



WOMEN FOR REFUGEE WOMEN

Women for Refugee Women's response to the New Plan for Immigration

"I don't know if the Home Office are human anymore."

(E - woman seeking asylum)

Background

Founded in 2007, Women for Refugee Women (WRW) is a London-based charity, working to support and empower women seeking asylum to share their stories and campaign for a humane asylum system. Currently, we support approximately 300 women who are either within the asylum system, have leave to remain, or have been refused (with the majority of these being destitute). We also work closely with a number of grassroots groups, across England and Wales, who support asylum-seeking and refugee women.

Introduction

We strongly oppose many aspects of the New Plan for Immigration (New Plan) and we are shocked at how the case of vulnerable women has been used by the Home Office to justify these harmful proposals. Many women, who have survived horrific acts of sexual and gender-based violence (SGBV), are already being failed by an asylum system which subjects them to disbelief, detention and destitution. If implemented, the proposals would make things even worse for them.

Undoubtedly, the changes would harm everyone. But we are concerned that they would have an unequal impact on women because of the specific violence they face in their countries of origin. The proposals therefore go against the legal agreement signed by the Home Office, following the Windrush scandal, which requires the department to properly consider and understand the equality impacts of policies on different groups of people who are likely to be affected.

Our key concerns are discussed below. Given the length and scope of the New Plan, an inadequate amount of time has been given to respond meaningfully to this

consultation. As such, any omission in our response should not be taken as tacit support.

This consultation cannot be considered genuine if it does not seek to involve those most affected. Women with lived experience of seeking asylum in our networks wanted to take part in this consultation but almost all of them found the complexity of the online portal an insurmountable barrier. We have separately sent in some personal responses from a few women in our London network, but this consultation has clearly not provided a meaningful way to engage with members of the public who have experience of seeking asylum. As the government's own guidance states, consultations are “not just about formal documents and responses” and departments should “consider whether to tailor consultation to the needs and preferences of particular groups.” Many of the women we support, and that our partners work with, do not have regular access to the internet or adequate IT or written English language skills. Before proceeding any further, we strongly urge the department to take immediate measures so that people with lived experience can share their views on the New Plan. In order to reach a greater number of people, these measures should include opportunities for verbal and non-digital feedback, and should be publicised widely.

In this response, we have integrated direct quotations from some of the women in our London network with the hope of amplifying their voices and concerns.

Response

1) Inadmissibility

“They might as well be ending the asylum system completely.”

(S - woman seeking asylum)

These proposals unjustly differentiate between vulnerable people based on how they arrive to the UK. Yet people in danger often do not have any choice about how they travel, with many being forced to make ‘irregular’ journeys to seek protection. These people may be in the hands of traffickers, they may have to travel on false papers, they may be fleeing from failed states or conflict situations where normal travel arrangements have broken down.

While we understand that the government intends to increase resettlement routes, this will not remove the historic reasons why women have taken these journeys or the conditions that will continue to force them to make these irregular journeys.

Resettlement is simply not a realistic option for many of the women we support. Some of the women, who come from repressive countries, fear being persecuted and would not feel safe in accessing a resettlement scheme. It is not possible for all women to safely cross a border and remain in what often are dangerous camps, waiting indefinitely to be resettled.

Other vulnerable women may decide to seek protection in the UK due to family or community links here. As the UNHCR recently confirmed, the Refugee Convention “does not oblige asylum seekers to apply in the first safe country they encounter.”

“No one will choose to be locked in the back of a lorry or to take a boat to enter Britain if they have any other choice. It is very risky to take a lorry and seek asylum, you should not say that people who come on a lorry are not ‘genuine’ asylum seekers.”

(E - woman seeking asylum)

We believe that everyone who needs safety should be able to access it, regardless of how they have come to the UK. If the Home Office is serious about creating a fair system, one that protects women, it should not pursue policies that would punish certain refugees, and should instead explore alternative safe routes beyond resettlement schemes.

2) ‘Reception’ centres and offshore processing

There is no clarity on whether the proposed ‘reception’ centres would be open or closed, and where in the UK they would be located. We are nonetheless concerned that they could amount to a form of indefinite detention that would not only be retraumatising for women who have survived SGBV or trafficking but also a barrier to disclosing their experiences.

The New Plan cites the example of Denmark, even though studies have shown that “the distance between asylum centres... and towns or cities, means people are effectively confined” given the small amounts of financial support available to those seeking asylum. The same study also shows how asylum centres are completely inappropriate for vulnerable women who have survived SGBV to heal and feel safe.

The New Plan states that the Home Office will first attempt to remove a person who has arrived to the UK irregularly and, where that is not possible within six months, will begin to process their asylum claim. It seems very likely therefore that many women will be deprived of their liberty for several months, if not longer. Research has found that the longer someone is held in immigration detention, the

greater the effect on their mental health. As such, detention also acts as a barrier to disclosure, forcing vulnerable women to relive traumatic memories of imprisonment and abuse. We are concerned that the use of 'reception' centres could make it even more difficult for women to share their stories, and to have their cases resolved fairly.

We note that the plan proposes to put in place legislation that would allow people seeking asylum to be moved to offshore facilities. Whilst there does not seem to be an intention to pursue this immediately, we remain very concerned. Learning from Australia's use of offshore processing shows how damaging it can be for the safety and mental health of women, men and children. A cache of reports on the detention camp in Nauru revealed the detention system's own reporting of rape and sexual abuse of vulnerable women. We would strongly object to the use of offshore processing, which will do little to address the reasons for why people make dangerous journeys and instead have appalling outcomes for all, placing women who have already survived SGBV at high risk of further sexual abuse and retraumatisation.

3) Temporary protection status

"I've been in this country for seven years. After you have tried to survive in your country, but have had to escape to find protection and security, after you've fled from torture, then you come here to live another kind of torture - a torture which is much more sophisticated, as it is not physical, but mental torture. The laws and the Home Office make it impossible to escape. You will never heal but you will always be punished, and threatened, and asked to go back. The waiting process makes your depression worse, you are stuck in a dark place."

(V - woman seeking asylum)

We work with women who have fled rape, forced prostitution and trafficking, female genital mutilation and honour-based abuse. Many of these women are sexually or physically abused again when they travel to the UK, journeys that sometimes involve irregular routes so that they can quickly escape danger. There is a real risk that temporary protection status would result in some of the most vulnerable women being refused refuge in this country.

The absence of gender in the Refugee Convention makes the assessment of many women's cases complex, and particularly when they involve persecution by private individuals as opposed to the state. Home Office guidance reminds us that "[v]iolence against women can occur more commonly within the family or community." Yet, decision-makers have often shown a poor understanding of how private violence falls within the Refugee Convention, and the UK's obligation to

grant asylum. Under the proposed temporary status, cases would be reviewed every 30 months with a view to return to the country of origin or removal to a third country. Having to periodically demonstrate the need for safety could be harmful for all women who have survived SGBV, and especially for those who have fled private violence.

“If you have a reason to be protected once under temporary protection, then that should be enough proof and reason to protect you for life.”

(C - woman seeking asylum)

Complex gender-based claims make the case for quality legal support even more compelling. But, since 2005, severe cuts have been made to legal aid, such that now it is virtually impossible for a first-time applicant to secure adequate representation. Most women that Women for Refugee Women support have not received adequate legal representation for their initial claim; some women have not had *any* legal advice at all. Despite the proposal to improve provision of legal advice, we are very concerned that access will nonetheless remain challenging; the periodic review of cases could increase the demand for legal aid, as refugees will want to ensure a successful renewal of their status.

“I have been here for three years trying to put my life together and having only temporary protection would not be helpful at all. It would be very bad for my mental health. How can I progress in my education and career if I have no access to resources?”

(O - woman seeking asylum)

Indeed, without long-term security, women will be unable to recover and rebuild their lives. The lack of permanent settlement will force them to relive their trauma again and again. Restricted access to welfare benefits and family reunion will prevent them from feeling safe, and could push vulnerable women into abusive and exploitative situations.

4) Higher standard for well-founded fear test

As mentioned, many vulnerable women we work with already struggle to satisfy the unrealistic evidential burden that is placed on them when assessing their asylum claims. A higher standard would only make it more difficult for them to obtain a fair assessment.

According to the New Plan, proposals to introduce a ‘balance of probabilities’ standard are said to be necessary to “[make] it harder for unmeritorious claims to

succeed.” Yet the Refugee Convention is based on the principle of ‘benefit of the doubt’, in favour of the person seeking asylum. The proposed standard in the New Plan is seemingly justified by an assumption that asylum claimants are likely to be lying, and would only strengthen the existing culture of disbelief, rather than dismantling it. Research and inquiries have repeatedly shown how unlawful evidentiary burdens are applied by Home Office decision-makers, who routinely demand unrealistically high levels of consistency, coherence and credibility from traumatised individuals.

This of course affects both men and women. But it is often more pronounced for women whose claims of gender-based violence are poorly assessed due to an insufficient understanding of how these harms fall within the Refugee Convention. That is particularly the case when it comes to violence by non-state actors. As a result, women who have experienced sexual abuse, forced marriage, trafficking and other types of violence in the private sphere are often unable to obtain asylum in this country.

Instead of raising the bar and making it even harder for vulnerable women to be protected, the Home Secretary should act on her promise to dismantle the culture of disbelief, and ensure that all decision-makers are fully trained in handling gender-based claims.

5) Fast-track appeals process and accelerated claims and appeals process from detention

We are extremely concerned that any form of accelerated processing could have a harmful effect on women with complex gender-based or trafficking claims. We would like to remind the Home Secretary of the Detained Fast Track and the devastating effects it had on women’s chances of successfully claiming asylum. The process was deemed unlawful by the Court of Appeal for being “systematically unfair”, with the Home Office refusing a staggering 99% of claims, compared to around 59% of non-fast track applications. It was also inherently unsuitable for complex cases, heavily criticised for its handling of gender-related and trafficking claims. Indeed, women from some of the most oppressive countries who faced persecution were wrongly refused asylum and returned as a result of the Detained Fast Track. Rather than repeating previous mistakes and injustices, we would prefer to see the Home Office improve its processes towards increased fairness and dignity.

6) 'One-stop' process

The 'one-stop' process could result in many women being wrongly refused asylum. The process would force traumatised women to raise all protection claims at the outset, with "minimal weight" given to evidence raised later in the process "unless there is good reason".

But there are many reasons for why women cannot fully disclose all relevant experiences at the initial stage; the Home Office's own guidance acknowledges the barriers that survivors of gender-based violence often face, including "guilt, shame, concerns about family 'honour' or fear of family members." Indeed, we know from SGBV survivors in our networks, that it can take women many months, even years, to feel safe in speaking of the abuse they have suffered.

The same guidance also acknowledges that women who have been trafficked to the UK may be facing threats from their traffickers at the time of their asylum interview, such that they are unable to speak openly with officials. These challenges are no doubt exacerbated by the lack of specialist mental health support and quality legal representation. But irrespective of that, many women need time to gather evidence and build their case, cases that are often complex:

"As a woman I needed time to make my case. They say you need evidence, but the problem is that even by trying to get evidence you make yourself unsafe. By reaching out to the people back home to ask for this, they know where you are, you feel vulnerable. So this takes time, you need to feel safe first."

(M - woman seeking asylum)

As well as increasing the likelihood of women being returned to countries where their lives remain in danger, we are concerned that the one-stop process could increase destitution. Last year, WRW, together with our regional partners, published the most comprehensive research to date on the effects of destitution on women seeking asylum. A third of women we spoke to, who were raped or sexually abused in their countries of origin, were sexually abused again after they were made destitute in the UK. In other words, women who have already survived serious violence are being made vulnerable to further abuse through the policy of enforced destitution.

The Home Office's guidance states that late disclosure should not prejudice a woman's credibility. It is therefore unclear why the department is now considering changes that go against these standards, and particularly when the fresh claim policy is already so restrictive. Both lawyers and NGOs have found that the threshold employed is already extremely high, such that the majority of

submissions are not treated as a fresh claim, and are rejected *without* a right of appeal.

"I've been to detention twice; I'm a single mother with three kids. My children give me hope, but if I can't put in a fresh asylum claim, what can I do? I had a bad lawyer to start with - I wanted certain information included in my case, but my lawyer chose to leave it out and, as a direct result, my claim was rejected."

(M - woman seeking asylum)

In a process that involves life-and-death decisions, it is vital that our asylum system allows everyone to be heard. We are aware of the approximately 60,000 people currently awaiting a decision, and therefore welcome changes to ensure a more efficient system - but so long as they centre fairness. The proposed one-stop process clearly fails to do that.

7) Continued use of immigration detention

We are aware of a planned increase in detention centres for women by the government at the moment and we note that the New Plan supports continued use of detention for those seeking asylum.

As there is no time limit on immigration detention women can be locked up for days, weeks, even months and years. Our research has consistently found that detaining women who have already survived trauma and violence inflicts immense harm and retraumatises them, particularly when there is no time limit; one in five of the women we spoke to in 2014 said they had tried to kill themselves in detention, while 40% of the women interviewed in 2015 said they had self-harmed. Our research has also shown that detaining women serves no purpose, as the vast majority are subsequently released back into the community to continue with their claims. We strongly oppose the increased use of immigration detention and urge the Home Office to instead develop community-based alternatives centred on support and engagement.

Survivors of modern slavery

We are disturbed by proposals to limit the protection of actual or potential victims of modern slavery.

8) Legal standard for a reasonable grounds decision

Proposals to strengthen the evidence threshold for deciding whether someone is a potential victim are said to be necessary to stop people claiming to be trafficking victims in order to prevent removal from the UK. Yet it can take many months for

a woman who has been forced into sexual exploitation to speak of the abuse she has suffered. The current standard of proof for issuing a reasonable grounds decision is relatively low, and this is vital to ensure that potential victims are given the opportunity to access support such as safe housing. A positive reasonable grounds decision is of course not the end of the matter, as to be officially confirmed as a victim of trafficking then requires a positive conclusive grounds decision. A higher standard of proof at the first stage would harm some of the most vulnerable women, keeping them in the hands of their traffickers. It would also ignore the government's own statistics which show that the majority of people in immigration detention who are referred into the National Referral Mechanism (NRM) are subsequently recognised by the Home Office as potential victims of trafficking.

9) The 'public order exemption'

We object to any amendments to the 'public order exemption' that would deny access to the NRM and associated protections to certain women who may be victims of trafficking, including those with a criminal sentence of 12 months or more. We are aware of a number of women who have been subject to sexual and other forms of labour exploitation, who have been prosecuted and imprisoned for criminal offences related to their exploitation. The proposed changes would have a damaging impact on survivors of trafficking.

Public Sector Equality Duty - Sexual Orientation and Gender Reassignment

As well as the protected characteristic of sex, we are concerned about the potential harmful effects on lesbian, bisexual and trans women and non-binary people, and therefore the protected characteristics of sexual orientation and gender reassignment. It is clear that the Home Office has given poor attention to the impact the proposals would have on these groups.

Rainbow Sisters, a group of 70 LGBT women and non-binary people, have presented their concerns and recommendations in a joint response, which we fully support. Among their key concerns is the New Plan's reliance on resettlement as a route to safety, which they say is "neither fair nor realistic" for women like them, echoing our concerns raised above:

"[N]ot all of us can safely access a resettlement programme. Some of us would be targeted if our governments found out about our attempts to flee. Lots of us wouldn't feel secure in disclosing our sexual identity before we've reached a stable place of safety."

Some of the members of Rainbow Sisters arrived to the UK via other formal routes, including student visas, not knowing about the process of asylum and how it applies to them; it is only after several years that they have realised they can apply for protection.

Others have needed time to come to terms with their sexuality and to feel secure in disclosure, after years of experiencing persecution or having to hide their sexuality in their countries of origin. As such, we are concerned about the impact of a 'one-stop' process that would deny LGBT and non-binary people the time and space to heal and feel safe.

We are also concerned that the proposed 'reception' centres could be particularly unsafe for LGBT women and non-binary people, who often face abuse and violence because of their sexual and gender identity, even in potentially more welcoming community settings. We are aware of many women in our network who have been abused, threatened and marginalised by refugee and migrant community members here in the UK. In the stressful and isolated environment of a 'reception' centre they would be all the more likely to be subjected to this.