

Consultation response

New Plan for Immigration: Shelter's response

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Shelter helps millions of people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

Overall objection to the plan and process

Shelter has grave concerns about the New Plan for Immigration and the impact many of the proposals will have on those affected. We oppose the premise of the consultation and how the consultation has been conducted, but we are responding as we think it is important that organisations and individuals take part in the consultation.

Shelter's response to this consultation will focus on the impact of the plans on housing and homelessness, and associated matters, in which we have wide-ranging experience. Shelter employs over 200 advisors and 40 solicitors in 16 offices around England and Scotland to give advice and provide legal representation to the public. Our advice and legal teams across the country regularly assist homeless and destitute people who have no recourse to public funds (NRPF), including families with children who are seeking help from their local authority but have been refused housing and financial support. In these cases, we help families with their applications for assistance to social services under section 17 Children Act 1989 (provision of services to children in need).

We often act in urgent cases where families face destitution and we challenge local authorities by way of (or the threat of) judicial review proceedings until support is provided. As detailed below, the New Plan and the proposal of a two-tier asylum process will result in more families with NRPF needing help from local authorities. We see these cases regularly and witness the trauma of the stress caused to families in these situations; it is particularly damaging to children who would otherwise be street homeless without this support.

Below we respond to the relevant sections of the plan that will have a direct impact on people's housing rights, and ability to have a safe, suitable and secure roof over their heads.

The New Plan lacks adequate detail and clarity on the proposals which makes it impossible to provide a full and informed response to the consultation. As a general point, we are deeply worried that the proposals will result in a significant increase in destitution putting people, including children, at risk. We believe the plans contravene rights enshrined in the 1951 Refugee Convention, as well as being contrary to other international human rights treaties including the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

We are particularly concerned with the proposal of the two-tier system where people's claims for asylum and protection will be based on how they arrive in the UK, rather than 'a well-founded fear of persecution' and their right to seek asylum, safety and protection. The New Plan distinguishes between 'legal' and 'illegal' routes and entry into the UK. This is inflammatory language which fuels discourse of 'legal'/good asylum seekers versus 'illegal'/bad asylum seekers. Shelter's position is that the New Plan will make the existing hostile environment worse for migrants living in the UK.

The consultation on the New Plan is inadequate and there are major issues with the way it has been conducted.

1. The time allowed by the Government for comment and meaningful responses to the Consultation is woefully insufficient. The New Plan proposes to introduce a significant overhaul of the asylum system and the public and stakeholders have been given a limited six weeks to respond. The timing of the consultation has run alongside the pre-election period in the lead up to local authority and mayoral elections in the UK, which means that responses from many interested parties will not be shared and heard.
2. The consultation platform and how it has been shared is inaccessible for many. The consultation is only available in English and Welsh, which will undoubtedly make it more difficult for people who have actually experienced the issues being discussed to respond to the consultation. The fact that the consultation only runs for six weeks, and includes both Easter and May bank holidays, also restricts people who might need support in responding to be part of the consultation.
3. The language and the way the questions are framed is targeted and biased. For example, the underlying premise of the consultation is not that people who arrive independently in the UK to seek asylum are exercising their international rights to protection from persecution, but instead that they file an asylum claim to 'frustrate their removal' from the UK. We submit that the questions are leading and designed to sway respondents to answer in a certain way that supports the proposals. By limiting answers to multiple-choice, the online consultation restricts how important questions can be answered. For this reason, Shelter is not responding to any multi-choice questions.

Key concerns about specific proposals in the plan

Chapter 2: Protecting those Fleeing Persecution, Oppression and Tyranny

Q7. 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.

Government Proposal: Support for refugee integration

Refugees in the UK should have access to the tools they need to become fully independent, provide for themselves and their families and contribute to the economic and cultural life of the UK. We want to ensure there is effective support so that refugees can integrate and become self-sufficient once they make the UK their home.

Previous resettlement schemes, specifically targeted at the most vulnerable, saw employment rates of only 5% after the first year. For refugees more generally, the employment gap, compared to the rest of the UK population, is over 30 percentage points. It can take over a decade for this gap to close.

We will therefore develop tailored and flexible employment support arrangements to refugees arriving to help accelerate their progress as they adjust to life in the UK.

We have already committed £14 million for a cross-government Refugee Transitions Outcomes Fund to offer greater support to refugees with a focus on employment and getting people into work. Building on this programme and other schemes available, we will develop a package of tailored support such as language training, skills development and work placements to help refugees build their lives in the UK. Because proficiency in the English language is so important for refugees to successfully integrate into local communities and enter the workplace, we will improve the offer of English language teaching.

We also want a higher proportion of refugees to be supported by Community Sponsorship groups and will work with civil society and communities to encourage the growth of the Community Sponsorship scheme. Community Sponsorship enables local volunteer groups including charities and faith groups, to directly welcome and support refugees, helping with accommodation and integration support.

Shelter’s view on the government’s “support for refugee integration” proposal

We have concerns around the proposed expansion of the Community Sponsorship scheme, in particular the ability for groups to secure housing and how this may create a barrier to expanding the scheme.

The current scheme asks for those applying to have secured sustainable and suitable accommodation for at least two years and to show how it will be financially viable. This must include an account of the anticipated expenditure which takes into account the social welfare income the incoming refugee family may receive and the cost of accommodation. In order to be approved, the accommodation must be affordable to the family and if it is not, the sponsor group must show how the extra costs will be met.

A large number of these families will have to rely on Local Housing Allowance (LHA), housing benefit for private renters, but the LHA rates are already failing to cover rents across England. LHA is meant to cover the cheapest 30% of rents in every local rental area. This means that, in theory, one in three homes in the area should be affordable for people on low incomes to rent.

However, the LHA rates have been frozen by the government and, because rents have risen over the last year, the rates are already failing to cover the cheapest 30% of rents. **In over half of England (58%), the LHA rates fail to cover the rent of a modest two-bedroom home.** This is likely to get worse over coming years if rents rise while LHA rates remain frozen.

This means it will get increasingly more difficult for Community Sponsorship Scheme to operate without it only being available to community groups where accommodation is already owned by the group (i.e. Church groups) or a much bigger investment by the community groups involved. This is likely to mean fewer groups are able to participate without taking on considerable costs themselves.

Another major barrier will be the five-week wait for the first payment of Universal Credit (UC). Once the sponsored family are in the UK, they will be helped to apply for UC so they can access housing support and benefit payments. They will then have to wait five weeks, if there are no delays, before they receive their first payment which could put them into rent arrears immediately. This is also likely to deter private landlords from renting their properties within this scheme, knowing that their tenants will be in rent arrears from the start.

There is a way of receiving the first payment in advance to avoid having to wait five weeks; however, this is a loan rather than a grant meaning that any UC payments are heavily deducted until the advance has been paid off. This can also put people into financial difficulties as they have to live on a much tighter budget for a prolonged period. Families are left with the terrible choice of living without any income for five weeks or living with heavy deductions for up to two years.

A further barrier in terms of finances and rent is the benefit cap. Once a family under this scheme is in receipt of UC, they may well be subject to the benefit cap, which limits the amount of benefit a claimant can receive. The reduction in benefits is taken directly from their UC payment, which means that their ability to pay their rent is immediately threatened. Again, this is not only a barrier for the family, but also for landlords wishing to rent their properties under the scheme.

If the government wishes to expand the Community Sponsorship Scheme to help refugee families arriving in the UK, **it must take steps to unfreeze the Local Housing Allowance rates, scrap the five-week wait for Universal Credit and provide an exemption to the benefit cap for those under this scheme.**

Chapter 4: Disrupting Criminal Networks and Reforming the Asylum System

Q. 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.

Government proposal: Temporary protection status

Anyone who arrives in the UK illegally - where they could reasonably have claimed asylum in another safe country – will be considered inadmissible to the asylum system.

If an inadmissible person cannot be removed to another country, the SSHD (Secretary of State for the Home Department) will be obliged to process their claim. If they did not come to the UK directly, did not claim without delay, or did not show good cause for their illegal presence, the SSHD will consider them for temporary protection.

Temporary protection status will be for a temporary period, no longer than 30 months, after which individuals will be reassessed for return to their country of origin or removal to another safe country. Temporary protection status will not include an automatic right to settle in the UK, family reunion rights will be restricted and there will be no recourse to public funds except in cases of destitution.

People granted temporary protection status will be expected to leave the UK as soon as they are able to or as soon as they can be returned or removed.

Shelter’s view on the government’s “temporary protection status” proposal

These proposals would increase destitution in the UK, putting people desperate to escape the streets at risk of exploitation (including from criminal networks), appalling housing conditions and modern slavery. Lives would be at risk.

Large numbers of people may end up with temporary protection status, including families with children, because they cannot be removed to a third country. It’s unclear where the

government propose individuals and families with temporary protection status would live or how they would subsist as they would have No Recourse to Public Funds (NRPF).

NRPF is a dangerous restriction that forces people into destitution. It means that if you suffer an income shock or lose hours at work, or are unable to access work, you are not entitled to support from public funds such as Universal Credit or housing benefit. Covering every day costs can then become impossible forcing people towards destitution and homelessness. If people do end up sleeping on the streets as a result, NRPF means that there is often no way out, as people with NRPF are not generally eligible for homelessness assistance or social housing from the local authority, except in limited circumstances¹.

During the pandemic, we have seen how easy it is to experience a sudden loss of income or work through no fault of your own. Whilst the government has made some improvements to the welfare safety net for the course of the pandemic, those with NRPF were left without a safety net to catch them. The Children Society estimated that there were over a million adults and 142,000 children who had leave to remain – a visa which normally holds the NRPF condition.² All these people were put at significant risk during the pandemic, and we have heard from many who ended up unable to feed themselves and/or sleeping rough, putting their lives at risk. At Shelter, we have provided legal help to individuals and families with children who have been at risk of street homelessness due to NRPF.

The introduction of the temporary protection status will inflate these numbers significantly. Particularly as there may be more difficulties for people with this status to find regular employment whilst holding a visa which is temporary. Although, the consultation states that NRPF will be applied “except in cases of destitution”, the current process for removing the condition is difficult. The Unity Project has highlighted that there are numerous procedural barriers preventing even eligible applicants from making a successful application to remove the NRPF condition and even if they are successful, the application can take a long time, sometimes months, to be processed.³

¹ Families with children may be helped through section 17 support and, during the pandemic, it has been ruled that local authorities have a duty to assist everyone, including those with NRPF

² Pinter, I., Compton, S., Parhar, R., Majid, H., (2020) [A Lifeline for All](#), Children’s Society

³ Woolley, A., (2019), [Access Denied: The cost of ‘no recourse to public funds’ policy](#), The Unity Project

With the oncoming economic recession, rising unemployment combined with the end of furlough and the end of the ban on evictions by bailiffs, adding more people to those subject to the NRPF condition is a disaster waiting to happen.

As stated, the temporary protection status would increase destitution and homelessness, which also undermines the government's election promise to end rough sleeping by 2024. Having no rights to accommodation or help is why many people sleep rough – including immigrants with NRPF. In 2019/20, over half of people recorded as sleeping rough in London were non-UK nationals.⁴

It is also likely to push people into exploitative housing, employment and personal situations – some of which could meet the threshold of modern slavery – just to avoid the streets. Refugees and immigrants (particularly people of colour, people identifiably of religious minorities, women, disabled people, LGBTQ+ and young people) can already be reluctant to bed-down because of feeling vulnerable to assault, harassment or hostile encounters with the authorities. People seeking asylum can already be traumatised and afraid of authorities because of persecution in their country of origin.

People with temporary protection status may in future be even more afraid to visibly sleep rough as a result of other measures recently implemented or proposed by the government:

- Recent immigration rule changes mean that leave to remain in the UK can now be refused or cancelled on the grounds of rough sleeping.⁵ Street homelessness should never be a reason for removal. This change could mean police and the Border Agency actively investigate people sleeping rough who appear to be immigrants.
- The proposed Police, Crime, Sentencing and Courts Bill could make it a criminal offence to sleep rough in, or with, a vehicle without the consent of the occupier of the land.⁶ Again, this could result in attention from police or landowners – and a criminal conviction, resulting in deportation.

⁴ CHAIN [Annual Bulletin Greater London 2019/20](#)

⁵ Home Office (20 April 2021) [Grounds for refusal: rough sleeping](#)

⁶ [Police, Crime, Sentencing and Courts Bill 2021](#), Part 4: unauthorised encampments

Far from disrupting criminal networks, we believe these measures could drive destitute people seeking asylum, and afraid of sleeping on the streets, into the hands of criminal gangs in the UK – because they offer accommodation to avoid the streets, for example via sex work or gangmaster activities.

We believe these measures will lead to more people in the UK living in appalling housing conditions, such as ‘beds in sheds’ or shocking levels of overcrowding. People sleeping in death-trap accommodation provided by criminal gangs or rogue landlords would be too afraid to report dangerous living conditions to local housing enforcement teams. A fire or carbon monoxide leak in accommodation of this nature could lead to many deaths. Children could end up living in such conditions.

The measures could also lead to deaths as a result of hidden rough sleeping. A desire to avoid visible rough sleeping, and a fear of seeking help when on the streets, could well mean that people sleep out in sub-zero temperatures, or while unwell, in locations hidden from the public and homeless outreach teams. There were already an estimated 778 deaths of homeless people in England and Wales registered in 2019 – the highest number since such records were published in 2013. They may also sleep in dangerous places, such as waste-bins. Last year, it was reported there had been at least 7 deaths in the previous 5 years as a result of people sleeping in large waste-bins and being fatally crushed.⁷

In cases where the destitution constitutes a breach of human rights or children’s rights, local authorities are often required to provide and pay for accommodation, putting additional pressure on their already overstretched budgets, as NRPF households aren’t entitled to housing benefit to cover the rent on temporary accommodation.

We believe this proposal also fails to consider the best interests of the child in accordance with Article 3 of the UNCRC. The High Court has already found that the NRPF policy is in breach of the Secretary of State’s duty under section 55 of the Borders, Citizenship and Immigration Act 2009, to treat the best interests of children as a primary consideration⁸. Families with temporary protection status will struggle financially to cover rental costs and

⁷ Walker, A and Greenfield, P (February 2020) *Deaths of homeless people sleeping in bins prompt calls for action*, The Guardian

⁸ <https://www.bailii.org/ew/cases/EWHC/Admin/2021/1085.html>

living expenses, without any additional support through public funds. More families with children will need to approach local authorities for assistance through section 17 Children Act 1989 because they and their children face destitution. It is Shelter's experience advising and providing legal assistance in cases where families do not have recourse to public funds, that local authorities do not always apply their duties under section 17 and that this often results in urgent legal challenges being brought which is extremely traumatic for the families involved. As it stands, section 17 support is an inadequate safety net.

Families with temporary protection status will be surviving with housing insecurity as well as the inability to successfully integrate into society as their status in the UK is both temporary and uncertain. This will have a damaging and lasting impact on children, many of whom will have already experienced trauma either from experiences in their country of origin and/or from their journey to the UK.

The NRPF condition risks damaging people's journey to a safe and settled home, causes destitution and must be abolished.

Government proposal: Reception centres and accommodation

Those deemed inadmissible will be served with a notification upon arrival that the UK will seek to return them to a safe country.

To help speed up processing of claims and the removal of people who do not have a legitimate need to claim asylum in the UK, we plan to introduce new asylum reception centres to provide basic accommodation and process claims. We will also maintain the facility to detain people where removal is possible within a reasonable timescale. The use of hotels to accommodate new arrivals who have entered the UK illegally will end.

The reception centre model, as used in many European countries including Denmark and Switzerland, would provide basic accommodation in line with our statutory obligations, and allow for decisions and any appeals following substantive rejection of an asylum claim to be processed fairly and quickly onsite. We will set in legislation a new fast-track appeals process – with safeguards to ensure procedural fairness.

We will also look to make fuller use of existing immigration bail powers, which provide for residence conditions, reporting arrangements and monitoring.

Shelter’s view on the government’s “reception centres and accommodation” proposal

We strongly object to the Government’s plans to extend its asylum estate, which include proposals “to introduce new asylum reception centres to provide basic accommodation and process claims” of asylum seekers.

The Nationality, Immigration and Asylum Act 2002 introduced powers to open asylum processing centres, which have been “opposed by many who objected to isolating people seeking asylum in detention-like centres.”⁹ Asylum seekers are also already placed in initial accommodation or dispersal accommodation which is provided by private contractors. The Home Affairs Committee has identified that accommodation can be “substandard, unsanitary and in some instances, unsafe to live in”.¹⁰ More recently, there has been extensive coverage of the government’s use of former army barracks to accommodate asylum seekers during the pandemic. Reports have highlighted that asylum seekers have been accommodated in cramped and grim conditions,¹¹ which in no way meet the government’s own stated standards for asylum accommodation.¹²

We are therefore extremely concerned that the government’s proposals to extend its asylum estate will continue the plight that many asylum seekers face when placed in asylum accommodation – it will lead more and more to be placed in isolated, unfit and dangerous accommodation which will also operate as detention centres.

The government should not further its proposals for reception centres, which risks asylum seekers being placed in isolated and unfit accommodation. Instead, the government must introduce policy changes which ensure that asylum seekers are consistently provided with accommodation that is fit for human habitation, with sufficient government financial support, and within local support networks.

⁹ Amnesty International UK, (2021) [Consultation – The New Plan for Immigration: A Guide from Amnesty International](#)

¹⁰ Home Affairs Committee, (2017) [Asylum Accommodation. Twelfth Report of Session 2016-17.](#)

¹¹ BBC News, (2021), [Asylum seekers; Napier Barracks and Penally camp ‘filthy and run-down’.](#)

¹² [Asylum Accommodation and Support: Schedule 2 – Statement of Requirement](#)

Chapter 6: Supporting Victims of Modern Slavery

Q. 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 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 support is are taking around modern slavery. Please provide as much detail as you can.

Government proposal: Providing victims of modern slavery with increased support

As well as acting to prevent abuse of the NRM, it is also right that we consider options to improve the assistance we provide to victims of modern slavery.

For some victims, certainty over their immigration status is a crucial enabler to their recovery and to assisting the police in prosecuting their exploiters.

We will make clear, for the first time in legislation, that confirmed victims with long-term recovery needs linked to their modern slavery exploitation may be eligible for a grant of temporary leave to remain (subject to any public order exemption) to assist their recovery, building on our end-to-end needs-based approach to supporting victims. We will also make clear that temporary leave to remain may be available to victims who are helping the police with prosecutions and bringing their exploiters to justice.

Shelter view on the government's proposal

It is important to provide support and certainty over immigration status. But the government is saying that “confirmed victims with long-term recovery needs linked to their modern slavery exploitation may be eligible for a grant of temporary leave to remain (subject to any public order exemption)”. The difficulty with most temporary leave to remain visas is that they include the NRPF condition.

As detailed above, the NRPF condition means they will be provided with no or very little support, and often leads to destitution and homelessness. This will mean victims of modern slavery will not have access to support in the form of UC, housing benefit or homelessness

assistance—meaning many will face even more trauma because they are not getting the help they need.

The NRPF condition risks damaging people’s journey to a safe and settled home even further and must be abolished.

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