



Law Society
of Scotland

Law Society of Scotland Response

Home Office New Plan for Immigration

March 2021



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Immigration and Asylum Committee sub-committee welcomes the opportunity to consider and respond to the Home Office consultation on a *New Plan for Immigration*. The sub-committee has the following comments to put forward for consideration.

General Comments

Foreword

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

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

We consider that the period for consultation on the important matters which are raised in the *New Plan for Immigration* is unduly short. This is particularly so because it included the Easter holiday and the pre-election periods in Wales and Scotland. In our view that consultation period should have been delayed until after the elections to the Scottish Parliament and the Senedd and should have been of 12 weeks duration. We encourage the Government to consult on draft clauses which it intends to include in the event that it wishes to proceed to legislate.

The title and foreword suggest a new plan for the entire immigration and asylum system. This is not what the document proposes; rather it proposes various changes to asylum law, with no proposals on other immigration routes. If the Government has further plans to change the immigration routes we encourage it to consult on these at as early an opportunity as possible.

The statement that the number of asylum claims has been steadily increasing and has now reached unmanageable levels is facilitated by use of statistics which cover the period from 2011. This omits the much larger number of claims being made in the early 2000s.¹ We note that 46% of asylum appeals

¹ <https://commonslibrary.parliament.uk/research-briefings/sn01403/>

which proceed to a hearing (i.e., not including the 27% of cases where the Home Office withdraw their decision, often at the last minute) are successful.²

Chapter 1: Overview of the Current System.

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

- *To increase the fairness and efficacy of our system so that we can better protect and support those in genuine need of asylum.*
- *To deter illegal entry into the UK, thereby breaking the business model of criminal trafficking networks and protecting the lives of those they endanger; and*
- *To remove more easily from the UK those with no right to be here. How effective, if at all, do you think each of the following will be in helping the UK Government achieve this vision?*

Please select one response for each statement.

A. *Strengthening safe and legal routes for those genuinely seeking protection in the UK.*

Very effective, although see comments below.

B. *Reforming legal processes to ensure improved access to justice.*

Very effective, although see comments below.

C. *Reforming legal processes to ensure speedier outcomes.*

Not very effective. Speedier outcomes are not necessarily fairer outcome.

D. *Requiring those who claim asylum and their legal representatives to act in 'good faith' by providing all relevant information in support of their claim at the earliest opportunity.*

Not at all effective. Imposing such a requirement on applicants is likely to lead to unfair outcomes. Solicitors in Scotland are already required to act in good faith per rule B2.1 of the Law Society of

² <https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-october-to-december-2020/tribunal-statistics-quarterly-october-to-december-2020#immigration-and-asylum>.

Scotland's Professional Practices Rules.³ The Law Society of Scotland, not the Home Office, is responsible for regulating the conduct of solicitors in Scotland.

E. Enforcing the swift removal of those found to have no right to be in the UK, including Foreign National Offenders.

Fairly effective, subject to ensuring that people are given the opportunity to have their claim properly considered prior to removal.

F. Eliminating the ability for individuals to make repeated protection claims to stop their removal, when those follow-up claims could have been raised earlier in the process.

Not at all effective. The current system, under paragraph 353 of the immigration rules, allows a repeat protection claim where the evidence provided is significantly different from the material that has previously been considered and creates a realistic prospect of success. The ability to make a repeat claim, subject to the above restrictions, should be retained. Abolishing this would not increase the fairness and efficacy of the system. It would lead to genuine applicants being removed before new evidence is considered.

G. Preventing illegal entry at the border, for example, by making irregular channel crossings unviable for small boats or deterring other activities such as hiding in the backs of lorries.

Not very effective. Deterring channel crossings and entry via lorry is a laudable aim and would help protect asylum seekers. However, the target should be the criminal trafficking networks, not the migrants they exploit.

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

Genuinely creating safe and legal routes for those seeking protection in the UK would be a very effective method of achieving the above objectives. However, unfortunately, this is not what is being proposed. For many people, the only way to seek protection from the UK is to travel to the UK and enter without leave or seek asylum at the UK border. UNHCR administered re-settlement schemes are not available in many countries. Rather than implementing safe and legal routes for those seeking protection in the UK, the Government is proposing to close down the only method of claiming asylum currently available to the vast majority of applicants. No detailed proposals for a replacement system are contained within the document (only an unspecified and unenforceable commitment to ensure resettlement programmes are responsive to emerging international crises).

³ <https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/section-b/rule-b1/rules/b1-2-trust-and-personal-integrity/>

Chapter 2: Protecting those Fleeing Persecution, Oppression and Tyranny

- 4. The Government is reviewing safe and legal routes for protection claimants to enter the UK. Further details of this can be found in Annex A. The intention of the UK Government is to maintain clear, well-defined routes for refugees in need of protection, ensuring refugees have the freedom to succeed, ability to integrate and contribute fully to society when they arrive in the UK. In your view, how effective, if at all, do you feel each of the following proposals will be in ensuring the Government can provide safe and legal ways for refugees in genuine need of protection?**

Please select one response for each statement.

- Maintaining a long-term commitment to resettle refugees from around the globe to the UK, including ensuring a full range of persecuted minorities are represented.

Very effective

- Granting resettled refugees immediate indefinite leave to remain on their arrival in the UK so that they benefit from full rights and entitlements when they arrive.

Very effective

- Reviewing the refugee family reunion routes available to refugees who have arrived through safe and legal routes.

No answer

- Ensuring resettlement programmes are responsive to emerging international crises – so refugees at immediate risk can be resettled more quickly.

Very effective

- Working to ensure more resettled refugees can enter the UK through community sponsorship, encouraging stronger partnerships between local government and community groups.

Very effective

- Introducing a new means for the Home Secretary to help people in extreme need of safety whilst still in their country of origin in life-threatening circumstances.

Not at all effective

- Enhancing support provided to refugees to help them integrate into UK society and become self-sufficient more quickly.

Very effective

- Reviewing support for refugees to access employment in the UK through our points-based immigration system where they qualify.

Fairly effective

5. In maintaining clearly defined safe and legal routes, how important, if at all, are each of the following practical considerations? Please select one response for each statement.

- *Linking the numbers of refugees, the UK resettles to the capacity of local areas to provide help and support.*
Very important
- *Prioritising refugees on the basis of their vulnerability or risk.*
Very important
- *Prioritising refugees based on their potential to integrate in the UK (e.g., English proficiency, pre-existing ties to the UK, or skills).*
Not very important
- *Prioritising refugees from persecuted minority groups. • Prioritising the family members of refugees already in the UK.*
Very important

6. The intention is to continue to provide support to all those granted refugee status so that they are equipped to properly integrate and contribute to society when they arrive in the UK.

How far do you agree or disagree that each of the following proposals will help to meet this aim of developing refugee support?

Agree

Please select one response for each statement.

- *An integration support package should focus on progress to employment (including self-employment).*

Strongly agree

- *An integration support package should consider elements such as well-being, language, employment and social bonds.*

Strongly agree

- *An integration support package should be delivered at local level to national standards (to an agreed mandatory framework), so that all refugees receive the appropriate level of support, delivered in a way that is appropriate to where they live.*

Strongly agree

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

- (a) *If there are any ways in which these proposals could be improved to make sure the objective of providing well maintained and defined safe and legal routes for refugees in genuine need of protection is achieved; and*
- (b) *Whether there are any potential challenges that you can foresee in the approach the Government is taking to help those in genuine need of protection. Please provide as much detail as you can.*

We have no further comment to make.

8. The Government recognises the importance of reuniting those who are in the UK who are in genuine need of protection, with their family members. How important, if at all, do you think each of the following proposals would be in meeting this objective? Please select one response for each statement. Reuniting an adult with refugee status in the UK with...

Their spouse or partner, wherever their spouse/partner may be in the world.

Very important

- *Their own child who is under the age of 18, wherever their child may be in the world.*

Very important

- *Their own adult child who is over the age of 18, wherever their child may be in the world.*

Very important

- *A close family member (e.g., sister, brother), wherever that family member may be in the world.*

Very important

- *Another family member (e.g., uncle, aunt, nephew, niece), wherever that family member may be in the world*

Very important

- 9. Now that the UK has left the European Union (EU), protection claimants who have sought international protection in an EU member state can no longer join family members in the UK using EU law.**

This means those seeking international protection in the EU must apply to join family members in the UK under the Immigration Rules like those from the ‘rest of the world’.

To what extent do you agree or disagree with this approach to apply the same policy to protection claimants seeking to join family members in the UK, regardless of where they are?

We agree with the principle of equal treatment.

- 10. Are there any other observations or views you would like to share relating to the UK Government’s future policy on safe and legal routes for unaccompanied asylum-seeking children in the EU wanting to reunite with family members in the UK?**

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

This answer applies to both Q10 and Q11. There requires to be a clear distinction drawn between: (1) safe and legal routes to enter the UK for unaccompanied asylum seeking children (UASCs) in order to claim asylum with their family in the UK, and; (2) safe and legal routes to join family who already have protection status in the UK.

The former refers to the Dublin III Regulation, which allowed many family members, including UASCs, in the EU to be reunited with family members in another EU country pursuant to Articles 7(3), 8, 10 and 16. The Dublin III meaning for ‘family members’ is broad insofar as it includes spouses, unmarried partners, the children of an adult applicant – whether born in or out of wedlock or adopted as defined by national law, and the parents or another responsible adult of a child applicant.

Additionally, Article 6(1) of Dublin III provides that ‘the best interests of the child shall be a primary consideration for Member States’ and affirms in Article 6(3)(a) that whilst assessing the best interests of the child Member States shall take due account of family reunification possibilities.

In accordance with Article 10 regarding family members who are applicants for international protection both family members could be seeking asylum at the time in their respective countries. This was an accessible route and a lifeline to many children in the EU. To take Greece as an example, between 2013-2020 there were over 29,000 requests from Greece to other EU countries in order to reunite a family member elsewhere. Around 11% of these were to the UK (<https://www.gov.uk/government/statistical-data-sets/asylum-and-resettlement-datasets#dublin-regulation>). This safe and legal route has now ceased to exist after the UK left the EU.

The latter refers to the existing immigration rules which may reunite some families. These bear very little resemblance to the Dublin III Regulation. There are two important differences. The first is that the relative in the UK requires to have some kind of protection status – either Refugee Status, Humanitarian Protection, or Settlement Protection. This means that a UASC outside the UK needs to wait for their family

member to successfully claim asylum in the UK to be reunited. There is no safe and legal route contained in the immigration rules for them to unite otherwise.

The second difference is that the only free application, with no onerous financial maintenance requirement on the UK-based relative, is for a UASC to reunite with a biological parent (see paragraphs 352D and 352E of the Immigration Rules) If there is any other relative in the UK – e.g. an aunt, uncle, grandparent, sibling – then not only does the UK-based relative need to have obtained protection status, but they require to pay large sums of money to make the application, and demonstrate that they can accommodate the child without access to public funds pursuant to paragraphs 297(iv), 298(iv) and 319X. This is an onerous burden on an individual who has just been granted protection status. Our members' experience tells us that it is vanishingly rare for Refugees to be able to secure enough capital and income in order to meet this aspect of the immigration rules. This is unsurprising given they have fled persecution, have spent months or often years in the UK asylum where they are prohibited from working, very often do not speak English, and are often experiencing trauma-related ill-health.

We believe that these legal distinctions are important when considering the proposals in this consultation and the alleged purpose. The routes through the immigration rules are at present far more restrictive than the now extinct Dublin III Regulation. The consultation does not specify what other safe and legal routes will be created and how they will be applied.

The final – and most significant consideration – is that the proposals put forward in the New Immigration Plan all but guarantee that persons seeking asylum in the UK will face longer delays in obtaining protection status (see answer on “safe third countries” questions). This means that UASCs in the EU and beyond will be waiting longer, possibly years, before any prospect of reunification under the immigration rules occurs. They may “age out”, i.e. turn 18 and therefore lose the right altogether. Furthermore, even if the UK-based relative is granted some form of protection status, it is understood that their family reunion rights will be “limited”. There is no further detail on what this means.

It is clear that the cessation of Dublin III and the proposals put forth in this consultation combine to severely limit the safe and legal routes for UASCs to enter the UK. As such, we believe that the proposals are actually more likely to force UASCs who are desperate and in need to their family to take perilous and dangerous routes. This is the opposite of the stated intention of this consultation.

11. Are there any other observations or views you would like to share relating to the UK Government's future policy on safe and legal routes for unaccompanied asylum-seeking children in the rest of the world (outside the EU) wanting to reunite with family members in the UK?

Please write in your answer and provide as much detail as you can. Open question 12 Are there any other observations.

See our answer to question 10 above.

12. Are there any other observations or views you would like to share relating to the UK Government's future policy on safe and legal routes to the UK for protection claimants in the EU?

Open question Please write in your answer and provide as much detail as you can. When you answer please indicate if your views relate to protection claimants who are unaccompanied asylyms seeking children, adults and/or families (adults and accompanied children) in the EU.

We have no further comment to make.

13. Are there any other observations or views you would like to share relating to the UK Government's future policy on safe and legal routes for protection claimants who are adults and/or families (adults and accompanied children) wanting to reunite with family members in the UK?

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

The suggestion of including dependent children over the age of 18 and under the age of 21 is welcomed.

There is already extensive provision in case law for establishing that a family life can exist under Article 8 ECHR for family members which are not currently outlined in the Immigration Rules, including dependent children over the age of 18.

The present case law, as set out both in the UK Courts and the ECtHR, already outlines that any assessment, of whether Article 8 ECHR is engaged in entry clearance cases (including family reunion), is fact sensitive. Article 8 ECHR can be engaged outside of the current immigration rules where the applicant is an adult child (over 18) where further elements of dependency exist, involving more than the normal emotional ties.

The rules should be amended to reflect the recognition in case law that Article 8 ECHR can be engaged by family members out-with spouses, cohabiting partner's and direct descendants under the age of 18.

However, the policy suggests the introduction of different family reunion rights for those who enter on "safe and legal routes" and those who enter otherwise.

There is already legislation and extensive case law outlining the public interest considerations which should be taken into account when assessing whether refusal of entry clearance is proportionate under Article 8 ECHR.

The method by which a person seeking protection enters the UK has no bearing on the assessment of proportionality which must be taken when a family reunion application is considered. It should therefore not be a consideration for decision makers in family reunion cases. Otherwise, the policy would be in breach of the current domestic law as well as the UK's obligations under the ECHR.

In addition, given that the route identified in the policy as "safe and legal" extends only to the extremely limited route of resettlement via the UNHCR, and this route is not open to all nationalities or categories of

individuals who genuinely come to the UK to seek protection, such a policy would breach the non-discrimination provisions of Article 3 of the 1951 Refugee Convention.

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

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

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

We have no comment to make.

Chapter 3: Ending Anomalies and Delivering Fairness in British Nationality Law

15. How effective, if at all, do you feel the following changes will be in contributing to the objective of correcting historic anomalies in current British Nationality law?

We believe these changes will be very effective subject however to our comments in respect of each question in this chapter.

Please provide an answer for each statement.

- *Introducing new registration provisions for children of a British Overseas Territories Citizen (BOTC) to acquire citizenship more easily.*

We agree with this proposal subject however to the registration process being free. In this connection we acknowledge and agree with the report by British Futures: *Barriers to Britishness* 2020 which recommended (pages 10/11):

“Citizenship by registration should be free for those who become British by this route. This group mostly comprises children and those with subsidiary categories of British nationality, such as British Overseas Territories Citizens and British National (Overseas) passport holders from Hong Kong who now have a route to citizenship through the bespoke British National (Overseas) visa.

Nationality law should be amended to allow children born in the UK to British citizens automatically, restoring a policy that applied before 1983.

Vulnerable groups of people should be encouraged to take legal advice, which should be affordable and widely available in all parts of the UK”.

We also note the decision on 18 February 2021, where the Court of Appeal in *PRCBC & O v Secretary of State of the Home Department* [2021] EWCA Civ 193 decided that the fee of £1,012

for certain applications by children to register as British citizens is unlawfully high. We also note that this case has been appealed to the UK Supreme Court and we await that decision in due course.

- *Fixing the injustice which prevents a child from acquiring their father's citizenship if their mother was married to someone else.*

We agree with the proposal to remove this discriminatory provision.

- *Introducing a new discretionary adult registration route to give the Home Secretary an ability to grant citizenship in compelling and exceptional circumstances where there has been historical unfairness beyond a person's control.*

We agree with the principle behind this proposal on the basis that the criteria for the exercise of the discretion do not impose unduly onerous burdens on the applicant. We refer to the Guide AN Naturalisation Booklet (April 2021) which summarises the requirements for applying for naturalisation (Page 3). The Booklet acknowledges that naturalisation is not an entitlement but is a matter of law and states that "The Home Secretary may exercise discretion to naturalise you if you satisfy a number of statutory requirements."

- *Creating further flexibility to waive residence requirements for naturalisation in exceptional cases. This will mean those impacted by Windrush are not prevented from qualifying for British Citizenship because they were not able to return to the UK to meet the residency requirements through no fault of their own.*

We agree with this proposal subject to clarification about what "exceptional" means in this context.

16. The Government wants to change the registration route for stateless children, who were born in the UK and have lived here for five years. The Government wants to ensure that those who are genuinely stateless can benefit. People should not be able to acquire these benefits if they purposely fail to acquire their own nationality for their child. To what extent, if at all, do you agree that this is the right approach?

Whilst we commend the concept of ensuring "that those who are genuinely stateless can benefit" [from the new registration route], we strongly disagree with this proposal and believe that it should be reconsidered. We question the use of the word "acquire" in this question. What exactly does the Government mean?

We take the view that it is not the child's fault if the parent cannot evidence the child's nationality. There may be many reasons for this including chaotic circumstances in the country of origin such as war or natural disaster. The system of nationality administration in the country of origin may not be able to provide the required documentation and there may be consular or other representational difficulties.

Furthermore, the Government should explain how this proposal complies with the Refugee Convention and the UN Convention on the Rights of the Child.

Another issue is the cost of registration and our earlier remarks about cost apply to this proposal also.

17. The law currently allows some discretion around naturalisation, to account for exceptional circumstances. However, it is currently an un-waivable requirement that a person must have been in the UK on the first day of their 5 (or 3) year residential qualifying period. The Government is seeking to change the law so that discretion can be exercised when a person was not in the UK on that day in appropriate cases, whilst maintaining the principle that people should have completed a period of continuous residence. This might be used, for example, where a person was a long-term resident of the UK but had been prevented from returning to the UK after a trip overseas five years ago by mistake, as was the case for a number of the Windrush generation, or due to unforeseen compelling circumstances. To what extent, if at all, do you agree that this approach provides sufficient flexibility to allow people with a strong connection to the UK to qualify for naturalisation?

We agree with the principle behind this proposal on the basis that the criteria for the exercise of the discretion do not impose unduly onerous burdens on the applicant.

18. Please use the space below to give further feedback on the proposals in chapter 3. The government is keen to understand:

(a) If there are any ways in which these proposals could be improved to make sure the objective of correcting historic anomalies in our nationality laws is achieved; and

It is difficult to respond to this question without knowing what historic anomalies are in contemplation.

(b) Whether there are any potential challenges that you can foresee in the approach being taken to reform nationality laws. Please provide as much detail as you can.

Future challenges are difficult to predict but could arise around unlawful exercise of discretion and incompatibility with human rights law.

Chapter 4: Disrupting Criminal Networks and Reforming the Asylum System

19. To protect life and ensure access to our asylum system is preserved for the most vulnerable, we must break the business model of criminal networks behind illegal immigration and overhaul the UK's decades-old domestic asylum framework. In your view, how effective, if at all, will the following proposals be in achieving this aim?

- *Ensuring that those who arrive in the UK, having passed through safe countries, or have a connection to a safe country where they could have claimed asylum will be considered inadmissible to the UK's asylum system.*

Not at all effective.

- *Seeking rapid removal of inadmissible cases to the safe country from which they embarked or to another third country.*

Not at all effective.

- *Introducing a new temporary protection status with less generous entitlements and limited family reunion rights for people who are inadmissible but cannot be returned to their country of origin (as it would breach international obligations) or to another safe country.*

Not at all effective.

- *Bringing forward plans to expand the Government's asylum estate. These plans will include proposals for reception centres to provide basic accommodation while processing the claims of inadmissible asylum seekers.*

Not at all effective.

- *Making it possible for asylum claims to be processed outside the UK and in another country.*

Not at all effective.

20. To protect the asylum system from abuse, the Government will seek to reduce attempts at illegal immigration and overhaul our domestic asylum framework. In your view, how effective, if at all, will the following proposals be in achieving this aim?

- *Changing the rules so that people who have been convicted and sentenced to at least one-year imprisonment and constitute a danger to the community in the UK can have their refugee status revoked and can be considered for removal from the UK.*

Not at all effective

- *Supporting decision-making by setting a clearer and higher standard for testing whether an individual has a well-founded fear of persecution, consistent with the Refugee Convention.*

Not at all effective

- *Creating a robust approach to age assessment to ensure the Government acts as swiftly as possible to safeguard against adults claiming to be children and can use new scientific methods to improve the Government's abilities to accurately assess age.*

Not at all effective

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

The proposed changes to the asylum system are claimed to be based on the desire to provide access to the asylum system for the "most vulnerable" (Q19 above), however, the proposals put forward do not

reflect this as a person's method of entry to the United Kingdom does not reflect their degree of vulnerability.

There is nothing in the 1951 Refugee Convention which requires a refugee to claim asylum in a particular country. The creation of a two-tier system based on how a refugee entered the United Kingdom fails to take into account that the reasons why a person may choose to claim asylum in a particular country are many and varied, this also punishes those who are unable to access 'lawful' means of entry.

Section 8 of the *Asylum and Immigration (Treatment of Claimants, etc) Act 2004* already provides a mechanism for differentiating between claimants if their method of entry to the United Kingdom raises concerns.

The proposals put forward are effectively a repetition of policies which have been attempted in the past and have either failed or been found to be unlawful.

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

The consultation puts forward no evidence that there exists an issue with “unmeritorious” claims for asylum.

It is notable that [Home Office statistics](#) reveal that numbers of asylum claims in 2019 are around half of those from 2002, and that in 2020 the number of asylum applications fell 20% on 2019's figure. This is despite the increase in small boat crossings.

It is also notable that [First-Tier Tribunal statistics](#) tell us that asylum appeals are on a sharp downward trend, having fallen from approximately 200,000 per year in 2008/9 to approximately 40-45,000 per year in 2020. Judicial Review applications to the Upper Tribunal in England and Wales have also fallen by approximately 60% since 2014/5.

Meanwhile, the same tribunal statistics tell us that approximately 48% of Home Office refusals are overturned in the First Tier Tribunal.

The consultation also does not make any connection between any perceived difficulties in the asylum process and the legal test of “well-founded fear of persecution”. It is proposed that the aspect of the test regarding credibility as to identity and past experiences is heightened to “balance of probabilities”. We disagree with this proposal.

This element of the legal standard takes into account the difficulties in asylum seekers obtaining evidence which corroborates their account of their past experiences. The test is long established through extensive legal scrutiny at almost every level of the UK-wide judiciary. We believe that, after this detailed legal assessment spanning almost 30 years, the current legal standard should remain in place.

The leading case for the standard of proof test to determine a 'well-founded fear in persecution' for asylum cases goes all the way back to 1996 in *Ravichandran v SSHD [1996] Imm AR 97*. In *Karanakaran v. Secretary of State for the Home Department, [2000] EWCA Civ. 11*, the Court of Appeal affirmed that the standard of proof adopted in civil proceedings was not suitable for immigration matters. Instead, what was important was making an assessment of all material considerations such that it '*must not exclude any matters from its consideration when it is assessing the future unless it feels that it can safely discard them because it has no real doubt that they did not in fact occur*'. Sedley LJ described the civil standard of proof (balance of probabilities) as '*...part of a pragmatic legal fiction. It has no logical bearing on the assessment of the likelihood of future events or (by parity of reasoning) the quality of past ones*'.

For the last 20 years, the *Karanakaran* approach has consistently been followed. In other words, it is not controversial and is consistently applied.

The Outer House of the Court of Session re-affirmed *Karanakaran* as the correct standard of proof approach to be applied in the 2020 case of *MF (El Salvador) v Secretary of State for the Home Department [2020] CSOH 84*. In that case, it was held the First-Tier Tribunal Judge had erred in law by applying the wrong standard of proof in respect of an application for permission to appeal brought by an asylum seeker. It was observed that '*in neither his analysis of the individual facts nor his overall discussion when summing up, did he use then language of "reasonable likelihood" or "serious possibility" of persecution*' and '*and crucially, it is not obvious that the FtT judge followed the approach said to be required in Karanakaran, supra at 469-470, in that either he has not carried out a balancing process at all, or, if he has, he has arguably excluded matters totally from consideration in the balancing process simply because he believed that they probably did not occur, rather than discarding matters only because he had no real doubt that they were not true*'

Most recently, on 28 April 2021 in *Kaderli v. Chief Public Prosecutor's Office Of Gebeze, Turkey [2021] EWHC 1096 (Admin)*, the High Court of England and Wales re-affirmed (while referencing *Karanakaran*) that the question as to determining a well-founded fear of persecution is that of an evaluative nature about the likelihood of future events. In this case it was held that '*the judge erred in holding that it was for the appellant to prove on the balance of probabilities that the corruption alleged had occurred. The true test involved the application of a lower standard: whether there was a real risk that the appellant's conviction was based on a trial tainted by corruption. This was consistent with the approach to the fact-finding in the immigration context.*'

In summary, we are therefore opposed to this proposal in the consultation. It lacks evidence, appears to be unrelated to the purported intention of the consultation, and flies in the face of 25 years' worth of judicial scrutiny.

23. The Government is aware that currently it can take many months to consider asylum applications and intends to ensure that claims from those who enter the UK illegally are dealt with swiftly and efficiently. To help achieve this, in your view, which of the following steps would be the most important? Please rank the following statements from most to least

important. Drag and drop to rank options.

1. To ensure there are set timescales for considering claims and appeals made by people who are in immigration detention, which will include safeguards to ensure procedural fairness. This will be set out in legislation.

We have no comment to make.

2. To ensure those who do not qualify for protection under the Refugee Convention, but who still face human rights risks, are covered in a way consistent with our new approach to asylum.

We have no comment to make.

3. To have an expedited approach to appeals, particularly where further or repeat claims are made by the individual.

We have no comment to make.

4. To use asylum processing centres to accommodate those who enter the UK illegally, whilst they await the outcome of their claim and / or removal from the UK.

We have no comment to make.

24. The Government is committed to strengthening the framework for determining the age of people claiming asylum, where this is disputed. This will ensure the system cannot be misused by adults who are claiming to be children. In your view, how effective would each of the following reforms be in achieving this aim?

- *Bring forward plans to introduce a new National Age Assessment Board (NAAB) to set out the criteria, process and requirements to be followed to assess age, including the most up to date scientific technology. NAAB functions may include acting as a first point of review for any Local Authority age assessment decision and carry out direct age assessments itself where required or where invited to do so by a Local Authority.*

Not very effective

- *Creating a requirement on Local Authorities to either undertake full age assessments or refer people to the NAAB for assessment where they have reason to believe that someone's age is being incorrectly given, in line with existing safeguarding obligations.*

No comment to make

- *Legislating so that front-line immigration officers and other staff who are not social workers are able to make reasonable initial assessments of age. Currently, an individual will be treated as an adult where their physical appearance and demeanour strongly suggests they are 'over 25 years of age'. The UK Government is exploring changing this to 'significantly over 18 years of age'. Social*

workers will be able to make straightforward under/over 18 decisions with additional safeguards.

Not very effective

- *Creating a statutory appeal right against age assessment decisions to avoid excessive judicial review litigation.*

No comment to make.

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

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

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

This answer relates to the proposals about age assessment of unaccompanied asylum-seeking young people. Our membership attended a roundtable hosted by the Home Office to explore these options where some further detail was revealed.

The first aspect which requires to be set out is that age assessment is a matter of Scots child law. It therefore sits in an area devolved to the legislative competence of the Scottish Parliament under the Scotland Act 1998. In Scotland, age assessments are conducted by local authority social workers to assess eligibility for support under the Children (Scotland) Act 1995. It must be understood that that is their function; they are not an immigration function. Indeed, they are most closely linked to obligations around the presumption of age of victims of human trafficking, set out in the Human Trafficking and Exploitation (Scotland) Act 2015. This is also a devolved area of law. They are conducted in line with [practice guidance](#) issued by the Scottish Government in March 2018.

Many of the proposals set out in the consultation around age assessment may engage the legislative consent convention and may therefore require consent from the Scottish Parliament. Other proposals lack sufficient detail to provide a clear view.

We find it difficult to engage with the proposal of the NAABs due to a lack of detail. It is unclear who would sit on a NAAB, what qualifications they would have, and what experience of Scottish devolved law they would have. We have concerns that the NAABs would be located within the Home Office. This strikes us as a conflict of interest and, indeed, a blurring of the line between devolved and reserved functions.

As regards the use of scientific technology, the consultation makes no mention of what this would constitute, and we understand from Home Office stakeholder engagement that it has not been decided upon. What we do know is that the British Society for Paediatric Endocrinology and Diabetes [have stated](#) that physical examination, bone age assessment and dental x-rays do not add anything to the existing process, having a margin of error between 2 and 4 years. More recently, the UN Committee on the Rights

of the Child has found in a [series of cases](#) that Spain breached the rights of migrant children under the UN Convention on the Rights of the Child by relying on x-ray evidence in reaching a determination on age assessment. The controversy of these methods was considered and affirmed in the Court of Appeal in *London Borough of Croydon v Y* [2016] EWCA Civ 398 as well as by the Upper Tribunal in *R(ZM and SK) v London Borough Of Croydon* [2016] UKUT 559 (IAC). For the avoidance of doubt, we do not support the introduction of scientific methods were they to merely mirror those already tried.

The consultation contains a proposal to legislate to place a duty on a local authority to either undertake an age assessment or refer to a NAAB. There is a lack of detail as to how this would operate and what the threshold would be for such a duty to kick in, therefore it is difficult to comment on the mechanics of such a proposal. However, for the reasons set out above, it appears that such a move in Scotland would be unlawful without a legislative consent motion. In any event, our members' experience around age assessments tells us that local authorities are better placed than the Home Office to make decisions around whether, and how, to conduct age assessments. In practice, the local authority workers will have significant experience of working with children and young people, training on conducting assessments, and will have met the young person.

The consultation contains a proposal to legislate to allow immigration officers to make initial assessments of age, according to the standard of "significantly over the age of 18". We do not support this proposal. Firstly, as noted above, local authority workers are better placed to make these decisions and detailed Scottish Government guidance is in place to help them do so. Secondly, we note that the Court of Appeal in *BF (Eritrea)* [2019] EWCA Civ 872 held that the standard proposed by the consultation was unlawful. This has been appealed to the Supreme Court and is awaiting judgment. We find it difficult to understand why a proposal is being made for a legal standard which has been found to be unlawful, has been changed in practice as a result, and is pending judgment in the Supreme Court. It would be more appropriate, in our view, for this proposal to await the finding of the Supreme Court.

The consultation makes a proposal for a statutory appeal to be implemented. We agree that Judicial Review is an unsatisfactory remedy for the challenge of age assessments. However, there are several questions as regards how a statutory appeal would operate. After attending a stakeholder event with the Home Office, we understand that the following about the proposal:

- It is designed to be a right of appeal against a local authority which either refuses to age assess or conducts an assessment which can be challenged. For the reasons set out above, this would require a legislative consent motion to be considered lawful in Scotland.
- It would allow for interim relief to be sought so a young person can be accommodated pending the appeal. We submit that this should be an automatic aspect of any statutory appeal.
- Legal aid will be available for the appeal. We welcome the views of the Scottish Legal Aid Board as regards this.
- It is not clear how this appeal right interacts with other aspects of the asylum process, including reforms proposed in this consultation. We believe any statutory appeal would require to "pause" ongoing asylum

claims, inadmissibility decision processes, and returns processes. Those in detention would require to be released pending the outcome of the appeal.

- It is not clear what time-limits would apply to lodge an appeal. We would submit that a 14 day period would be too short. This is particularly the case where a local authority refusal to assess is under challenge. In those situations, it is often difficult to identify a date from which the time-bar clock would run, e.g. what if the local authority refuse to see a young person and assess him, but do not provide anything in writing?

- The appeal would not be against immigration officers' "short-form" age assessments, and instead would be solely against local authority decisions/omissions. Bearing in mind the comment above as regards it being difficult to procure a written decision from a local authority in practice where they are refusing to assess, our submission would be that the decision of the immigration officer would still be subject to judicial review. In many cases in practice, this would in fact be the only remedy, meaning that the proposal may not reduce the reliance on judicial review as a remedy.

In summary, besides the constitutional questions set out throughout, we believe that more detail is required to be able to answer these proposals with any more clarity.

Chapter 5: Streamlining Asylum Claims and Appeals

26. The Government wants to ensure the asylum and appeals system is faster, fairer and concludes cases more effectively. The Government's end-to-end reforms will aim to reduce the extent to which people can frustrate removals through sequential or unmeritorious claims, appeals or legal action, while maintaining fairness, ensuring access to justice and upholding the rule of law. In your view, how effective, if at all, will each of the following intended reforms be in achieving these aims?

- *Developing a "Good Faith" requirement setting out principles for people and their representatives when dealing with public authorities and the courts, such as not providing misleading information or bringing evidence late where it was reasonable to do so earlier.*

Not at all effective.

- *Introducing an expanded 'one-stop' process to ensure that asylum claims, human rights claims, referrals as a potential victim of modern slavery and any other protection matters are made and considered together, ahead of any appeal hearing. This would require people and their representatives to present their case honestly and comprehensively – setting out full details and evidence to the Home Office and not adding more claims later which could have been made at the start.*

Don't know.

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

Don't know.

27. The Government wants to ensure the asylum and appeals system is faster, fairer and concludes cases more effectively. The Government's end-to-end reforms will aim to reduce the extent to which people can frustrate removals through sequential or unmeritorious claims, appeals or legal action, while maintaining fairness, ensuring access to justice and upholding the rule of law. In your view, how effective, if at all, will each of the following intended reforms be in achieving these aims:

- *Providing more generous access to advice, including legal advice, to support people to raise issues, provide evidence as early as possible and avoid last minute claims.*

Fairly effective.

- *Introducing an expedited process for claims and appeals made from detention, providing access to justice while quickly disposing any unmeritorious claims.*

Not at all effective.

- *Providing a quicker process for Judges to take decisions on claims which the Home Office refuse without the right of appeal, reducing delays and costs from judicial reviews.*

Not at all effective

- *Introducing a new system for creating a panel of preapproved experts (e.g. medical experts) who report to the court or require experts to be jointly agreed by parties.*

Not at all effective.

- *Expanding the fixed recoverable costs regime to cover immigration judicial reviews (JRs) and encouraging the increased use of wasted costs orders in Asylum and Immigration matters.*

Not at all effective.

- *Introducing a new fast-track appeal process. This will be for cases that are deemed to be manifestly unfounded or new claims, made late. This will include late referrals for modern slavery insofar as they prevent removal or deportation.*

Not at all effective.

28. The Government believes that all those who are subject to the UK's immigration laws, including those who have arrived here illegally or overstayed their visa, should be required to act in good faith at all times. Currently, the system is susceptible to being abused and there has to be an

onus on individuals to act properly and take steps to return to their country of origin where they have no right to remain in the UK. This duty will apply to anyone engaging with the UK authorities on an immigration matter.

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

- 1. Individuals coming to the UK (as a visitor, student or other legal means) should leave the country on their own accord, by the time their visa expires.*

Neither agree nor disagree

- 2. Individuals seeking the protection of the UK Government should bring their claims as soon as possible.*

Agree.

- 3. Individuals seeking the protection of the UK Government should always tell the truth.*

Agree.

- 4. Failure to act in good faith should be a factor that counts against the individual, when considered by the Home Office or judges as part of their decision making.*

Neither agree nor disagree

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

Neither agree nor disagree

29. The Government propose an amended ‘one-stop process’ for all protection claimants. This means supporting individuals to present all protection-related issues at the start of the process. The objective of this process is to avoid sequential and last-minute claims being made, resulting in quicker and more effective decision making for claimants. Are there other measures not set out in the proposals for a ‘one-stop process’ that the Government could take to speed up the immigration and asylum appeals process, while upholding access to justice? Please give data (where applicable) and detailed reasons.

There are many justifiable and practical reasons why claimants may not raise matters at the earliest possible stage. be that due to significant stigma, unresolved trauma, familial circumstances, etc. To take the example of the LGBTQI+ community, all of these factors may play a part in why a claimant does not mention issues relating to sexuality or gender, it is only after they have been able to access support from the wider LGBTQI+ community that many are able to speak more openly about something

they may have been concealing for their entire life, this may be months or even years after they have made their initial claim.

The proposals to introduce ‘new powers’ regarding the weight given to evidence which has not been submitted do not appear to differ significantly from those contained in section 8 of the *Asylum and Immigration (Treatment of Claimants, etc) Act 2004* as used by Home Office Decision makers or the Devaseelan principles (*Devaseelan v Secretary of State for the Home Department* [2002] UKIAT 702, [2003] Imm AR 1). The current system provides adequate powers for dealing with evidence and claims not raised at the earliest possible opportunity.

30. Please use the space below to give further feedback on the proposals in chapter 5. In particular, the Government is keen to understand: (a) If there are any ways in which these proposals could be improved to make sure the asylum and appeals system is faster, fairer, and concludes cases more effectively; (b) Whether there are any potential challenges that you can foresee in the approach the Government are taking around streamlining appeals. Please provide as much detail as you can.

The proposals in relation to requiring representatives to act in ‘good faith’ fail to take into account that all representatives in immigration matters are already required to act in ‘good faith’ by the codes of conduct to which they are subject by their respective regulatory bodies. In relation to Scottish Solicitors these requirements are reflected in The Law Society of Scotland Practice Rules Rule B1.2. Section 8 of the *Asylum and Immigration (Treatment of Claimants, etc) Act 2004* and other similar provisions place a similar obligation on those seeking international protection to act in good faith.

Chapter 6: Supporting Victims of Modern Slavery

31. The Government believes there is a need to act now to build a resilient system which identifies victims of modern slavery as quickly as possible and ensures that support is provided to those who need it, distinguishing effectively between genuine and vexatious accounts of modern slavery. In your view, how effective, if at all, will each of the following intended reforms be in achieving these aims?

- *Improving First Responders’ understanding of when to make a referral into the National Referral Mechanism (NRM) and when alternative support services may be more appropriate.*

Fairly effective

- *Clarifying the Reasonable Grounds threshold.*

Not at all effective

- *Clarifying the definition of “public order” to enable the UK to withhold protections afforded by the NRM where there is a link to serious criminality or risk to UK national security.*

Not at all effective

- *Legislating to clarify the basis on which confirmed victims of modern slavery may be eligible for a grant of temporary, modern slavery specific, leave to remain.*

Not at all effective

- *Bringing forward other future legislation to clarify international obligations to victims in UK law.*

Fairly effective

- *Continuing to strengthen the criminal justice system response to modern slavery, providing additional funding to increase prosecutions and build policing capability to investigate and respond to organised crime.*

Fairly effective

- *Introducing new initiatives (as set out in Chapter 6 of the New Plan for Immigration) to provide additional support to victims, improve the Government's ability to prevent modern slavery in the first place, and increase prosecutions of perpetrators.*

Fairly effective

32. Please use the space below to give further feedback on the proposals in chapter 6. In particular, the Government is keen to understand: (a) If there are any ways in which these proposals could be improved to make sure the objective of building a resilient system which accurately identifies possible victims of modern slavery as quickly as possible and ensures that support is provided to genuine victims who need it is achieved; and (b) Whether there are any potential challenges that you can foresee in the approach the Government are taking around modern slavery. Please provide as much detail as you can.

We reiterate the point that the Human Trafficking and Exploitation (Scotland) Act 2015 is devolved law. Accordingly, some of the proposals may engage the legislative consent convention and may therefore require the consent of the Scottish Parliament.

Chapter 7: Disrupting Criminal Networks Behind People Smuggling

33. Illegal immigration can cause significant harm and can endanger the lives of those undertaking dangerous journeys. It can also endanger those emergency service workers and Border Force officers who respond to illegal journeys such as those made by small boat.

The Government is determined to introduce tough new measures to deter illegal migration by strengthening the protection of the UK's borders. In your view, how effective, if at all, will each of the following intended reforms be in helping to meet this aim:

1. *Introducing tougher criminal offences for those attempting to illegally enter the UK, (including raising the penalty for illegal entry from 6 months to 2 - 5 years).*

Not very effective

2. *Widening existing powers to tackle those promoting or facilitating illegal migration, including raising the maximum sentence for facilitation to life imprisonment.*

Not very effective

3. *Giving additional powers to Border Force including searching freight containers for immigration purposes, seize and dispose of any vessels and the ability to stop and redirect vessels from the UK where persons being conveyed are suspected of seeking to enter the UK illegally.*

Not very effective

4. *Increasing the penalty to a maximum of 5 years in prison for Foreign National Offenders who return to the UK in breach of a deportation order.* 5. *Overhauling the Clandestine Civil Penalty Regime.* 6. *Implementing an Electronic Travel Authorisation (ETA) scheme to identify and block the entry of those who present a threat to the UK.*

Not very effective. Rather than creating new criminal offences and increasing the maximum sentence, the Government should focus on properly enforcing the current criminal offences in the Immigration Act 1971. A member of the committee has been involved in a section 25 prosecution in which facilitation of illegal immigration was alleged. The case was deserted by the Crown prior to trial. The migrants in question were in the UK lawfully without leave under section 8 of the 1971 Act. The detention of fishing vessels during the Home Office investigation has been the subject of an action for damages.⁴ The immigration officer leading the investigation clearly misunderstood the law he was attempting to enforce. Investing in training and focusing on resolving the operational difficulties with the current system would be a better use of time and money than pursuing unnecessary reform.

34. This question relates to the proposals to overhaul the Clandestine Civil Penalty Regime in chapter 7 of the New Plan for Immigration.

The Government recognises that there is an ongoing threat posed to the haulage sector by those who view clandestine concealment in goods vehicles as a means to enter the UK illegally.

Efforts to improve lorry security will assist in protecting the industry and borders, and yet the Government is still encountering large volumes of vehicles which do not meet the minimum-

⁴ See *Galbraith Trawlers Limited v Advocate General for Scotland* [2021] SAC (Civ) 15. The court is critical of the Home Office's lack of candour in conducting the case – see paragraph 70.

security standards set out in the Civil Penalty: Prevention of Clandestine Entrants Code of Practice (which can be accessed on GOV.UK).

How far do you agree or disagree that improving levels of goods vehicle security is an important step towards reducing illegal entry by clandestine migrants?

We agree that improving goods vehicle security is an important step to reducing illegal entry.

35. This question relates to the proposals to overhaul the Clandestine Civil Penalty Regime in chapter 7 of the New Plan for Immigration. The Government aims to provide a fair and transparent charging framework that addresses more severe breaches of the Clandestine Entrant Civil Penalty Code. The Government proposes an increase in the level of penalty. What level of fine (per clandestine migrant) do you think is appropriate?

We have no comment to make.

36. The Government proposes to legislate for and enforce an electronic travel authorisation (ETAs) scheme i.e., an application for permission to travel to the UK similar to the current process for countries like United States, Canada, Australia and New Zealand.

If you have experience of applying for or engaging with travel authorisation schemes operated by other countries, what are your experiences of those schemes?

Mostly positive. The scheme is easy to participate in (if one has access to the internet and a payment card). It is relatively inexpensive. The US ESTA duration is 2 years. This could be of a longer duration.

37. Please use the space below to give further feedback on the proposals in chapter 7. In particular, the Government is keen to understand (a) If there are any ways in which these proposals could be improved to make sure the objective of defending the UK border and preventing illegal entry is achieved; and (b) Whether there are any potential challenges that you can foresee in the approach the Government are taking to defend the border. Please provide as much detail as you can.

See our above comments.

38. It is an essential responsibility of any Government to enforce and promote compliance with immigration laws, ensuring the swift return of those not entitled to be in the UK. The Home Secretary is also under a duty to remove any foreign national offender who has been served a sentence for an offence in the UK of 12 months or more. In your view, how effective, if at all, will each of the following reforms be in helping us to build on these principles?

- *Consulting with Local Authority partners and stakeholders on implementing the provisions of the 2016 Act to remove support from failed asylum-seeking families who have no right to remain in the UK.*

Don't know. It is unclear what is being changed and why. Local Authority support (or any other form of support) is not currently available to failed asylum-seekers who do not have a pending claim. The only exception to this is where support is provided under section 25 of the Children (Scotland) Act 1995 (which is a devolved matter).

- *Considering whether to more carefully control visa availability where a country does not co-operate with receiving their own nationals who have no right to be in the UK.*

Not at all effective. This would be inconsistent with the intention to decide who comes to the UK based on the skills people have to offer, not where their passport is from.

- *Increasing the early removal provision for Foreign National Offenders who leave the UK from 9 months to 12 months to encourage departure and also add a new 'stop the clock' provision so that they must complete their sentence if they return. This would be in addition to any sentence for returning in breach of a deportation order.*

Fairly effective.

- *Amending the list of factors for consideration of granting immigration bail and the conditions of immigration bail.*

Don't know. Without knowing what amendments will be made it is not possible to determine whether this proposal will be effective.

- *Placing in statute a single, standardised minimum notice period for migrants to access justice prior to enforced removal and confirm in statute that notice need not be re-issued following a previous failed removal, for example where the person has physically disrupted their removal.*

Fairly effective. This reform would make removal of those not entitled to be in the UK more effective, however should not be pursued at the expense of Individuals having their claims, and new evidence, assessed following the passage of time. Removal would need to be re-attempted within a reasonable timescale (i.e., a matter of weeks) if an individual is to be deprived of their right to challenge the legality of removal proceeding.

39. The Government intends on amending the list of factors for consideration of Immigration Bail in paragraph 3 of Schedule 10 to the Immigration Act 2016 (legislation.gov.uk), to include an individual's compliance with proper immigration process. To what extent, if at all, do you agree

or disagree with this proposal?

The phrase “proper immigration processes” is not explained. Without knowing what this encompasses, who will decide whether the “proper” process has been followed, and against what criteria this will be assessed, it is not possible to express agreement or disagreement with the proposal.

40. This question relates to the proposals around providing prior notice of a set period (known as the notice period) before the individual is removed. This notice period provides the opportunity to seek legal advice and bring legal challenges ahead of removal. In your view, should this notice period be:

1. *A minimum of 72 hours, as is currently the case*
2. *5 working days*
3. *7 calendar days*
4. *Other length of time (please specify and explain your answer)*

This notice period should be at least 5 working days.

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

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

(b) Whether there are any potential challenges that you can foresee in the approach the Government is taking around removals. Please write in your answer in full, providing as much detail as you can.

See the above comments.

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

- *Age • Disability*
- *Gender reassignment*
- *Marriage and civil partnership*
- *Pregnancy and maternity*
- *Race*
- *Religion or belief*

- Sex • Sexual orientation

From the list of areas below, please select any areas where you feel intended reforms present disproportionate impacts on individuals protected by the Equalities Act. Please expand on your answer for any areas you have selected, providing data (where applicable), further information and detailed reasons.

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

We have no empirical evidence to enable us to answer this question.

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

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

Please expand on your answer, providing data (where applicable) and further information

We have no comment to make.

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

We have no comment to make.

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

We have no comment to make.



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