****

**The Church of Scotland**

**Response to UK Government consultation *New Plan for Immigration***

**Thursday 6 May 2021**

**Chapter 1: Overview of the Current System**

**(Consultation 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.**

Multiple Choice answer: 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.**

1. We believe that the image of God is reflected in every human person, including those who migrate or are displaced from their homes. This divine-image bearing is too often lost in the vast statistics and party politics that surround discussions around migration, which is a natural phenomenon and part of everyday life. The Bible is full of stories of forced and chosen migration because of natural disaster, exploitation, people-trafficking, war, famine, persecution, missionary journeys, and to enjoy religious and cultural opportunities. Jesus is a migrant three times: he is an undocumented infant refugee to Egypt; he becomes an itinerant preacher and healer with nowhere to lay his head, and Jesus as God, making the ultimate journey of border crossing by becoming incarnated in our world. Jesus makes clear that our love for God is expressed in the love for our neighbour. Our neighbour, according to the story of the Good Samaritan, is one treated with suspicion, even regarded as an enemy. Yet, it is this ‘other’ who demonstrates mercy, who brings healing and restoration. The Good Samaritan is a story as radical and subversive for our own times as it was for those first listeners. It is a story about becoming human together, beyond status and categories. It is with this understanding of how we are expected to regard the stranger, the neighbour, the asylum seeker or the refugee that the rest of this response is built on.
2. The principles behind proposed reforms of the asylum system are described in the paper as ‘fair, but firm’.
3. However, the proposed policies and detailed changes are manifestly not fair. One example of this is the repeated use of the word ‘illegal’ to describe attempts to enter the UK other than through some form of Government-approved scheme; such a description has no basis in international law. This description delegitimises lawful attempts to seek asylum by people fleeing for their lives. Such people are often traumatised, and it is the UK’s responsibility to deal with them in a humane way.
4. To describe the New Plan as being ‘firm’ implies that the existing arrangements are lax or generous. The experience of asylum seekers in our congregations, and of those UK citizens and residents who work alongside them, is that the current UK asylum system is harsh and cruel. The ban on the right of asylum seekers to work, the use of detention for immigration purposes, enforced destitution for those refused asylum but unable to be returned; these are all dehumanising effects of Government policy, and it is too often left to churches and other community organisations to help people in desperate need.
5. For many years the Church of Scotland has called on the UK Government to restore dignity and compassion to asylum, refugee and immigration policies. We would suggest that a better set of objectives for asylum policy should be:

• To increase the dignity and respect afforded to individuals involved in the asylum process.

• To establish safe passage into the UK, thereby breaking the business model of criminal trafficking networks and protecting the lives of those they endanger; and

• To promote integration as a two-way process that involves asylum seekers, refugees and migrants as well as receiving communities.

1. And that these objectives should inform and guide policy development in key areas:

• Family reunification

• Humanitarian visas

• Private sponsorship

• Asylum reception and access to procedures

• Rights and support during and after an asylum determination

• Human and respectful returns protocols

• Search and rescue at sea

1. The Church’s General Assembly meets 22-27 May 2021 and will consider this following section of report and a deliverance (resolution) for debate:

*Urge the UK Government to reverse its policies regarding migrants crossing the English Channel, the accommodation of asylum seekers in former army camps or other institutions rather than in the community, and the plans to increase the deportation of asylum seekers to other countries.*

Extract Report:

1. Scottish Faiths Action for Refugees is a multi-faith partnership, supported and hosted by the Church of Scotland, to co-ordinate work related to refugees and asylum seekers. The partnership has been renewed following the end of a fixed-term agreement in 2020. From October 2018 to December 2020, the Church was part of a formal project called New Scots Integration Programme with the Scottish Refugee Council, Bridges Programme and WEA Scotland. This work, part-funded by the European Union, included the delivery of a programme of awareness raising in local faith groups and the development of a pilot refugee holiday programme, where church hosts welcome refugee families living in other parts of Scotland. This project has now come to a successful conclusion.
2. Despite the warm welcome offered by faith groups to New Scots and the growing understanding of the contributions that migrants can make to our communities and society, the UK Government’s policy approach has become harsher, disregarding respect for human life, dignity, or the traditions of hospitality and sanctuary that ought to be markers of a compassionate and tolerant society. Instead of supporting asylum seekers and other migrants to make safe and legal journeys from squalid and miserable conditions in France, the Home Office seeks to deter channel crossing through force and fear, as shown by the new appointment of a ‘Clandestine Channel Threats Commander’. The Home Office has moved away from housing people seeking asylum in accommodation in the community and has started placing some people in former army barracks or on land adjacent to Immigration Removal Centres, where they are effectively warehoused, making access to community life, places of worship, language experience, or legal advice much harder.
3. The Church must speak out on what this is: the state organised concentration of persons authorities choose to see as ‘undesirable’ so that they can be pressured, bullied or become resigned to easier deportation rather than taking full advantage of rights and entitlements which are inherent to them as human beings, and under International Law. The Home Office has also made its policy intention clear that, post-Brexit, it wants to establish bilateral ties with other nations to make deportations easier. As an island at the far end of Europe the only purpose for such an approach is to send away people who are seeking sanctuary. The United Kingdom, despite its wealth and experience of the benefits of migration and diversity, is now walking on the other side of the road when it comes to helping the neighbour. The Faith Impact Forum invites the General Assembly to express, on behalf of the Church, its fundamental disagreement with the current approach, which is antithetical to Christ’s teaching and example.
4. We have refrained from answering the multiple-choice questions in the consultation; some of the questions (e.g. q.19) are leading and will only result in a validation of the Government proposals rather than an attempt to engage openly with stakeholders in a dialogue. Many of the assertions and proposals in the paper are presented with selective evidence, or no evidence whatsoever (e.g. how making the asylum process harder will disrupt the criminal gang activity).

**Chapter 2: Protecting those Fleeing Persecution, Oppression and Tyranny**

**(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.**

1. We have previously urged the UK Government to expand the size and scope of resettlement routes. The number of individuals that the UK has offered sanctuary in the last ten years has been far too small, especially in comparison to countries such as Sweden and Germany.
2. The target number of individuals to be resettled should be in proportion to the scale of global need and the relative size of the UK population and economy. The setting of resettlement target numbers should be done in consultation with the UNHCR, local authorities and devolved governments, refugee agencies as well as faith and community groups.
3. We were involved in supporting the change so that people resettled via the Community Sponsorship route were in addition to the Government’s own resettlement targets.
4. We support the continuation of resettlement places being based on vulnerability or risk, as assessed by the UNHCR. The resettlement programme (including community sponsorship) should be seen primarily as a humanitarian programme with the protection and respect for human life and dignity as the main criteria for its success.
5. We refute the premise of the policy paper that suggests that only people who come through resettlement routes are in genuine need of protection, and that people who arrive in the UK in other ways and then seek asylum are automatically doing so illegally, or that the means of their arrival should be a factor in determining their claim.
6. We do not recognise the argument that has been put forward that says a person must claim asylum in the first country they reach. There is no legal requirement for a refugee to claim asylum in any particular country. Neither the Refugee Convention nor EU law requires a refugee to claim asylum in one country rather than another. There is no obligation requiring refugees to claim in the first safe country in which they arrive.
7. A far better approach would be for the UK Government to negotiate with European neighbours a system for safe passage for individuals wishing to reach the UK and apply for asylum here. This would reduce the security and border defence costs in the Channel and would at a stroke undermine the illegal business model of the criminal gangs and people traffickers.
8. Our experience of working alongside asylum seekers and refugees is that, far from being a burden on communities, they bring gifts, skills and contributions that enrich our common life. Asylum seekers contribute to congregational life in our churches, including taking on leadership roles. The gifts of talents and community work, from volunteering to leaders of national organisations by refugees has had a positive impact on Scotland. Far from being afraid of an increase in asylum applications, it is our duty to ‘welcome the stranger’, to ‘love our neighbour’ and to ‘treat others as we would wish to be treated’.
9. We have a great fear that the proposals will undermine the operations of the Refugee Convention and that instead of asylum applications being treated on their own merits and according to whether someone has a well-founded fear of persecution, it will be the means of their arrival in the UK which determines whether they get enhanced support for integration (if they come via a resettlement route) or if they are treated as inferior or undesirable (if they seek asylum).
10. Chapter 2 of the policy paper also introduces issues around integration. However, it fails to acknowledge that many of the areas highlighted (employment, language, education, housing, social bonds) are the responsibility of the Scottish Government in Scotland, where the successful New Scots Refugee Integration Strategy is widely respected across party boundaries and is implemented across statutory and voluntary sectors.

**Safe and legal routes including Family reunion for unaccompanied asylum seeking children**

**(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?**

1. The development of safe passage channels is crucial; the family unit is essential for human flourishing. In addition to considering routes for reuniting unaccompanied children in the EU with family in the UK, the Government should also develop routes when it is the child living in the UK and his or her separated family is in the EU, if the family would prefer to be resettled in the UK.

**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?**

1. This proposal would cause much harm and suffering. It would place the UK in breach of the obligations of the United Nations Refugee Convention and runs counter to the protective role of the state.
2. There is no obligation under the Refugee Convention to claim asylum in the first safe 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.
3. There is no evidence presented in the policy paper that this would achieve its objective (to reduce the power and scope of criminal gangs and people trafficking). This is because the reality of today’s refugee emergencies is so large that there will always be those trying to find sanctuary in the UK, and they will continue to do so whatever it takes, including risking their lives, to get here.
4. Instead, this proposal will only harm the people who want to seek asylum. They should be given a fair and independent assessment of their claim, which should be based solely on whether they have a well-founded fear of persecution.
5. A more effective way for the government to tackle people trafficking would be for it to establish safe passage routes to allow people to access sanctuary and support.
6. In discriminating between people who arrive via resettlement and those reaching our shores in other ways, the New Plan institutes a two-tier refugee system, which does not take account of the context in which refugee flight occurs. This often means crossing borders without prerequisites for legal entry. International refugee law to which the UK Government is a signatory recognises this fact.
7. At its heart, this New Plan will have the effect of passing responsibility to other states to protect refugees. In doing so, this risks undermining the global protection system, commitments to equitable responsibility-sharing in the UN Global Compact on Refugees, and aspirations of Global Britain. The New Plan will widen the two-tier divide by routing those deemed inadmissible into holding centres. The experience of the use of hotel and former military accommodation in 2020 and 2021 has demonstrated that the use of such centres causes considerable stress and impacts on the mental and physical health of those in the system. We fear these centres will be isolated and separated from communities in the UK. For those institutionalised, constant anxiety of removal awaits with no prospect to rebuild one’s life in the UK or be reunited with family members with the only possible respite being a grant of short-leave with No Recourse to Public Funds.

**(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?**

1. The policy paper presents no evidence to suggest that the current standards for determinations are not rigorous enough. Given that there is such a high rate of successful appeals against initial refusals it would appear that in fact the standards currently being implemented by officials are already too rigorous and clearly flawed.
2. In 2002 the General Assembly of the Church of Scotland recommended that the UN Refugee Convention be revised to strengthen refugee protection and commend the needs and rights of those who have been forced to leave their homes for economic or environmental reasons; we would wish to go further than the Convention and consider offering more people who have been displaced greater support and access to resettlement or refugee status in the UK.
3. We therefore fundamentally disagree with the Government’s approach to this issue and would instead prefer to see a standard for testing that prioritises respect for human life and dignity rather than making it harder for claims to succeed simply to reduce numbers. Whether they are, in the language of the policy paper, ‘unmeritorious’ should not be a political consideration.

**(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.**

1. On reception centres and accommodation, the experience of 2020-21 of the use of hotels and former military accommodation to accommodate asylum seekers has demonstrated the huge human cost of these arrangements – the evidence here comes from the public health failures at Napier Barracks with regard to Covid-19 infections and the deaths in Glasgow of Mercy Baguma and Adnan Olbeh, and the mental health crisis of Badreddin Abdalla Adam, which saw him injure six people before being shot dead.
2. While we note that the use of hotels for asylum accommodation will end, we do not believe that the use of residential centres is appropriate or helpful in the UK context. Although the model is used in other countries, our partners there have shared with us the limitations and restrictions this provides for integration, for developing social bonds and connections, and for accessing community and voluntary services and advice. Our strong view is that the current model of dispersal and accommodation in the community is preferable.
3. We have also previously called for the closure of detention centres for immigration purposes, for a time limit on how long someone can be held in detention, and the expansion of community-based alternatives, as set out in the 2015 report from the APPGs for Migration and Refugees.
4. The policy paper describes the need for a ‘fast-tracked’ or ‘expedited’ process. While we support the desire that no-one remains in the asylum system for longer than they need to, we would urge some caution as some cases are complex and it can take time for an applicant to gather evidence. Getting decisions right is more important than rushing them.
5. The experience of our congregations that have welcomed asylum seekers and worked alongside them is one of enrichment in terms of culture and contribution, but a shared pain and frustration about how existing asylum policies cause difficulties and harm. Changing the regulations in the way suggested will inevitably lead to more misery.

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

1. We believe that people who are going to be affected by a policy change should be involved in conversations about how it develops - *nothing about us without us is for us*. The Church of Scotland has several congregations where asylum seekers come to worship or hold office, and more that offer outreach services, support and befriending projects. It is therefore with regret that, despite having previously been included in Home Office stakeholder meetings and conversations about asylum and refugee issues, we were not approached directly by the Home Office to respond to the paper nor were we asked to participate in a meeting with ministers or officials to discuss plans. It would have been useful to see in the paper who and how the Government have engaged with asylum and refugee representative groups to know that the opinions of those who have been affected have been included in the development of the proposals.
2. We regret that the consultation was launched at the start of the Scottish Parliament election campaign. This is contrary to the rules around purdah that Government policy announcements are not held during elections, and it has also meant that MSPs have not been able to debate and consider the implications for the proposals on Scotland.
3. We regret that the consultation period was set at only six weeks, and that this time included Holy Week and Easter, as well as public holidays on Good Friday, Easter Monday and May Day. For such a complicated and controversial set of proposals a minimum 12 week consultation period would have been better; the truncated time period set over the major Christian festival has impaired our capacity to consult and respond properly, though we anticipate engaging with the UK Government and Parliament over the coming weeks if legislation is forthcoming.
4. We object to the use of the terms ‘illegal immigration’ and ‘asylum’ in both the press publicity around the launch as well as in the policy paper itself. The paper conflates the two, thereby suggesting that to claim asylum is an illegal act. We would urge the Government to restate that it is legal for someone to travel to the UK and claim asylum, that these rights are enshrined in the UN Refugee Convention and under UK law. The use of language is particularly important as we have seen too often far-right, racist and anti-migrant activists and organisations use ‘illegal’ or ‘bogus’ tags to denigrate or dehumanise people seeking sanctuary.
5. The policy paper does not address the financial costs to the applicant of fees for leave to remain or citizenship. The substantial increases in fees and surcharges over recent years have made it harder for people to plan for the future and has been a significant cause of stress and poor mental health for people in the situation. A particular anomaly is the costs of citizenship application process for minors upon reaching the age of 18. When a young person turns 18 and are required to apply for citizenship they can very rarely afford it. The risk of deportation of a young person to a country where they may have little or no knowledge or contacts due to a financial hurdle is a major irregularity with the current system and should be addressed as part of a wide ranging review of all the costs, fees, charges and processes needed for leave to remain and citizenship applications.