



NEW PLAN FOR IMMIGRATION

CONSULTATION RESPONSE BY THE LATIN AMERICAN WOMEN'S RIGHTS SERVICE

Introduction to the New Plan for Immigration

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.

Response:

Strongly oppose

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.

Response:

LAWRS agrees that the UK asylum system must be reformed in order to support people seeking protection, but we oppose the proposals as we do not believe they can lead to a fair asylum system. We believe they threaten the very right to seek asylum in the UK; they will make life harder for those people who do claim asylum here; and put people seeking safety more at risk.

The proposals do not address the reasons why people are forced to take dangerous journeys to seek safety, nor will they address the record backlog of people waiting in inhumane conditions for a decision on their claim for asylum. Further, they do nothing to address the longstanding issues of unsafe and inappropriate accommodation, poverty and destitution that people seeking sanctuary in the UK face.

Not only is it not a fair assumption that those entering the country without a valid visa are not in genuine need of asylum, but there is also no evidence to support that establishing a tougher asylum system will deter people from taking such dangerous journeys or will deter criminal trafficking. In fact, all immigration measures that hinder the possibilities for migrants to regularise their status, increase the risk for exploitation and modern slavery.

The UK asylum system should be reformed along the following principles:

- Effective access to the asylum process – all people seeking protection should have the opportunity to be able to do so.
- A fair, humane and efficient asylum system – all people seeking asylum should have their claims assessed fairly, humanely and efficiently.
- Reception conditions that promote dignity, liberty, empowerment and integration – support provided during the asylum system must ensure liberty, promote dignity, empower people and support their integration in the community from the moment of arrival.
- Integration – policies should support people to realise their full potential and empower them to make a positive contribution to their communities.
- Dignity, liberty and humanity for those found not to be in need of protection – people refused asylum should not be detained and be treated in a safe, dignified and humane way at all times.
- Global solidarity and responsibility sharing – the UK should play a role in providing sustainable solutions to forced migration.

Chapter 4: Disrupting Criminal Networks and Reforming the Asylum System

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?

Response:

There should not be a differentiated approach to asylum claims, either while people are waiting for a decision to be made or once status is granted. Everyone who claims asylum in the UK should be able to live in safety and dignity and be supported to rebuild their lives. A person's route of entry to the country has no bearing on their need for protection or their rights to fair treatment.

It is important to highlight that there is no obligation under the Refugee Convention to claim asylum in the safe first country someone reaches; family, community, and language ties may

mean for some people the UK is where they judge they will be best-placed to seek sanctuary and rebuild their lives.

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?

Response:

LAWRS opposes the introduction of a more rigorous standard for testing the well-founded fear of persecution. The government has provided no good reason to make the standard to test for a well-founded fear of persecution more rigorous. As it stands, the percentage of successful appeals demonstrates that people already aren't receiving protection when they should; in 2019/20, the First-tier Tribunal success rate in asylum appeals was 48%.

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

Response:

Not at all effective for all cases

Chapter 6 - Supporting Victims of Modern Slavery

These questions relate to Chapter 6 of the New Plan for Immigration, and focus on proposals relating to tackling modern slavery and support victims of trafficking.

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.

Response:

LAWRS agree that support for victims of modern slavery and exploitation is in need of reform. In its current form, the system is difficult to understand and navigate and it does not meet survivor's needs appropriately. However, it is vital that any reform puts victims' needs and experiences at its centre.

While there is widespread agreement that the number of people referred is but a small fraction of the actual number of victims of modern slavery, and many of them are in fact migrants, there is now enough understanding of modern slavery to move away from easy assumptions and stereotypes that could prevent victims from accessing the support they need. The majority of people referred to the National Referral Mechanism are currently British nationals. Associating Modern Slavery with immigration and asylum, while asserting without evidence that the system is abused by vexatious accounts of modern slavery goes against the experience of the anti-trafficking sector, which consistently finds that victims are either let down by the system, or too afraid to seek support through it.

For victims whose immigration status is insecure, entering the National Referral Mechanism can seem daunting, and many refuse to do it for fear of being detained and deported. The language included in the New Immigration Plan, as well as the approach blurring the lines between modern slavery and asylum or immigration, could potentially further push victims underground, for fear of having their data shared with immigration enforcement. This, in turn, can act as a weapon for exploiters who can exert their power over victims with impunity.

LAWRS agrees that First Responders should be properly trained to have a deep understanding of the issues facing modern slavery victims, and to better recognise indicators of trafficking and exploitation in different sectors of employment. However, this should not mean making the

system less accessible for potential victims or bias against those with insecure immigration status.

We strongly oppose any increase in the initial Reasonable Grounds decision threshold. We believe this could be harmful for victims, who do not always self-identify as such, who are often scared or reluctant to share their experiences of abuse, who may have experienced a level of control and manipulation by which they feel indebted to their exploiter, or who may be suffering from trauma leaving them unable to recall events with clarity. By raising the threshold, many victims in dire need of support could be excluded from receiving protection and support. Furthermore, no evidence has been presented to show there is a need to raise the threshold.

We strongly oppose the proposition to withhold protections afforded by the NRM where there is a link to serious criminality or a risk to UK national security. As a result of exploitation, victims may be forced to commit a crime. If these victims are barred from receiving support, the most vulnerable victims will be unable to leave exploitation, and exploiters will continue targeting the most vulnerable people and forcing them to commit such crimes.

Finally, it is LAWRS' belief that in order to tackle exploitation, trafficking and modern slavery effectively:

It is important to also tackle labour abuse in all sectors of employment, with special focus on those where low pay and labour rights violations are endemic, as continuous violations can pave the way to severe exploitation.

It is also imperative that data-sharing between the police and labour inspectorates and the Home Office is brought to an end, so that victims are not afraid to come forward and report exploitation.

Victims in the National Referral Mechanism must be allowed to work and receive education. Otherwise, the insufficient support currently available can lead them to be re-trafficked and fall into exploiters' hands once again.

Public Sector Equality Duty (and other general questions)

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.

Choose as many as you like

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

Response:

A - B - C - D - E - F - G

Please expand on your answer for any areas you have selected, providing data (where applicable), further information and detailed reasons.

Response:

LAWRS are really worried about the impact of the proposals on women with the protected characteristics of sex. We know that an important driver for migration and asylum-seeking is fleeing gender-based violence, including domestic abuse, 'honour'-based violence, and sexual violence. The nature of abuse is highly gendered and evidence proves that women, particularly women who live multiple oppressions, are more likely to experience abuse. Therefore, we are alarmed by the discriminatory impact of these proposals on women preventing them from being safe and having the chance to rebuild their lives.

We are dismayed by the proposals of this plan as extremely vulnerable women will be excluded from accessing systems of protection by being denied asylum based on the routes they had to take to arrive in the UK. It is relevant to say that some of these women are at risk of further abuse and death if they are made to return to their home countries.

We are alarmed by the 'one stop' process included in chapter 5 of the plan, which aims for asylum seekers to make their case of why they need protection from the beginning. LAWRS is an organisation working to support very vulnerable survivors of violence against women and girls. From a trauma-informed approach, we understand that disclosing experiences of abuse can take time. This point is highly relevant as women seeking asylum are often abused and

victimised as part of their journey to the UK. In many cases, women will need time and holistic support, including culturally and linguistically sensitive counselling and legal advice, before feeling confident to disclose any information regarding their experiences of abuse. In addition, this proposal overlooks that women seeking asylum who have been victims of trafficking and modern slavery might be extremely fearful of disclosing the ways in which they have been victimised as they might still be afraid of perpetrators and exploiters.

Other elements to consider, such as structural barriers that might prevent asylum seekers from fully enlisting the reasons they need protection, have to do with language barriers, lack of culturally appropriate support and fear of not being protected.

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)

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

Response:

A - B - C - D - E - F - G

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

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

From LAWRS, we are disturbed by the proposals included in this New Immigration Plan and the lack of compassion in its approach to ensure vulnerable people seeking asylum are protected from further victimisation. We are concerned to see that lessons have not been learned from the Windrush scandal and its review, despite the commitments from the government to put 'people first' in its approach to immigration.

Furthermore, we are dismayed by the lack of evidence to sustain the actual effectiveness of these proposals. At the same time, it's worrying that several claims and statements provided as justification for these proposals are not sustained and accompanied by any strong pieces of

evidence and data. In the last years, the government has put in place rules on immigration without considering the negative impacts that those would have on equality and the wellbeing of highly vulnerable groups of people such as victims of VAWG, modern slavery and trafficking.

Regarding the consultation and its process, we are concerned about the lack of opportunities to have any meaningful engagement with people with lived experience of the UK asylum system. This exclusion extends to the fact that the consultation is only available online and in English. Furthermore, the platform and how the consultation is structured are highly confusing, with minimal opportunities to give substantial feedback as many of the questions are highly misleading.

As a frontline organisation supporting Latin American migrant women, daily we come across the damaging effects of immigration policies and changes on immigration law and how they exacerbated the vulnerability of migrants, refugees and asylum seekers in the UK. In this vein, we oppose this New Plan for Immigrants because we believe it will criminalise vulnerable people seeking asylum, including women and children fleeing dire living conditions and have already experienced high levels of abuse and trauma.