and (iii) little to no financial

support; through to (c) no prospect of Refugee leave and a route to settlement, rather the Bill's "Group 2" refugees (please note the dehumanising marker) will if the Home Secretary cannot remove or offshore them, only get up to 2 ½ years temporary leave to remain, with a constant latent threat of sudden removal traumatising those with such diminished leave.

Aside from these direct impacts, there are clear and severe indirect consequences stemming from this "New Plan" and the Bill when passed. In particular, that unless mitigation is strengthened and adequately resourced, there will be increased [destitution](#) and therefore more exploitation. We foresee that in driving vulnerable people to the margins that means more people undocumented, rendering them with little routes out of precarious existences. We fear also that [loss of life](#) will happen, probably in silence, and that is a further damning indictment of the dehumanising approach and effect of this "New Plan" and the associated Bill. Basically, the proposed legislation could not have been better drafted than by traffickers themselves. These are all grave and foreseeable implications and they will, left unchallenged in Scotland and in the rest of the UK, be realised from later this year including in and across Scotland, exerting severe impact on devolved competence and services.

In that vein, with JustRight Scotland, we instructed Christine O'Neill QC and Brodies LLP to provide a legal Opinion on the devolved impacts of the Bill on Scotland. We wanted to get clarity, in so far as that is possible in the inherently grey area between reserved and devolved law and policy and their respective purpose and effects. From that clarity we would seek to recommend where devolved competences may be directly infringed and hence where Scottish parliament consent could be withheld, and corresponding Scottish legislation introduced to protect refugees and trafficking survivors from the worst of this Bill. Additionally, from that clarity we could recommend where devolved policy would be impacted and again, how existing and new Scottish strategies could be strengthened in order to mitigate the adverse impacts on people and devolved services.

So, the Instruction sought legal Opinion on the devolved impacts of the Bill's provisions on (a) human trafficking; (b) differential treatment for refugees; (c) age assessment; (d) criminal offences especially the new "unlawful arrival" offence that immediately renders all those who arrive in the UK irregularly as liable to this offence; and (e) access to justice, legal aid and the Scottish courts. We strongly recommend that Members read first, the Scottish Refugee Council & JustRight Scotland joint advocacy briefing that draws upon the legal Opinion, and then consider the Opinion itself with its Cover note. You can find these three documents [here](#), and they are also attached for ease of reference. In the joint advocacy briefing, which to reiterate draws upon but is distinct from the legal Opinion, Scottish Refugee Council & JustRight Scotland set out ten recommendations for Scotland to take to prevent and mitigate the worst effects of this Bill. These ten recommendations included ...

1. For Scottish parliament to expect that Scottish ministers will furnish it with a critical and expansive Legislative Consent Memorandum, and for the Scottish parliament to then withhold consent to relevant provisions in the Legislative Consent Motion;

2. For Scottish ministers to maximise protections for victims of trafficking who will be adversely affected by the Bill by working with the anti-trafficking and human rights sector to use their powers under section 9(8)&(9) of the Human Trafficking and Exploitation (Scotland) Act 2015. In particular, we urge Scottish ministers to use these regulation powers to institute an independent Scottish identification responsibility, so all presumed or confirmed trafficked exploitation survivors in Scotland are identified, supported and assisted here, for the purpose of recovery from their abuses. That is an end-to-end Scottish anti-trafficking system, from identification to support and decisions on survivor status. This is all within devolved competence;
 3. For Scottish ministers to undertake a full review of flagship Scottish government strategies and relevant Scottish legislation, including in particular: New Scots refugee integration, the Ending destitution together and the Ending homelessness together policies as well as the national plans on Violence against women and girls and Mental health. This is all with a view to act within devolved areas of competence to prevent and mitigate the harmful impacts of the Bill, and the review should also consider the adequacy of resourcing of these policies and strategies;
 4. For Scottish ministers to commit to ensuring that the planned Scottish human rights legislation provides an explicit commitment to upholding the rights of refugees and migrants in Scotland, alongside other commitments to create specific human rights provisions where no international treaty exists; and
 5. For the Lord advocate to provide clear, human rights-compliant Instructions to police and prosecutors on interpreting the public interest with regard to criminal offence provisions in the Bill, especially that relating to “unlawful arrival”. These instructions should convey a clear understanding of patterns of need and vulnerabilities within those who necessarily arrive by irregular means to the UK. These recommended Lord advocate Instructions should draw upon the existing Policy guidance on non-prosecution of refugees for entry-related offences, as well as connect with and be mutually complementary to the Lord advocate’s Instructions on human trafficking.
2. *Real crisis in asylum system of (a) chronic slowness and bulging backlog of asylum decisions, leaving people in limbo, exacerbated by inadmissibility procedure and (b) unaccountable, harmful and expensive shift to institutional asylum accommodation*

In November 2021, the Chief Inspector of Borders and Immigration, published its [report](#) into Home Office asylum casework. Our response is [here](#). At a time of dangerous and impracticable ideas and policies, such as pushbacks at sea or offshore processing of claims, being mooted by the Home Secretary and those around her, this inspection report laid out in understated language where the actual asylum crisis is. The inspection report detailed (a) a decisions system riven by delays; (b) with staff morale low, attrition high and incompetent, and insensitive interviews too frequent; and (c) with limbo for refugees waiting, unable to move on.

Aside from being an undervalued and traumatic system, for both asylum applicants and workers, this dysfunction in asylum decisions costs money that would be better invested in early intervention and swifter and cogent decisions. The Home Office know this but its action at Ministerial level is persistently insufficient, albeit officials do better understand the issues. The present backlog of 83,733 people waiting for an initial decision is the highest since 2000, when it was 94,500. And, the 56,520 individuals waiting 6 months or more for an initial decision, as at end of September 2021, is the largest number since the current asylum support and dispersal system took effect, also in 2000. These delays have worsened throughout the last decade: in September 2011 there were 3,255 people waiting at least 6 months for an initial decision, and then at two-yearly intervals this 6 month delay cohort were 7,570 (2013) and 4,903 (2015), but then 14,399 (2017) to 26,155 (2019) and up again to 56,520 (2021). This trend of delays is not explicable by asylum applications. In the same years, the number of asylum applications were 25,898 (2011), 29,875 (2013), 39,968 (2015), 34,435 (2017), 45,537 (2019) and 34,534 (Q1-Q3, 2021). Furthermore, the number of initial asylum decisions being made by the Home Office each year has dropped by more than 40% over the last five years, and as British Red Cross rightly state [here](#): these increases are “not only due to the impact of Covid-19, as between March 2018 and March 2020 there had already been a 134% increase in people waiting more than six months for an initial decision”. Please find more detail [here](#).

The need for the Home Office to start to seriously address the chronic slowness in its protection decisions is especially vital, in advance of a Nationality and Borders Bill that when brought into effect will, we fear, further increase not reduce the backlog of pending cases. Indeed, through its inadmissibility procedure, this is already happening. That wider picture is that (a) senselessly in terms of policy; (b) cruelly in its impact on people seeking protection and certainty to rebuild their lives; and (c) at needless additional expense to the Exchequer, the Home Secretary is ploughing on not only with the “New Plan” and the Nationality and Borders Bill as critiqued above, through inadmissibility procedure some of which is already being implemented and the Bill will merely cement such practice. Notably, from January 2021 increasing numbers of asylum applicants are being routed into the Home office’s inadmissibility procedure. That is worsening not remedying the endemic problems in asylum decisions. In particular, via application of these rules to consider such applications as potentially inadmissible to the UK system. In the absence of – thankfully – readmission agreements or offshore processing to remove applicants, the Home Secretary is issuing Inadmissibility notices of intent, which “park” that application for at least 6 months, at the end of which it simply moves into a bulging decisions backlog. As at end of September, 6,598 notices had been issued since January 2021, only 10 led to removals, with 2,126 since admitted to the asylum procedure. The Nationality and Borders Bill will cement use of this senseless, cruel and expensive inadmissibility procedure, adding not reducing the delays in asylum decisions. This malaise in decisions is the actual crisis in the system.

Another aspect of the real crisis in the asylum system is the exponential growth and, plainly wilful policy shift by the Home office to stop accommodating people seeking asylum within communities, and instead place them into so-called “contingency” asylum accommodation. Unpublished Home office data as at end of 2021, reported that over 25,000 people were in institutional “contingency” accommodation, which is

typically ex-hotels or ex-military barracks like Napier institutional accommodation in Kent. We estimate that there are at least 230 such institutional accommodation sites in the UK. In July 2020, the [National audit office](#) showed that in autumn 2019 around 1,000-1,500 people were routed into such “contingency” accommodation, so it has increased exponentially. As noted above, accommodation centres are to become the norm of where people seeking asylum are to be housed, via provisions in the Nationality and Borders Bill. Our clear view is that the Home office are already implementing this policy and as with the inadmissibility procedure, the new legislation will cement what is already being laid out across the UK by its accommodation contractors. Additionally, there is growing evidence that the Home office are implementing, in conjunction with their accommodation contractors, a “fait accompli” practice, whereby they reach agreement with private hoteliers, and only then tell the local authority and health services they have done such, putting the council and local communities unfairly and needlessly on the back-foot. This is irresponsible. A proper way to act would be to consult and liaise with the local authority and to respect their views and knowledge, towards a genuine partnership to support new arrivals in appropriate accommodation in communities (not these institutional accommodation sites). And, thereby respect local communities and impacts on services also.

It is our understanding that such pre-procurement consultation is not happening across the UK including in Scotland. Since October 2021, and despite the tragedies in Glasgow in 2020 where some people lost their lives in institutional asylum accommodation that related in part to Mears Group’ “en masse” moves of over 300 people who were in settled community based housing, into ex-hotels in the city, and all in the first three weeks of the original Covid-19 lockdown, when there were strict rules against non-essential travel. Despite that, the Home office would appear not to have learnt lessons as they have now apparently applied this “fait accompli” practice in Falkirk, South Lanarkshire, Aberdeen City, Perth and Kinross and Edinburgh (and potentially Dundee also), with the result that approximately 500 people have been moved into institutional “ex-hotel” asylum accommodation, with no consent sought or got from the local authority nor any direct funding either. This is wrong. We urge Members and Scottish Ministers to explore all possible options to force the Home office to take the responsible approach in terms of housing, in Scotland, people in communities not institutions, and to do that on the basis of partnership and agreement, not this unfair “fait accompli” practice. We are also concerned that greater use of such institutional accommodation may entail undue commercial [profits](#). Further detail of our wider policy positions and evidence against institutional “contingency” accommodation is [here](#).

Finally, please find attach a recent briefing on issues around the tragic and traumatic situation in Afghanistan, and we would welcome speaking on this issue at Committee evidence, plus on issues around unaccompanied refugee children & young people.

I hope this is all helpful.
Graham

Graham O’Neill
Policy Manager
Scottish Refugee Council

Note on need to focus on real crisis in asylum system: (a) chronic systemic delays in decisions and inadmissibility procedure, resulting in (b) limbo for refugees and (c) preventable asylum support costs, with possible start of solution as (d) a simplified refugee status determination procedure (retaining safeguards) for swifter refugee status grants for manifestly well-founded claims from high recognition nationalities

1. The Chief Inspector of Borders and Immigration, recently published its report into Home Office asylum casework. Our response is here. At a time of dangerous and impracticable ideas and policies, such as pushbacks at sea or offshore processing of claims, being mooted by the Home Secretary and those around her, this inspection report laid out in understated language where the actual asylum crisis is. Including (i) a decisions system riven by delays; (ii) with staff morale low, attrition high and incompetent, and insensitive interviews too frequent; and (iii) with limbo for refugees waiting, unable to move on. This dysfunction costs money, better invested in swifter and cogent decisions. The Home Office know this but its action at Ministerial level is insufficient, albeit officials may better understand the issues. The need for the Home Office to start to seriously address the chronic slowness in its protection decisions is especially vital, in advance of a Nationality and Borders Bill that when brought into effect will, we fear, increase not reduce the backlog of pending cases.

2. Senselessly in terms of policy; cruelly in its impact on people seeking protection and certainty to rebuild their lives; and at needless expense to the Exchequer, the Home Secretary is ploughing on with a New Plan for Immigration and a Nationality and Borders Bill, some of which is *already being implemented*. It is worsening not remedying the endemic problems in asylum decisions. In particular, via application of rules to consider or deem new asylum applications inadmissible to the UK system. In the absence of any removal agreements or offshore processing, the Home Secretary is issuing Inadmissibility notices of intent, which “park” that application for at least 6months, at the end of which it simply moves into a bulging decisions backlog. As at end of September, 6,598 notices had been issued since January 2021, only 10 led to removals, with 2,126 since admitted to the asylum procedure.

3. This rest of this note points to **two** aspects of a dysfunctional asylum decisions system. The Home Secretary should be made more accountable to deal with these, especially in scrutinising the Nationality and Borders Bill that will, in our estimation, add to not reduce the delays in asylum decisions. The **first** part is this *system-wide chronic slowness in asylum decisions*. The present backlog of 83,733 people waiting for an initial decision is the *highest* since 2000, when it was 94,500. And, the 56,520 individuals waiting 6months or more for an initial decision, as at end of September 2021, is the *largest* number since the current asylum support and dispersal system took effect, also in 2000. These delays have worsened throughout the last decade: in September 2011 there were 3,255 people waiting at least 6months for an initial decision, and then at two-yearly intervals this 6month delay cohort were 7,570 (2013) and 4,903 (2015), but then 14,399 (2017) to 26,155 (2019) and up again to 56,520 (2021). This trend of delays *is not explicable* by asylum applications. In the same years, the number of asylum applications were 25,898 (2011), 29,875 (2013), 39,968 (2015), 34,435 (2017), 45,537 (2019) and 34,534 (Q1-Q3, 2021).

4. The table immediately below sets out the *breadth* of the chronic slowness in the asylum decision system. These delays appear systemic, in the sense they affect people apparently irrespective of refugee recognition rates. For example, there are relatively high numbers of individuals waiting 18months or more for just an initial asylum decision across *high* (Iran, Vietnam, Afghanistan); *medium* (Iraq, Pakistan) and *low* (Nigeria, Sri Lanka) recognition nationalities. Significant numbers of those caught in the 6months or more group of 56,520, are from high to medium refugee recognition countries, as measured by Home Office refugee grant rates in 2019 (“high to medium” here ranges from 95% {Libya} to 61% {Malaysia} positive grant rates). For instance, the five highest refugee recognition nationalities account for 9% (5,111) in this 6months-plus group, rising to 23% (13,236) for the top ten recognition nationalities, and up to 37% (21,172) for the top 18 nationalities, which encompasses all the countries in the “high to medium” positive grant rate spectrum below.

Note on need to focus on real crisis in asylum system: (a) chronic systemic delays in decisions and inadmissibility procedure, resulting in (b) limbo for refugees and (c) preventable asylum support costs, with possible start of solution as (d) a simplified refugee status determination procedure (retaining safeguards) for swifter refugee status grants for manifestly well-founded claims from high recognition nationalities

Nationality	Grant rate (2019)	Nos., wait 6m-plus at Sep.18	% change	Nos., wait 6m-plus at Sep.19	% change	Nos., wait 6m-plus at Sep.20	% change	Nos., wait 6m-plus at Sep.21	Inadmissible notice of intent	Nos., wait 6-12m ¹ for initial dec.	Nos., wait 12-18m ² for initial dec.	Nos., wait 18m ³ for initial dec.
1.Libya	95%	271	116%	587	-1%	583	5%	613	53	107	67	120
2.Saudi Arabia	93%	13	200%	39	226%	127	-11%	113	0	14	9	58
3.Syria	92%	151	194%	444	144%	1,086	54%	1,682	513	663	395	279
4.Yemen	91%	31	170%	84	253%	297	53%	457	60	118	149	86
5.Eritrea	90%	455	93%	882	61%	1,424	57%	2,246	1,110	873	782	446
6.Sudan	89%	722	12%	812	36%	1,111	47%	1,636	589	510	665	363
7.Turkey	87%	289	55%	450	118%	985	27%	1,257	41	201	144	438
8.Russia	86%	74	106%	153	133%	358	37%	490	14	78	51	121
9.Uganda*	77%	63	146%	155	47%	228	-5%	217	0	44	36	119
10.Iran	74%	584	171%	1,587	147%	3,932	15%	4,525	867	1,470	1,025	1,589
11.Somalia	73%	193	36%	264	68%	445	9%	485	54	106	71	237
12.El Salvador	72%	17	788%	151	536%	961	26%	1,213	307	312	7	302
13.Occ.Pal.Ter.*	71%	103	64%	169	29%	218	47%	320	45	67	69	119
14.Vietnam	70%	843	59%	1,342	79%	2,401	5%	2,520	591	493	297	1,573
15.Kuwait	70%	137	23%	169	46%	246	35%	331	62	84	48	55
16.Afghanistan	69%	1,204	15%	1,387	51%	2,098	18%	2,470	278	561	482	1,051
17.Cameroon	67%	61	202%	184	57%	289	0.7%	291	0	61	40	165
18.Malaysia	61%	50	292%	196	57%	308	-0.6%	306	0	47	28	189
19.Egypt	54%	118	72%	203	81%	368	36%	500	65	134	88	155
20.DRC*	51%	113	7%	121	27%	154	3%	158	0	20	9	97
21.Ethiopia	49%	216	45%	314	18%	371	35%	501	105	110	128	212
22.Iraq	47%	1,191	92%	2,292	59%	3,637	26%	4,585	627	794	725	1,646
23.Pakistan	46%	1,164	73%	2,019	58%	3,187	10%	3,493	42	556	379	1,728
24.Morocco*	43%	49	96%	96	110%	202	27%	257	9	52	46	117
25.Kenya*	41%	77	75%	135	68%	227	28%	291	0	36	65	151
26.The Gambia°	35%	60	17%	70	81%	127	61%	204	5	50	32	181
27.Nigeria	32%	986	13%	1,119	45%	1,618	29%	2,085	0	301	199	715
28.Sri Lanka	32%	600	26%	755	60%	1,210	2%	1,234	17	128	107	734
29.Zimbabwe	28%	96	90%	182	62%	294	10%	324	0	38	38	195
30.Namibia	27%	53	243%	182	198%	543	13%	613	0	99	46	326

¹ Main applicants only, Home Office FOI data 67183, as at September 2021

² Ibid

³ Ibid

Note on need to focus on real crisis in asylum system: (a) chronic systemic delays in decisions and inadmissibility procedure, resulting in (b) limbo for refugees and (c) preventable asylum support costs, with possible start of solution as (d) a simplified refugee status determination procedure (retaining safeguards) for swifter refugee status grants for manifestly well-founded claims from high recognition nationalities

5. The **second** part of this chronic slowness in asylum decisions is the *lack of priority given by Ministers to practical solutions*, such as consideration for a simplified procedure that is *within not outside* the asylum procedure, for protection applicants from countries that the Home Office commonly recognise anyway as refugees; albeit too often it takes years not months. Instituting a simplified procedure, but only if there is no loss of substantive or procedural safeguards, alongside scrapping the use of Inadmissibility notices of intent, can start to make overdue and sustained inroads into the bulging backlog. For people desperate to get on and rebuild their lives in the UK. For the Exchequer, in not passing millions of pounds to private companies. For the public to help restore credibility to asylum decisions, via swifter grants of leave. *Such practical solutions can be effective where the proposed legislation will not.*

6. A simplified, swifter decision procedure for manifestly well-founded applications is not a substitute for each person having their claim considered on its own basis. But, it may help to triage, streamline and reduce delays. So long as key safeguards are not removed, it starts to enable progress, *via refugee leave grants*, into this backlog in a manner that maintains the integrity of decisions whilst recognising patterns of persecution in certain countries. To be clear, for us, the chronic slowness in Home Office decisions *is the real-world crisis* in the asylum system. The numbers of new asylum applications year-on-year are relatively low, in UK terms and with comparable European nations. They are manageable if the political will was there. There is no credible reason why the Home Office have let matters slip so badly, especially since 2014, such that the latest figures are of 83,733⁴ waiting for an initial decision, 56,520⁵ of which are stuck for 6months or more. Many are from UK-high recognition countries e.g. 3,796 Afghans, and rising, are awaiting even just an initial decision.

7. The next table is to further pinpoint the malaise in the Home Office asylum decision system. It does so through reference to the *volume and trend* of UK-high refugee recognition nationalities being affected by these delays, *in not getting even just an initial decision*. No one should have to suffer *such chronic and worsening delays* that long pre-date Covid-19, and have been aggravated by it. *It seems absurd and expensive that people from high refugee countries are suffering in this malaise too.* The table is structured by the sixteen nationalities in the UK with the highest UK refugee recognition rates. I used the estimated final grant rate official figures for 2019, to arrive at these nationalities. This was to strike a balance between a sufficiently recent but still decent-sized dataset on final decisions. I opted for those nationalities at around 70% or more positive grant rates, so starting with Afghanistan at 69% up to Libya at 95%. The rest of the figures are either from (a) the latest official statistics for year ending September 2021 and (b) from the attached Home Office FOI data that sets out the timeline of main applicants awaiting an initial decision, disaggregated by nationality. The numbers in the table below refer to main applicants plus dependents unless otherwise specified, in which case it will be referenced as main applicants. The figures reflect chronic delays in decisions.

⁴ Main applicants and dependents

⁵ Ibid

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Nationality	Grant rate (2019)	Nos., wait 6m-plus at Sep.18	% change	Nos., wait 6m-plus at Sep.19	% change	Nos., wait 6m-plus at Sep.20	% change	Nos., wait 6m-plus at Sep.21	Inadmissible notice of intent	Nos., wait 6-12m ⁶ for initial dec.	Nos., wait 12-18m ⁷ for initial dec.	Nos., wait 18m+ ⁸ for initial dec.
1.Libya	95%	271	116%	587	-1%	583	5%	613	53	107	67	120
2.Saudi Arabia	93%	13	200%	39	226%	127	-11%	113	0	14	9	58
3.Syria	92%	151	194%	444	144%	1,086	54%	1,682	513	663	395	279
4.Yemen	91%	31	170%	84	253%	297	53%	457	60	118	149	86
5.Eritrea	90%	455	93%	882	61%	1,424	57%	2,246	1,110	873	782	446
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8.Russia	86%	74	106%	153	133%	358	37%	490	14	78	51	121
9.Uganda*	77%	63	146%	155	47%	228	-5%	217	0	44	36	119
10.Iran	74%	584	171%	1,587	147%	3,932	15%	4,525	867	1,470	1,025	1,589
11.Somalia	73%	193	36%	264	68%	445	9%	485	54	106	71	237
12.El Salvador	72%	17	788%	151	536%	961	26%	1,213	307	312	7	302
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15.Kuwait	70%	137	23%	169	46%	246	35%	331	62	84	48	55
16.Afghanistan	69%	1,204	15%	1,387	51%	2,098	18%	2,470	278	561	482	1,051
								Total =20,575		=5,701	=4,297	=6,956
										Total =16,954		

8. Applications for refugee protection from nationals (including dependents), from these sixteen countries account for 37,133 (44%) of the total 83,733 awaiting an initial decision. 20,575 of this 37,133 have been waiting for at least 6months, which is 25% of all outstanding applications and 36% of the 56,520 awaiting an decision for 6months or more. Those 20,575 from these sixteen high recognition countries waiting 6months or more, comprise 16,954 main applicants and 3,621 dependents. Substantial numbers of which are waiting at least 12months (4,297) or 18months (6,956) for just an initial decision, despite applying from UK-high refugee recognition countries. *Swifter grants of Refugee leave for these persons can start to reduce the bulging backlog.*

9. Earlier when detailing the actual crisis in asylum, namely the Home office's chronic slowness in making initial decisions, we noted "the Home Secretary ploughs on with a New Plan for Immigration and a Nationality and Borders Bill, some of which is *already being implemented*. It is worsening not remedying the endemic problems in asylum decisions ... via application of rules to consider or deem new asylum applications inadmissible to the UK system ... [with]

⁶ Main applicants only, Home Office FOI data 67183, as at September 2021

⁷ Ibid

⁸ Ibid

Note on need to focus on real crisis in asylum system: (a) chronic systemic delays in decisions and inadmissibility procedure, resulting in (b) limbo for refugees and (c) preventable asylum support costs, with possible start of solution as (d) a simplified refugee status determination procedure (retaining safeguards) for swifter refugee status grants for manifestly well-founded claims from high recognition nationalities

the Home Secretary issuing Inadmissibility notices of intent, which “park” that application for at least 6months, at the end of which it simply moves into a bulging decisions backlog”.

10. This table is again structured by the sixteen UK-highest refugee recognition nationalities, as at 2019 grant rates. It covers the Inadmissibility procedure from January to September 2021. There are four phases: (a) consideration for Inadmissibility; (b) potential issuing of a Notice of intent; (c) possible service with a Decision; and (d) either (i) if served with such a Decision, possible removal or (ii) moved onto the asylum procedure. This analysis draws on Home office FOIs. That data disaggregates published statistics on Inadmissibility, by nationality, sex, and age, for main applicants plus dependents. It reflects an unworkable procedure, as prior evidenced here and here. Far from helping deal with the chronic slowness in asylum decisions, this regime adds more delay.

Nationality	Grant rate (2019)	1. Considered for Inadmissibility	2. Notice of intent to investigate	3. Inadmissibility decision ⁹	4a. Removed ¹⁰	4b. Moved onto asylum procedure	Already waiting for an initial asylum decision	Have been waiting 6months or more for an initial decision
1. Libya	95%	53 <i>of which</i>	52	None	None	26	844 <i>of which</i>	613
2. Saudi Arabia	93%	0	N/A	N/A	N/A	N/A	175 “	113
3. Syria	92%	528 “	513	None	None	199	3,362 “	1,682
4. Yemen	91%	60 “	59	None	None	13	677 “	457
5. Eritrea	90%	1,087 “	1,110	27	None	246	5,777 “	2,246
6. Sudan	89%	610 “	589	None	None	110	3,060 “	1,636
7. Turkey	87%	41 “	23	None	None	8	1,660 “	1,257
8. Russia	86%	14 “	12	None	None	6	629 “	490
9. Uganda*	77%	0	N/A	N/A	N/A	N/A	240 “	217
10. Iran	74%	960 “	867	None	None	388	9,111 “	4,525
11. Somalia	73%	54 “	51	None	None	9	828 “	485
12. El Salvador	72%	336 “	307	None	None	59	1,727 “	1,213
13. Occ.Pal.Ter.*	71%	47 “	45	None	None	8	458 “	320
14. Vietnam	70%	609 “	591	None	None	164	3,765 “	2,520
15. Kuwait	70%	64	62	None	None	10	844 “	331
16. Afghanistan	69%	301 “ = 4,764 (68% of 7,006)	278 = 4,559 (65% of 6,998)	None	None	104 = 1,350 (63% of 2,126)	3,976 “	2,470

* Grant rate (2018) and ° Grant rate (2017) – as equivalent % figures not available for these countries for 2019

Graham O’Neill, Policy Manager, Scottish Refugee Council, 4 January 2022

⁹ There have been only 46 decisions to render persons inadmissible to the UK asylum procedure, 27 of which were served on Eritrean nationals, the rest being across approximately ten states

¹⁰ There have been only 10 removals through this Inadmissibility procedure, affecting nationals from approximately six countries – all from Home Office FOI data 67180, as at September 2021

Debate in Scottish Parliament on Supporting the People of Afghanistan – 2 September 2021

Key messages

- The UK Government must institute and frontload a cross-government comprehensive Afghan refugee safety plan, comprising relocation, resettlement and asylum routes to safety. This must include partnership with devolved and local government and charities and communities. It must be person-centred, properly funded and with integration for Afghans.
- The UK Government must institute an expedited process to fast-track existing Afghan asylum applications in the UK, in order to swiftly grant Refugee leave, and trigger family reunion rights, which should be extended beyond spouses and children under 18. There should be no immigration returns to Afghanistan, nor asylum support cessations or evictions of Afghans.
- The UK Government must scrap its Nationality and Borders Bill in terms of its asylum and criminalisation provisions, in particular. This Bill severs, after 70 years, the UK's relationship with the Refugee Convention, instituting a refugee punishment regime in its place. This will close off the asylum route to safety for refugees, including to Afghans fleeing the Taliban.

Background

1. Afghanistan is in a humanitarian, displacement and refugee crisis. The human rights situation is grave, as is security as the terrorist attack at Kabul Airport reconfirmed. After withdrawal of international troops, any socio-economic stability and human rights have rapidly deteriorated. The Taliban has taken control of an increasing number of districts, provincial capitals and now Kabul. The desperation of so many people across the country, and the chaos evident at Kabul Airport in particular, convey the searing reality of refugee flight. People have to make survival decisions, often life or death ones. Irregular routes are often the only way out of immediate danger. Unauthorised arrival is frequently the only way into countries of refuge, especially those with few or no safe routes in. The Refugee Convention treats such unofficial routes into countries of asylum, often via irregular means, with equanimity to official channels.

2. The UK Government has been in Afghanistan for at least 20 years. As the Prime Minister said, it owes a debt of gratitude to many Afghans. However, gratitude is not commensurate with the severity of threat facing people in Afghanistan now: death, terrorism, systemic human rights violation, especially sexual violence and gender discrimination. Widespread, severe poverty aggravated by this crisis. People in Afghanistan today - especially women, girls and religious minorities systemically targeted in the past by the Taliban as well as those who worked or have connections with the US-led coalition military forces – they all desperately need safety and quickly.

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First phase of protection: emergency evacuation – “Operation Pitting”

3. Evacuations out of Kabul Airport became a priority for the UK government, since 13 August. By its conclusion on 29 August, Operation Pitting had successfully evacuated approximately 14,543 people including around 4,000 British citizens, and 8,000 Afghans via the Afghan Relocations and Assistance Policy (ARAP), and emergency evacuation of Afghans who are at particular risk and who are to be classed under the Afghan Citizens’ Resettlement Scheme. This Operation has saved many lives with inspiring courage by Afghans and the US and UK armed forces, 13 of whom tragically died in the terrorist attack at Kabul Airport. They were part of the at least 175 people who lost their lives in the attack, mainly Afghans civilians and three British nationals. Our thoughts and sympathies are with each one of them, and their families and friends.

4. Now this first phase of protection, the evacuation, has ended, it is imperative that the UK Government with neighbouring countries, UN agencies and humanitarian NGOs, starts its second phase. This must comprise life-saving humanitarian aid to Afghan refugees and the internally displaced. It should also mean the UK Government puts its full weight, as it has promised, to reach and protect all Afghans eligible for its relocation or, in the future, resettlement programmes, who have been left behind or are the most vulnerable. In addition, the UK Government must ensure its asylum procedure remains open to all persons, including Afghans fleeing the Taliban and groups like Islamic State in Khorasan Province (ISIS-K). That requires the Home Office to grant refugee protection to Afghans seeking asylum in the UK and who arrive, often necessarily, through irregular or unofficial routes. That in turn means scrapping the asylum and criminalisation provisions in the Nationality & Borders Bill (the N&B Bill). Otherwise, the asylum route to safety closes down, including to Afghans.

Second phase of protection? UK Government promises to Afghans must be honoured

5. The Defence Secretary, Ben Wallace MP, expressed “deep regret” at not being able to get all British citizens or Afghans eligible under ARAP out of Kabul. The UK Government estimates those left behind may be up-to 1,250 persons. This estimate is contested and there may be many more left behind. Mr Wallace added: “We will continue to honour our debt to all those who have not yet been able to leave Afghanistan. We will do all that we can to ensure they reach safety.” Prime Minister, Boris Johnson MP, also promised: “As we come down to the final hours of the operation [Pitting], there will also be people who haven't got through, people who might qualify (for resettlement). What I say to them is that we will shift heaven and earth to help them, we will do whatever we can.” These promises must be honoured. The stakes are so high for those in or fleeing Afghanistan. We hope the Prime Minister and UK Government including the Home Secretary, do not let them down.

Responsibility-sharing must be fulfilled by the UK, given scale of crises in and around Afghanistan

6. UNHCR estimates that, presently, there are 3.5m people internally displaced in Afghanistan, with 550,000 since the start of 2021 alone. 80% of those displaced are women and children. At the end of 2020, there were 2.6m Afghan refugees globally: 85% or 2.21m of which are in the neighbouring countries, Iran and Pakistan. These numbers are likely to increase rapidly. On 27 August, UNHCR published its Regional Refugee Preparedness and Response Plan. Its worst-case scenario was of 500,000 Afghan refugees arriving in neighbouring countries by the end of 2021. On the same day, there were reports of “unprecedented” refugee flows from Afghanistan to Pakistan. At one border crossing, Spin Boldak / Chaman, 20,000 refugees are crossing every day, a threefold increase from the normal 6,000 that go through this border crossing, and that is generally for work and trade purposes.

Debate in Scottish Parliament on Supporting the People of Afghanistan

7. At the end of 2020, UNHCR also estimated the UK had 9,000 Afghan refugees. In June 2021, there were 3,213 asylum applications pending decision or further review in the UK, from Afghan nationals¹. The UK Government's first Afghan relocation scheme, eligible to certain locally employed staff (with immediate family) who worked with the UK and its armed forces in Afghanistan, had from 2010 to 12 August 2021 – the day before Operation Pitting started - relocated only 3,100 persons. It is noteworthy that 8,000 were relocated and evacuated by the UK military in 2 weeks, whereas the Home Office managed only a third of that in a whole decade. In total, there are around 23,100 Afghans either granted or seeking refugee protection in the UK, or relocated here. That means the UK have only 0.89% of the world's 2.6m Afghan refugees. In that context, the UK Government must be far more ambitious in its targets for the Afghan citizens' resettlement scheme, as 5,000 in the first year and, 15,000, perhaps, in the "long-term" is not commensurate with the scale of this crisis nor with the resources and responsibilities of the UK.

Clear and present danger to all refugees, including Afghans, of the Nationality and Borders Bill

8. The humanitarian, displacement and refugee crisis in Afghanistan also carries a wider message of the implications and, frankly, the cruelty and wrong-headedness of the UK Government ploughing on with the N&B Bill. That draft legislation, if passed at Westminster: (a) severs the UK from the Refugee Convention itself; (b) renders the right to asylum of those who necessarily arrive irregularly, inadmissible² leaving those affected in limbo, existing with a constant fear of being removed and no consideration by the Home Secretary of their substantive protection needs; and c) the N&B Bill institutes a refugee punishment regime that effectively separates out people from mainstream society including placement in an accommodation centre or camp and also criminalisation.

9. That means that all those arriving via unofficial routes, including Afghan women fleeing the Taliban, will find themselves liable to arrest and criminal prosecution and imprisonment, including via the Scottish criminal justice system. The Bill systemically denies safety to refugees, including Afghans fleeing the Taliban if entering irregularly, with the UK then penalising them for that mode of travel. The N&B Bill will deny thousands upon thousands of people seeking safety, from refugee status and the chance to build a new and peaceful life. That includes therefore people from countries regarded in the UK asylum system now, as meriting high levels of refugee recognition³ decisions. The list of such countries includes Libya, Yemen, Syria, Eritrea and Afghanistan; albeit the asylum grant rate in the latter was a dreadfully low of 26% in 2020, despite this being when the Taliban were consolidating and advancing. If the N&B Bill passes, then refugee protection through the UK asylum system ends, to be replaced quite egregiously, by segregation and criminalisation.

10. So, therefore, Afghan citizens are now left in a dreadful humanitarian predicament: at home, in neighbouring countries as well as if they were to seek asylum in the UK. The N&B Bill, in effectively closing off the life-saving route of refugee protection that has been open since a Conservative UK Government ratified it in 1954, means that literally tens of thousands of people seeking safety will, instead, be criminalised and punished, with no regard to their fear of oppressive regimes, like the Taliban and others across the world, who are threatening, persecuting or torturing and trying to kill them or their families or colleagues.

11. In the remainder of this briefing, we confine our recommendations to the refugee protection measures, principally relocation and resettlement, and asylum policy that it is in the responsibility and gift of the UK Government to take urgent action in. We do so, as the focus should be on what the UK Government can practically do, now, to help. We also make recommendations on steps the Scottish Ministers and public authorities and charities and communities may take to help Afghans and refugees generally to be safe and rebuild their lives here.

¹ Pivot table – Afghanistan, [ASY_D03](#)

² 4,561 individuals have been issued with an (Inadmissibility) "Notice of Intent" from 1 January to 30 June 2021 ([here](#))

³ Pivot table - [ASY_D04](#)

Debate in Scottish Parliament on Supporting the People of Afghanistan

We need a comprehensive refugee policy, inclusive of but not limited to Afghan refugee safety

12. The UK Government must safeguard protection for refugees, including Afghans fleeing the Taliban. It must do so with a *comprehensive refugee protection policy*, given the scale of the global displacement and refugee crisis that necessarily has some focus at the moment on Afghanistan but also is not at all limited to there. Any refugee protection policy must be wider than one country. It must encompass those who need protection, whether they arrived irregularly or not, from troubled regions and nations across the globe. A comprehensive refugee protection policy needs to have at least three parts: relocation, resettlement and asylum. Family reunion, albeit with its limitations in its UK Government form, is still a crucial right, particularly for women and children, to use for those resettled or given refugee status via the UK asylum system.

Relocation

Afghan Relocation Assistance Policy (ARAP)

13. The UK Government can do a lot to help Afghan refugees. The test is do they have the political will to do so. We urge them to take responsibility and act swiftly to protect refugees, Afghan and others. The intense and rapid acceleration in the Afghan relocation scheme - ARAP - was a direct result of the military-led Operation Pitting. It was not due to the Home Office anticipating and giving the priority needed to Afghans at risk or suffering reprisals from the resurgent Taliban. This Operation has brought a high volume of Afghans from risk to safety, in a matter of 2 weeks. The challenge now is to ensure that there is a person-centred package of integration support, based on suitable accommodation, provided to new arrivals who will be traumatised, but keen to start to build and contribute in their new life in the UK. There are now at least 8,000 new Afghan arrivals in the UK. The Scottish Government has already expressed its desire to help. The UK Government must accept this offer, hold the promised 4 nations summit on Afghan relocation and resettlement as a matter of urgency, and provide sufficient funding - we think at least 2 years of full central government support - to devolved governments and local authorities to organise, provide and commission local authorities and partners to deliver integration support with new Afghan arrivals. Whilst short term (up to 1month) hotel use for quarantine and basic welcome and orientation purposes may be understandable given the volume of new Afghans relocated, as a general rule people should be moved swiftly into longer term residential accommodation. That is crucial for their mental wellbeing and recovery.

Resettlement

Afghan Citizens' Resettlement Scheme

14. The announcement of the new Afghan citizens' resettlement scheme is welcome. It should be a life-saving route to safety. It can prevent the suffering of vulnerable Afghan refugees in temporary camps or in destitution in neighbouring countries. Afghans need this scheme to be adequate to the scale of need. 5,000 in the first year and a promise to resettle 15,000 in the "long-term" is not good enough. For those now in flight from the Taliban, and entering Pakistan to the East, Iran to the West or the central Asian states to the North, those Afghan refugees need help now. Otherwise it may be too late. In line with UNHCR methodology concluding that 10,000 per year is a reasonable target in a UK resettlement scheme, this "bespoke" Afghan programme should aim for around 50,000 Afghan refugees in 5 years, with an effort to front-load arrivals, similar to the Operation Pitting-booster for ARAP relocations, much needed after a decade of Home Office neglect. It would also be sensible for the UK government to integrate planning, coordination with devolved and local governments and charities, and funding for ARAP – together with its global and "bespoke" Afghan resettlement programmes. That will minimise duplication, confusion and prevent wasting resources that are precious and needed most by new Afghan arrivals and the communities

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where they are to live and, hopefully, rebuild their lives in and contribute to. The same principles of person-centred integration support and suitable long-term residential accommodation apply here, as they do with ARAP.

UK global resettlement scheme

15. The UK must also activate its latent *global resettlement scheme* that focuses on the protection needs of some of the most vulnerable refugees in the world. This scheme should be a standing and fully operational part of UK refugee protection policy. It is a failure that the Home Office has left dormant this [UK Resettlement Scheme](#), after the Syrian programme closed in 2020. Such a programme must include but not be confined to Afghans fleeing from the Taliban regime. It must have an annual target, to prevent commitments made today from withering away tomorrow, when events have moved on. This target must reflect the resources in a prosperous country like the UK. [UNHCR estimate at least 10,000 a year is an appropriate resettlement target](#) for such countries. If the Home Office had a functioning global resettlement system, there would have been less need for separate and rushed “bespoke” programmes. Afghan refugees, in coordination with UNHCR, IOM and the UK government could have been more swiftly resettled than is otherwise the case now.

Asylum

Expedite Afghan asylum claims, swiftly grant Refugee leave, and retain the right to asylum in the UK

16. The UK Government has the power to institute an expedited process to swiftly provide all Afghan asylum seekers in or arriving in the UK, with Refugee leave. Circumstances have clearly changed and adversely so, with the Taliban taking widespread control of Afghanistan. Therefore, any expedited process should also encompass those who have been refused asylum, including those on asylum support or who are in detention. Based on the latest available official figures⁴, we estimate such a comprehensive expedited process could provide 3,453 Afghan nationals with Refugee leave. That status would in turn enable Afghan new refugees to exercise family reunion rights and bring over, if applicable, their partner or children, safe from the Taliban. This expedited process may also be open to Afghans who are undocumented who had, historically, been refused protection. The expedited process should be underpinned by bans on enforced returns and, for those in asylum accommodation, evictions. All this must be supported by the urgently needed [Afghanistan: country policy and information notes](#). Recent [media reports](#) indicate that the Home Office are pausing asylum decisions and appeals in Afghan cases. This is gravely concerning as the situation in Afghanistan is clearly unsafe, especially for human rights, and that is unlikely to improve for a considerable time, if at all. People need quick, positive refugee status decisions; not a pause, which prolongs uncertainty.

17. The N&B Bill is a clear and imminent danger to Afghans and, indeed, all refugees. There is visible, determined and united [opposition](#) from Scotland, and many parts of the UK to this. The UK Government’s policy framework for the N&B Bill is its [New Plan for Immigration](#). That was published for consultation on 24 March, ending on 6 May, precisely concurrent with the pre-election “purdah” period for the Scottish Parliament and other devolved and local government elections in the UK. This [shut out](#) a swathe of UK governance from influencing policies and draft legislation that fundamentally change, regressively, the UK’s relationship with refugee protection and asylum responsibilities in particular. The Bill exerts significant and negative impacts on devolved competences and policy. This is notably in refugee integration, anti-destitution, criminal justice and courts, human trafficking, age assessment and access to local authority safeguarding provisions. Scottish Refugee Council have coordinated a coalition against the N&B Bill, since April. This included supporting legal challenges against the public consultation on the New Plan, [responding](#) to the New Plan, as well as [briefing](#) MPs at the N&B Bill’s Second Reading. With [JustRight Scotland](#) we

⁴ [Pivot tables - Afghanistan - ASY D03 and ASY D09](#) and [Pivot table - Afghanistan - DET D02](#)

Debate in Scottish Parliament on Supporting the People of Afghanistan

are instructing expert legal Opinion on the legality and policy implications of the N&B Bill in Scotland. There may be a need for Scottish Government to consider policy to mitigate the worst effects of this N&B Bill. And, to legislate in areas affected by the Bill that may well be in devolved competences anyway, such as responsibility to identify and decide on human trafficking status, for the purpose of providing support and assistance. We urge this Parliament to adopt proactive and detailed scrutiny of the Scottish Government's legislative consent memorandum process vis-a-vis the N&B Bill.

18. Finally, as noted there is an underlying connection between the plights of many fleeing Afghanistan and the N&B Bill. That draft legislation is in its regressive anti-refugee protection clauses, would effectively close off the UK's asylum procedure, to the vast majority of refugees who seek safety in the UK. That will include Afghans, who often, like many refugees from other nations, have necessarily to arrive in the UK via irregular channels. This is not least as the UK has few safe and legal routes open for refugees. Also, as noted, the Refugee Convention regards irregular routes with equanimity to official entry to a territory. That is for the real-world reason that refugee flight is often in an emergency when people are desperate to be safe. The chaos at Kabul Airport has viscerally reminded the world, of that fact. It has reinforced why the Refugee Convention has endured, precisely as it reflects an acute understanding of why people have to leave danger *and* then seek to build new and safer lives. The N&B Bill, in severing the UK from the Refugee Convention, then institutes in its place a *refugee punishment regime* on irregular arrivals seeking safety, including criminalising them, in effect for being refugees. If the Bill passes, refugees including Afghans fleeing the Taliban will be punished too, but this time by the UK Government. Together, we must stop this.

Further information, please contact:

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IN THE HIGH COURT OF JUSTICE
QUEEN’S BENCH DIVISION
ADMINISTRATIVE COURT

CO/ /2021

BETWEEN:

The Queen on the application of

Claimants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

WITNESS STATEMENT OF GRAHAM O’NEILL

I, Graham O’Neill of the Scottish Refugee Council (“SRC”) whose address is 17 Renfield Street, Glasgow, G2 5AH (Registered charity no: SC008639), will say as follows:

1. I am authorised to make this statement on behalf of SRC. I do so in support of the Claimants’ case. I am SRC’s Policy Manager. I have worked with SRC since September 2013.
2. I enclose with this statement a set of documents [**Exhibit GON/#**]. References to these documents include both the exhibit page number and the claim bundle page number (i.e. **GON/#; CB/[#]**). A list of these documents can be found at [**CB/189**], along with page references to where they can be found in the Claimants’ bundle

Scottish Refugee Council

3. SRC is an independent charity established in 1985 dedicated to supporting people in need of refugee protection. SRC has a staff of approximately 70 members of staff as well as volunteers and ambassadors.

Consultation on the new plan for immigration

4. SRC provided a written response to the UK Government’s public consultation on its New Plan for Immigration, which was open from 12.15am, 24 March 2021 to 11.45pm, 6 May 2021. [Exhibit GON/1; CB/287]. Our response was limited to certain areas, in part due to the short timescale to fully digest and develop considered responses to all proposals. The lack of any attempt in the Policy Statement to delineate the intended territorial extent of the proposals made it challenging to prepare properly considered and expert responses on the implications of the Home Office’s proposals for devolved legislation and policy.

5. We decided to submit a written response by email as our considered view was that the online consultation format was not designed for ease of providing meaningful responses - particularly if a respondent were unsupportive of elements in the proposals.

6. I would like to highlight here elements of our response: Paragraph 4(f) – “*Consultation for the New Plan [for Immigration] has been planned and conducted in bad faith*” and Paragraph 5(g) – “*The New Plan [for Immigration] ignores devolution*” and its footnote 6 [Exhibit GON/1; CB/70]. That footnote noted our concern that the UK Government, in consulting on this New Plan for Immigration in the manner it had, did not seem to have adhered to either the letter or the spirit of the final report of the Lord Dunlop *Review of UK Government Union Capability (the Dunlop Review)*, (November 2019)[Exhibit GON/2; CB/819] and in particular the “write-round” process referred to therein, supposed to be operational now. The Dunlop Review described measures to support this “write-round” process as: “*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 seeks to ensure that all officials are conscious of the implications of their policy and helps avoid the three Secretaries of State offices [for Northern Ireland, Scotland and Wales, respectively] or Cabinet Office having to ‘catch’ issues in the write-round process.*” (p15 Dunlop Review) [CB/833].

7. Our response referred to a public joint letter to the Prime Minister, sent on 26 April 2021, by Scottish Refugee Council on behalf of 75 other Scottish charities, community organisations, faith or belief groups [**Exhibit GON/3; CB/706**]. To date, we have not received a response to that letter.

“Deep dive” sessions

8. We received invitations from Britain Thinks to six ‘deep dive’ engagement sessions as part of the public consultation. These invitations came by email at 4.13pm 12 April 2021 to our Chief Executive, Mr Sabir Zazai. There was no additional information attached to that email with policy detail relevant to each roundtable. Given the number of invitations and the short notice provided, we held an internal coordination meeting on 16 April 2021, and agreed which roundtables we were in a position to attend, and who would be able to represent us at the events we could attend.
9. We had very little time to prepare for these roundtables. We did not receive information particular to each session until one or two days before the event. This short timeframe prevented us from consulting effectively with colleagues or those with lived experience.
10. These sessions were facilitated by people from Britain Thinks who presented information mainly from the policy document. They were not able to answer any questions to provide clarity or further details on proposals. This was concerning given the lack of detail in the written document. For example, on page 28 the Policy Statement proposes that:

‘A new ‘one-stop’ process will require people to raise all protection-related issues upfront and have these considered together and ahead of an appeal hearing where applicable. This includes grounds for asylum, human rights or referral as a potential victim of modern slavery. People who claim for any form of protection will be issued with a ‘one-stop’ notice, requiring them to bring

forward all relevant matters in one go at the start of the process. We will introduce new powers that will mean decision makers, including judges, should give minimal weight to evidence that a person brings after they have been through the 'one-stop' process, unless there is good reason.' [Exhibit GON/4; CB/220]

11. I attended the deep dive session on 27 April 2021 on the proposal in the New Plan for Immigration for a One-Stop Process. I raised my concerns about the policy proposal with the facilitator. I expressed concern about how a One-Stop Notice requirement that protection applicants bring all relevant matters and evidence in one go, at the start of the process, was particularly ill-suited for those experiencing serious trauma, for example survivors of sexual violence or trafficked exploitation. The facilitator noted my points and then checked that he had understood them. But, that was the extent of it. There was no explanation of the rationale or of wider thinking behind this proposal, or how it might operate in practice. That meant it was very difficult to have any further meaningful discussions about the proposal and the deep dive session did not advance my understanding of what exactly was being proposed.
12. In addition, we received invitations to four additional 'Technical engagement' events organised directly by Home Office civil servants. No clarity was given why some sessions were organised directly by Britain Thinks and some sessions by the Home Office.

Consultation period and Scottish Pre-election period

13. My overall impression was that the consultation period was, from any reasonable perspective, inexplicably short.
14. The Cabinet Office Consultation Principles 2018 at Section E say that '*consultations should last for a proportionate time in relation to their nature and impact*' [Exhibit GON/5; CB/817]. In the words of the Home Secretary, the 40 or more proposals of the New Plan for Immigration are the: "*most significant overhaul of our asylum system in*

decades.”¹ As such, our view is that the 6-week period is neither adequate nor proportionate.

15. Cabinet Office principles also say that consultations should not ordinarily be run during election periods (section F) [**Exhibit GON/5; CB/817**]. This requirement is further detailed in Civil Service Guidance for devolved administration elections [**Exhibit GON/6; CB/983**] which states that:

“Public consultations with a particular emphasis on devolved, local or PCC issues, or impact on areas where elections are being held, should generally not be launched during the relevant pre-election periods.”

16. The New Plan for Immigration does not state or delineate the territorial extent of its proposals. However, the Civil Service Guidance further states that [**Exhibit GON/6; CB/983**]:

“Departments should also consider extending consultation periods after the election to allow all parties sufficient time to respond. This is particularly important where a consultation will require the participation of the Devolved Administrations or Local Authorities, which are under their own pre-election restrictions during this period.”

17. It should be noted that these were the first Scottish Parliamentary elections following the Scottish Elections (Franchise and Representation) Act 2020 which extended the franchise to include, amongst others, those recognised by the UK Government as refugees: a population that will be significantly affected by the proposal in the New Plan for Immigration.

¹ Exhibit GON/4; CB/190

18. The restrictions on the Scottish Government are clearly set out in Scottish Parliament Election: 6 May 2021 Guidance for the Scottish Government, its Agencies and National Devolved Public Bodies [**Exhibit GON/7; CB/916**] and include the requirement that:

“Decisions on matters of policy on which the next administration might wish to take a different view from the current administration are expected to be postponed until after the election, provided that such postponement would not be detrimental to Scotland's interest or wasteful of public resources.”

19. With the exception of a few hours on 24 March 2021, this consultation ran almost concurrently to the pre-election period for the Scottish Parliament elections: 25 March to 6 May 2021 (inclusive). This effectively prevented the Scottish Government from responding to the consultation.

20. We note that the Scottish Government had been cited as invited stakeholders to three Home Office-led ‘Technical engagements’ during the consultation period. SRC attended these sessions. No Scottish Government officials attended these sessions. We understand this was because of the pre-election period of sensitivity. It is our understanding that Scottish Government officials are required to exercise particular care during such a pre-election period, including by avoiding providing information or views to UK government officials on matters of policy that the next administration may wish to take a different view or position on, from the current one. We further understand that the appropriate decision for Scottish Government officials to take in respect of these “Technical engagements” events was to not attend. The effect of the consultation’s timing was to prevent the Scottish Government from putting forward its position, evidence and insight about the Home Office’s proposals.

21. Many of the proposals in the New Plan for Immigration appear to impinge or impact on matters devolved to the legislative competence of the Scottish Parliament and executive competence of Scottish Ministers. Issues of competence affected by these proposals include, but are not limited to:

- a. identification, assistance and support in Scotland of potential or confirmed survivors of trafficked exploitation;
 - b. entitlements and care available to (i) unaccompanied children seeking refugee protection as Looked after Children (“LaC”) in Scotland for which the Scottish local authority is the Corporate Parent, as well as (ii) families and children with insecure immigration status in need of statutory support for wellbeing including if at risk of destitution;
 - c. arrangements and decision making around age assessments affecting children, which is the responsibility for social workers within the LaC system;
 - d. access to justice and legal processes in Scotland especially to judicial review of Home Secretary decisions, which is in the jurisdiction in Scotland, of the Court of Session; and
 - e. changes in the severity of criminal offences and penalties for entering the UK illegally, carries implications for potential trafficking survivors and refugees in Scotland, who often for good reason, do not have the requisite legal and travel papers nor access to safe and legal routes; and it may often be Scottish agencies working to Acts of the Scottish Parliament, that encounter them.
22. Moreover, there are overarching Scottish policy frameworks that are seriously, and potentially adversely, impacted upon by many of the proposals in the New Plan for Immigration. These include:
- a. “New Scots: Refugee Integration Strategy 2018 to 2022”²;
 - b. “Trafficking and Exploitation Strategy: third annual progress report 2020”³ and
 - c. “Ending Destitution Strategy 2021-2024”⁴
23. The Scottish Government either leads or co-leads each of these strategies and is accountable to the Scottish Parliament, in varying ways, for effective delivery of them.

² [New Scots: Refugee Integration Strategy 2018 to 2022](#)

³ [Trafficking and Exploitation Strategy: third annual progress report 2020](#)

⁴ [Ending Destitution Strategy 2021-2024](#)

24. I think it is unfortunate that the Scottish Government would appear not to have been afforded an effective opportunity, during the consultation period, and prior to the laying of legislation in the UK Parliament, to publicly address the New Plan for Immigration, to provide important insights and evidence on what the New Plan for Immigration may mean for the above strategies and the matters of Scottish devolved competences, including implications for future legislative consent.

STATEMENT OF TRUTH

25. I, Graham O'Neill, believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against any who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

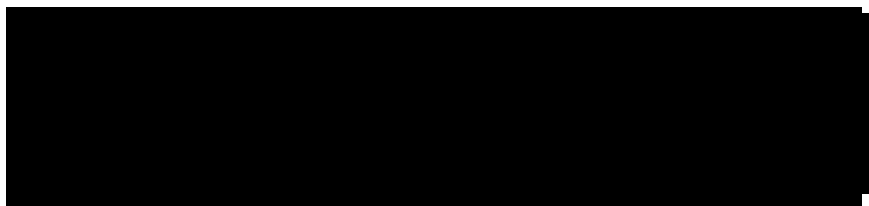
Graham O'Neill

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Date: 28 May 2021

BETWEEN:

The Queen on the application of



Claimants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

LIST OF EXHIBITS TO GRAHAM O'NEILL'S WITNESS STATEMENT

Exhibit	Description	Date	Tab	Doc	Page
1.	SRC response to consultation	06.05.2021	C	30	287 – 367
2.	Dunlop Review	11.2019	E	72	819 – 870
3.	SRC open letter to PM	26.04.2021	C	49	706 – 710
4.	The New Plan for Immigration Policy Statement	24.03.2021	C	23	190 – 238
5.	HMG Consultation Principles 2018	2018	E	71	817 – 818
6.	Cabinet Office Guidance on conduct, May 2021 elections	03.2021	E	78	980 – 989
7.	Scottish Government, Scottish Parliament Election: 6 May 2021, Guidance for the Scottish Government, its agencies and national devolved public bodies	02.2021	E	76	916 - 951



Briefing for Social Justice and Social Security Committee, Scottish Parliament, Feb 2022

About this briefing

In addition to the specific questions and issues to be addressed by the Committee I felt it would be beneficial, given the Scottish Government's commitment to Human Rights to understand some of the ongoing issues regarding Human Rights faced by forced migrants (and to note where applicable where they also effect voluntary migrants) Most of the issues raised lie within the competency of the Scottish Government and current constitutional arrangements. Where they don't, this is made clear.

While Scotland's commitment and leadership in Human Rights is commendable there are still areas that warrant concern. For the purposes of this briefing I have concerned myself with issues which impact on asylum seekers and refugees and also those that at times impact on wider BAME community. They are broken down into several themed areas and start with one which looks at Human Rights issues raised by the pandemic and Government's response. These points are ones identified By Bridges Programmes and other actors in the Third Sector and Civil society who work with asylum seekers and Refugees, as we have been considering Human Rights as part of a response to the upcoming UNs Human Rights "Report Card" on the UK. This shouldn't be considered as a comprehensive or final list.

General

It is clear that many of the barriers to rights facing asylum seekers and refugees in the immigration system are due to the system itself being deeply flawed, and infringing upon people's dignity in the way that it operates. This will be made much worse by the proposals in the new Immigration and Nationality Bill which is of course a reserved matter. However, there is frustration that too often the Scottish Government use devolved competence as an excuse and do not do enough to mitigate the hostile immigration system. The Scottish Government need to use all of its powers to the fullest extent to protect the human rights of people in the immigration system. For example:

- No Recourse to Public Funds is a significant barrier to protecting the economic and social rights of many people. The Scottish Government must systematically find ways of providing the support and services that people need in a way that protects someone's dignity despite this restriction. Several Scottish social security benefits including possibly the Scottish Child Payment, are not available for people with No Recourse to Public Funds.
- Asylum seekers are excluded from free travel for under 22-year olds – this should be addressed.



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- Devolved services should not ask for proof of immigration status before you get access to the service, because this should not be a barrier to services. Even the fear that services may share details with the immigration system puts people off from accessing services that are vital to their health. This has recently been an issue identified in relation to low uptake of vaccines and boosters amongst the Asylum and Refugee communities.
- There is a significant lack of immigration legal advice in Scotland, particularly in rural areas and for complex or specialist cases.
- There needs to be greater accountability around the New Scots Strategy and sustained and proper resourcing of this and ensuring its impact is understood across Departments and not siloed.
- Glasgow City Council has withdrawn from being a dispersal city for refugees - this means that refugees are now being placed across different towns in Scotland with little access to the support and services that they need. This situation will continue as wider dispersal of Asylum seekers and Re-settled people continues. While we welcome the fact that all 32 Local Authorities wish to be involved the resourcing and assessment of appropriate services needs to be looked at.
- People in the asylum system are entitled to a certain number of hours of English as a Second Language (ESOL) lessons each week - English is essential for integration, citizenship and for work. The hours available are simply not enough -the Scottish Government could provide far more. Asylum seekers who use sign language do not have the same entitlement to hours of BSL lessons each week -this gap affects a small minority very significantly and should be addressed. The recent incorporation of the formally stand alone National ESOL strategy into Adult Learning means ESOL is not being given enough attention or importance in policy areas.
- Newly recognised refugees are at high risk of homelessness as asylum accommodation is withdrawn after a 28 day 'move on' period following granting of their status, despite significant hurdles such as finding employment and accessing any support they need within this time. Local authorities could do more to make sure their basic rights are protected after this time.
- The Scottish Government could do more to address the poor mental health of refugees especially LGBTi refugees. LGBTi refugees are often quite isolated within asylum accommodation and the system, and need particular support for their mental health.



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Human Rights shortfalls in specific areas as viewed from asylum seeker/refugee migrant perspectives:

Human rights and COVID-19

- Rules, service and policy changes during COVID-19 often did not fully consider minority or particular group needs.
- Lack of consultation with people with different cultural backgrounds, and with a lack of Halal and Kosher food for example being made available in food parcel deliveries;
- Lack of digital access was widely reported amongst the asylum and refugee population and data poverty impacting on how people could access services including education or to keep in touch with remote family. Lack of digital access during COVID-19 was a major barrier to healthcare, information, participation and social contact for many, particularly people living in poverty, particularly asylum seekers, often did not have access to Wi-Fi, particularly during the closure of local libraries.
- The Scottish Government's provision of digital devices during COVID-19 was welcomed by many – however, there was concern that people also needed training and support to use the devices which often fell to community organisations to do who struggled to cope with demand. In particular these community organisations then also need core costs built in and resourced to be sustainable over the longer-term
- Lack of COVID information accessible to those who are illiterate in English or another language;
- Higher percentage of Refugees on zero-hour contracts, who were not able to be part of the Government furlough scheme and so whole families became entirely dependent on charity support;
- Relying on accessing your GP through phone or digital, and you have to phone within certain times, is a barrier to healthcare for groups such as people from minority ethnic groups or those for whom English is not their first language;
- There should be an equality impacted approach to pandemic preparedness in the future. There is a concern that these COVID-era practices have not returned to pre-pandemic levels and may continue. There must be review of measures and service changes which have been put in place during COVID and justification for any that remain. There is also considerable concern about many services remaining digital by default, or primarily digital with offline options being harder to access and a second-rate option. Digital access to services works really well for some people – but for others, including many in



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marginalised groups, digital access is a barrier to the realisation of their human rights.

- Digital exclusion is symptomatic rather than causal – it stems from lack of digital literacy, language literacy, poverty, competencies around usage of technology and other barriers. Participants spoke about the need for a more systemic review of the digital capacity gap amongst minority ethnic communities and women within these communities in particular
- COVID has led to more social isolation, mental health issues, delayed treatment for physical health issues, educational delays, amongst many other impacts – across the whole society but these have been particularly keenly felt by the asylum and refugee communities, already vulnerable and isolated without family or wide social networks to draw on.
- During COVID-19, asylum seekers were moved from flats into hotels, often with very little notice. This increased their risk to COVID because they were housed alongside many others. It also impacted their physical and mental health, their participation in communities and their wellbeing and is widely recognised as a major contributing factor to the city centre attack in a hotel by an asylum seeker on others living there resulting in the loss of life. Those living in these hotels they had nowhere to cook and were required to eat the food provided with no choice, and given little money to cover other costs.

Human Rights and Housing

- Accommodation provided on behalf of the UK Government to those seeking asylum is often poor standard and does not meet the specific needs of disabled people; pregnant women; families; victims of trafficking, rape or torture; or people with mental health conditions. People are often moved to new asylum accommodation with little notice and far from their communities, including children who then have to move schools.
- People from minority ethnic groups including forced migrants are more likely to live in multigenerational, overcrowded housing – Scotland needs to build more larger houses that work for these extended families.

Human Rights and Education

- Migrants forced and voluntary have a lack of access to information on entitlement and support for further and higher education.



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- The residency requirements for college & university exclude many migrant young people, including for many migrant young people who have grown up in Scotland and yet find they cannot access education.
- There is a lack of support for pupils with low English language skills in school, leaving many children struggling to access learning.

Human Rights and Religion and belief

- There needs to be consideration that children and young people should have the right to opt out of religious observance in Scottish schools rather than rely on parental consent - The Government needs to talk with faith groups when creating any guidance for schools related to faith.
- Lack of clarity around freedom to practise religious beliefs publicly or in workplace
- People experience difficulties accessing culturally appropriate food such as kosher and halal food in schools, hospitals and care homes, where it is often not available or understood to be important.

Human Rights and Mental Health

- Experience of the immigration system, as well as experience of torture and trauma for some refugees, can severely impact their mental health. Mental health services need to meet migrants' needs, including providing rehabilitation services.
- Mental health detention is higher for people from ethnic minorities and people from deprived communities
- Lack of disaggregated data on people from ethnic minorities in mental health detention

Human Rights and Healthcare

- The Immigration Health Surcharge is a barrier to many people's access to healthcare services, including many EU citizens who were forced into the immigration system after UK's withdrawal from the EU, even though they have lived here for many years.
- There is a lack of clarity and information around rights to healthcare for migrants that is leading to exclusion from GP registration.
- There is a lack of provision of translators in health services, which is driving people to call Out-Of-Hours or A&E to access translators.



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Human Rights impacted by Racism

- It's time to accept that the rhetoric that Scotland is not as racist as England is not good enough and is not true. Scotland is seen as very friendly but we hide behind that and there is a lack of recognition of systemic racism in Scotland and by public authorities. In particular, we need to acknowledge racism faced by People of Colour, and recognise white privilege. We need far greater accountability on sustained action to address racism within Scotland.
- Racism in schools: We welcome the Scottish Government work group on race in the curriculum but the remit of that group is quite narrow. There is rhetoric and chat but not actual action to address the severity of the issue. Young people are being turned off of education because of racism. Councils in Scotland often don't recognise racism in schools, it is called bullying -they need to recognise there is an issue of racism, they need to record racist incidents, and embed steps to be anti-racist. Antiracism needs to also be built into school curriculum and school policies from Day One of a student/pupil's experience.
- Racial prejudice with over 35% people believing that Scotland will lose its identity if more Black, Asian and East European people come to live here.
- The police provide data on hate crime to minority ethnic and religious community organisations far too late for them to be able to respond effectively - this data needs to be better, and shared much more quickly to better protect people.
- Hate crime against People of Colour and minority ethnic people is persistent and has recently particularly increased against Asian population
- There is a significant lack of reliable, published and disaggregated national and services data on the needs, numbers and experiences of people from different groups across a variety of public services. There needs to be data collected in Scotland that properly reflects small minorities and communities of interest within public service areas/local authorities, and not only counts the majority, larger minorities or communities of place. In particular there is a significant lack of data around the experiences of People of Colour and people from minority ethnic communities in Scotland – there is a lack of cultural competency when it comes to research and data gathering on ethnic minorities in Scotland and some groups not even recognised in data at all. This data-gap only feeds into systemic inequalities and the lack of visibility of some ethnic minority groups, including from Asia and South East Asia. For example, hospitalisations during COVID were not disaggregated by minority ethnic groups at all. How can you make public policy if you don't know this? One of the implications of the lack of data is the tendency to perceive that racism in Scotland is not as bad as elsewhere, but without the data we have no way of knowing if this is true.



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- If census 2022 is mainly online, then there will be less data on marginalised and digitally excluded groups, particularly people for whom English is not their first language.

Human Rights and Justice and policing

- Victims of trafficking and criminal exploitation, including of children, and particularly experienced by many asylum seekers are far too often dealt with within criminal justice system and detained and prosecuted for crimes, rather than given the support that they need.

Human Rights and Work

- Asylum seekers are denied the right to work – this is an affront to their dignity, impacts their health, wellbeing and integration, and is a loss of potential skills and workforce to the UK.
- Too many migrants forced and voluntary, are in low paid, insecure jobs with poor conditions.
- People from minority ethnic groups experience discrimination in recruitment as well as occupational segregation and disproportionately unfavourable working conditions. Muslims are paid less than other groups, for example the pay gap between Muslims and those of no religion is as high as 19.3%. People from minority ethnic groups are under-represented in Modern Apprenticeships - Children from minority ethnic backgrounds are not selected so the opportunities are there, and students put the work in but they are not selected.
- Historically minority ethnic students always perform better than white students but when it comes to employment then is the reverse.
- Race needs to be part of public sector recruitment policies.

Media – Harassment, Abuse, Racism

- Media reporting is very bias against Muslims and this needs to be addressed because it increases hate crime, discrimination and harassment. This reporting also impacts beyond Muslims to others such as the Sikh community.
- The public do not understand migration and migrant rights, and the restrictions and reality of their lives and their stories – if they did, then perception of migrants could be changed and improved. Government and politicians need to take responsibility for educating and raising awareness of



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people about migrants and all of the benefits that they bring to the UK and the importance of providing safety to refugees.

The following issues while of huge concern are reserved matters:

- There should be a time limit on immigration detention
- The Nationality and Borders Bill is in direct contravention to the Refugees Convention and will result in significant infringements of people's human rights.
- There should be a right to family reunion, so that families can live together.
- In 2018, some children were still being held in Dungavel Detention Centre near Glasgow – has this been addressed and who has final say Edinburgh or Westminster?
- The level of asylum support is far too low, with people expected to live below the poverty line.
- Difficulties for LGBT+ people getting refugee status because of the types of evidence required by the UK immigration system.
- Asylum seekers should be given right to work

Additional issues which if addressed would mean improvements across protected groups including asylum seekers and refugees

- Funding in Scotland does not follow human rights priorities - human rights-based budgeting not just EIA budgeting needs to be adopted by the Scottish Government and other public authorities.
- UK Government watering down of rights accountability through the Judicial Review & Courts Bill
- There is concern about the planned reform of the Human Rights Act and the need to maintain avenues and strength of government accountability on rights, and raise awareness of how the HRA protects our fundamental rights. There is increasing divergence around approaches to human rights at UK and Scottish levels – there must not be any regression on rights protections in law, but only strengthening.
- ICESCR incorporation – participants spoke about the need to benchmark and identify the minimum core of economic and social rights entitlements for survival, including housing, food, health, education, basic income.



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- Public services in Scotland are not informed by an intersectional approach that recognises that where people face multiple barriers to their rights, there needs to be particular attention to addressing these barriers in service and policy design.
- All Scottish public authorities need to adopt an inclusive communications approach to all of their services. The lack of support for communication needs excludes people from vital services and from participation and public life. Too many public bodies and organisations do not have the resource to make what they do completely accessible. Inclusive communications are really important for people to understand their rights and know how to access their rights and therefore should be an integral part of development of the enhanced human rights framework in Scotland.
- Resourcing for civil society and community organisations is important for human rights protection – their crucial role was recognised during COVID-19 but resourcing is too often short-term, patchy, based on damaging competitive tendering and without core costs being met. There is a postcode lottery of some areas being eligible for more resources than others, and sometimes specialist or community groups for particular minority groups miss out on funding to larger mainstream services. There is considerable emotional/financial fatigue in the 3rd sector due to COVID-19 and there having to step in and cover gaps in public services.
- Sustainable and adequate resourcing for Scotland's National Action Plan on Human Rights (SNA) including support for an independent Secretariat, SNAP Actions, and an independent SNAP Leadership Panel. SNAP can be used to ensure that the rights incorporated with a Human Rights Bill are implemented in practice and make a real difference in people's lives.

What is welcomed

- Right to vote in Scottish Parliament and local elections extended to all those with 'leave to remain' in the UK and to short-term prisoners
- Open access to HIV treatment and care regardless of immigration status

Maggie Lennon
 Director
 Bridges Programmes
 January 2022

People seeking asylum and refuge: social connections and current challenges faced by the community, [Maryhill Integration Network](#)

Social Justice and Social Security Committee

Summary

Maryhill Integration Network recognises the need for urgent changes that should be carried out by both the Scottish Government and the UK Government. We recognise the contribution of the people who are seeking asylum and refuge within our communities. We encourage the Social Justice and Social Security Committee to recognise the highlighted challenges faced by the asylum-seeking and refugee community. We ask the committee to recognise our recommendations, and the need for a system in Scotland based on human rights, fairness and justice.

Introduction and recent development

[Maryhill Integration Network](#) (MIN) was established to bring asylum seekers, refugees, migrants and the settled inhabitants of Glasgow together. Since 2001, we have been developing projects which support positive social change by investing in communities and providing a welcoming - and much-needed - safe and inclusive space with opportunities for collaboration and connection.

Our main services include a user-led weekly programme of activities which runs alongside regular advice clinics, learning opportunities, community events and outreach partnership projects coordinated across the city. MIN supports more than 600 individuals throughout the years alongside the mentioned programme of activities.

We are currently running online and in-person group and outreach activities, including our popular Joyous Choir, our influential MIN Voices asylum advocacy group and our Family Nest group (which was initially started to integrate resettled Syrians in the area). We continue to develop activities and support mechanisms as needed by our service users. After playing a significant role in successfully campaigning for the right to vote for refugees in 2020, our MIN Voices group have in 2021 and 2022 continued to lead the campaign for the right to work for asylum seekers - having also helped establish the Cross Party Group on Migration in Scottish Parliament, of which it sits as group secretariat.

Key challenges for asylum seekers and refugees

Life for people who are in the asylum process and people who are refugees is not easy. The pandemic highlighted and compounded challenges. These include:

1. Inhumane hotel accommodation

Many people were evicted from their accommodation at the start of the pandemic and were moved into hotel accommodation. Some of our members were moved into the Glasgow Mother and Baby Unit. Asylum support was stopped for these individuals and they were made to rely on third sector organisations further, this included digital, social and information support as well as provision of essentials such as appropriate food and toiletries. Three members of the asylum seeking community were lost at this time, while much wider physical and mental suffering was caused by these policies. .

2. Right to Work

Not being able to work has been identified as a key barrier for social inclusion, independence for asylum seekers and for integration by MIN service users. People who are ready to contribute to society and to the economy are currently banned from working. You can hear directly from our experts-by-experience MIN Voices members on this issue via their recently produced [Right to Work - Voices of the People animation](#)

3. Food Insecurity and Asylum Support

We have been providing food parcels and vouchers for the vulnerable during the pandemic. However, it has become clear that support is needed on an ongoing basis. Limited asylum support and other relevant issues such as restricted access to bank accounts mean that people seeking asylum are made to rely heavily on under-resourced charities to survive.

4. Digital Inclusion

Many of our service users rely on wifi from community centres, libraries and educational places for essential social wellbeing as well as for applicable volunteering and skills development opportunities. Closure of public facilities, many of which have not reopened since the pandemic has amplified this issue of isolation for individuals. MIN and other charities helped to plug this gap at the start of the pandemic by providing SIM cards and devices when donations were made available.

5. Nationality and Borders Bill

We are greatly concerned by the implications of the new Nationality and Borders Bill and - alongside with many other civil society organisations and campaigners - see it as undermining the seventy years in which the refugee convention has helped to support and protect people fleeing dangerous situations across the world. Our main concern relates to access to safe routes for asylum seekers, criminalisation of movement and offshore process centres. The bill will push more and more people into unsafe situations

at sea and lead to more loss of innocent lives. Generally speaking, the Bill will compound issues already highlighted with regards to integration of refugees into our community, and undermine the New Scots integration-from-day-one principle spearheaded by the Scottish Government.

6. Glasgow as a dispersal city

We are very concerned to hear about Glasgow City Council withdrawing from the UK government's dispersal scheme. This will have a huge impact on the overall support mechanism for asylum seekers and may result in people being accommodated ad-hoc in unsuitable spaces in other regions, with poor access to community support.

Recommendations

We propose the following recommendations to the Social Justice and Social Security Committee:

1. Immediate end to hotel accommodation

We recognise the importance of people being housed in local communities and we recommend immediate end to hotel accommodation across Scotland and the UK more widely. For social inclusion and integration, we value the importance of social connection and housing people in a safe and dignified way. We ask for immediate clarification with the use of hotel accommodation across Scotland.

We recommend using community housing and making connections with housing associations and community groups in order to ensure people receive information about their new communities when they are housed. Housing officers should also receive training and guidance on equalities and understanding the needs and experiences of people seeking asylum.

2. Asylum Support and Food Insecurity

Provision of £5.66p per day is not enough for people living in a city the size of Glasgow, where a bus ticket can be up to £4.70. Asylum support leads people to live in poverty, impacts on mental as well as physical health and often leads to food insecurity and reliance on food banks. Food banks impact on people's dignity and often do not provide culturally appropriate or generally nutritious foods. We do not see food banks as a long-term solution to the issue of poverty and food insecurity, and would recommend increasing asylum support payments, especially for families.

3. Digital Inclusion

The Connecting Scotland initiative has helped us connect 70 service users to the internet. The two year data package has been great and we hope that it may be extended after the two years have ended. Some feedback we have received regarding the chromebooks supplied is that they are not very suitable for studying as they have limited functionality and storage space too. In order to assist asylum seekers to progress in college and education we would recommend providing devices which can be better equipped for use in an academic setting.

4. **Right to Work** asylum seekers are banned from working which causes stress and hardship for individuals and families by having to rely on asylum support, sometimes for years on end. By lifting the ban, asylum seekers would be able to support themselves and contribute to the economy. Feedback from our service users shows that they do not want to live on handouts. Many of our service users have diverse professional backgrounds that would support in plugging critical skills gaps in the labour market - for example, by working as teachers, IT engineers, social workers, healthcare professionals, designers or architects.

5. **No Recourse to Public Fund**

We encourage the committee to consider the '[Ending Destitution Together](#)' strategy and the '[How Will I Survive](#)' publications.

6. **Nationality and Borders bill**

We would recommend the UK's contribution to global refugee resettlement be improved by prioritising human rights, dignity and fairness, especially in relation to family reunion. More consideration should also be given to resettlement schemes and placing people within communities who have the resources and connections to ensure that people can integrate and become part of their new communities more easily. Funders should seek to support organisations already doing good work in the area of refugee resettlement, share good practice, and fund them to support other new organisations wishing to grow their own localised responses to welcoming new communities

7. **Education**

Currently, people who are seeking asylum cannot go to university and are limited to access to a restrictive group of part-time college courses. We have many members whose children are in fifth and sixth year of high school who cannot pursue higher or further education despite being suitable or quality candidates.

We urgently recommend the committee further discusses this issue so that asylum seekers can access higher education without being considered as international

students. We also recommend the committee urgently considers increasing funding to organisations to provide more ESOL classes.

8. Well-being

We are deeply concerned for the lack of funding and support for asylum seekers and refugees who are struggling with isolation and mental health.

References:

[‘How Will I Survive’](#) publication

[MIN 20 Year Anniversary Report](#) via MIN website

<https://www.bbc.co.uk/news/uk-scotland-glasgow-west-57448267>