**Notts Immigration Plan Response to the Home Office Immigration Plan (April 28th 2021)**

**Participating Organisations:** Nottingham and Nottinghamshire Refugee Forum (NNRF), Nottingham Arimathea Trust (NAT), HOST, Emmanuel House, NEST, Vanclaron Chats, Refugee Roots, Nottingham StAR (Student Action for Refugees), The Friary\*

**Introduction**

This is a collective response from nine organisations that support refugees and asylum seekers in Nottingham City and Nottinghamshire.

We have grave concerns over the Home Office’s timescale and framing of the consultation exercise. In our view this does not provide adequate time for genuine consideration of the impact of the proposed measures on vulnerable people in our community. Nevertheless, we have worked together in good faith to provide a collective response based on our many years of experience in this sector.

Nottingham is a dispersal city accommodating around 1,000 asylum seekers at any one time. We are aware of around fifty destitute asylum seekers who currently receive food and a small amount of cash from the NNRF anti-destitution project. The number of those who have disengaged from services is unknown.

Whilst the Home Office plan includes a number of proposals relating to immigration, our response is based on the proposals that, if enacted, will impact on the right to ‘seek and enjoy’ asylum enshrined in Article 14 of the United Nations Universal Declaration on Human Rights 1948. We have used genuine, anonymised case studies to illustrate the potential impact. Our response will centre on six aspects of the Plan:

1. Two tier asylum system
2. Increasing penalties for illegal entry
3. Accommodation of asylum seekers
4. Preventing abuse of the system
5. Rights of child asylum seekers and family reunion
6. Modern slavery

**The Objectives of the New Plan**

All organisations agree with the first objective, namely that it is necessary to increase fairness and efficacy in the asylum process. However, we strongly disagree that the measures proposed will achieve this. On the contrary they will increase unfairness, meaning that the majority of those seeking asylum in the United Kingdom will be at greater risk of destitution, exploitation and refoulement in contravention of our international obligations under the Convention Relating to the Status of Refugees 1951 (Refugee Convention) and the European Convention on Human Rights 1950 (ECHR).

Fairness and efficacy could be greatly improved through a more efficient, faster decision-making process. Ensuring that the correct decision is reached promptly would serve two purposes: reducing the number of appeals (43% of which are currently successful) and reducing long-term destitution (resulting from low levels of asylum support and the ban on employment). This would make a considerable saving to the financial costs of the asylum process saving money for both local services and central government.

All organisations value the UK’s commitment to resettling refugees in the UK. However, the number of those resettled (25,000 in four years, p.11) is tiny compared with: a) the number of asylum applications made in the UK; b) the number of asylum applications in comparable European countries (typically two to three times the number made in the UK)[[1]](#footnote-1); and c) the number of people trapped in regions of origin who need to be resettled. Over 70% of people resettled between 2010 and 2020 came from Syria.[[2]](#footnote-2) Resettlement is not a viable option for the vast majority of people who need protection from persecution. It is therefore neither realistic nor fair to predicate an asylum system on resettlement.

All organisations are concerned about the impact of a temporary protection status on levels of destitution which are already far too high in this community. It is not possible to conceive of protection unless we begin to address destitution. Destitution leads asylum applicants to withdraw from essential services and makes them more vulnerable to exploitation. In this respect, we are particularly dismayed to observe in today’s press that evictions of asylum seekers have started to resume notwithstanding the risk to health during the pandemic.[[3]](#footnote-3) Refused asylum seekers are often homeless. Government figures suggest it costs £12,000 to keep a person homeless each year[[4]](#footnote-4) (Crisis suggests the figure is more like £20,000).[[5]](#footnote-5) In addition to the financial cost and the impact on local services, there will be an impact on local communities resulting from poor health outcomes and an increased likelihood of communicable disease transmission. The availability of legitimate routes to permanent protection is therefore essential and makes fiscal sense from the perspective of the asylum seeker, local services and the national government.

The Plan suggests a new humanitarian route that can be offered in the country of origin. We have not provided a detailed response on this proposal as there is no information on how it will work and it sits at odds with the Refugee Convention’s definition that requires applicants to be outside their country of origin. The Plan further states that only those at imminent risk of death can benefit from this status. It seems unlikely that this route will be used by more than a handful of asylum seekers and it certainly cannot be regarded as presenting a coherent alternative to the protection gap that will result from other aspects of the Plan.

**Selective and partial use of data**

At the outset it is important to assess the quality of empirical evidence used to substantiate the Home Office proposals. Regrettably, we find that the data relied on in the Plan are often partial and lacking context, resulting in an inaccurate, misleading picture. This can be illustrated by the following examples.

The Home Office accurately states that the number of successful First Tier Tribunal appeals from a negative decision was 43% in 2019 (pg 9). This figure has slowly increased over the past decade and is now at its highest point. It suggests a considerable issue with the quality of first instance decisions. However, the Home Office chooses to focus on the 56% of unsuccessful appeals as evidence that over half of appeals are without merit. This is misleading. Many asylum applicants will succeed on further appeals and may submit further evidence which results in a positive outcome. Those that do not succeed are not necessarily without merit either, the Refugee Convention definition is narrow and does not include persecution that is not on account of one of the five specified grounds (race, religion, nationality, political opinion, membership of a social group). Those fleeing civil unrest, extreme poverty and domestic violence are unlikely to be successful notwithstanding their experience of harm and their fear of return.

The Plan expresses concern about adult migrants who pose as children. This is presented as an entirely one-sided problem. It uses 2012 statistics to show that where age is disputed, some 54% were identified as adults. However, we are not told how m any disputed cases there were in 2012 so we cannot contextualise this statistic. In addition, the Home Office does not rely on up to date statistics. We are also not informed about the number of children who are detained in adult immigration detention centres or treated as adults in the asylum system. Our experience suggests that many unaccompanied children face enormous barriers when they arrive in the UK, to strengthen these barriers would further damage their chances of rebuilding their lives.

Notwithstanding enormous academic expertise, judicial authority and the collective experiences of specialised voluntary organisations, the Home Office only cites itself and does not make any reference to academic or NGO research to support the proposals (in some cases the citation is ‘unpublished’ so we have no idea what it is and therefore cannot verify it).

Further, the case studies used to inform the Home Office plan are deliberately extreme and provocative examples, again used without context. These case studies do not reflect our experience working with refugees and asylum seekers over many years. Most surprisingly the independent *Lesson Learned* review into the Windrush Affair is not mentioned or cited.[[6]](#footnote-6) The report, published in 2020, was critical of the hostile environment and its use of inflammatory language, which included suggestions that migrants were ‘playing the system’ and repeated reference to illegal immigration. The government’s improvement plan published in Sept 2020 encompassed a number of themes, including ‘a more compassionate approach’ which included a review of the hostile/compliant environment policy.[[7]](#footnote-7) It therefore seems incongruous that this Plan makes no reference to this wider context or this review.

Indeed, there is no evidence that national refugee organisations have had any input into the proposals. Whilst this consultation might provide this opportunity for expert input, the extremely tight timescale for the Home Office response suggests otherwise.

The consultation attempts to label irregular migration as illegal migration. There is no acknowledgement of the legal duty to assess all claims fairly. It does not clearly define illegal migration but suggests that that all illegal entrants are economic migrants, who are abusing the system. This is simply not borne out by evidence and no evidence is provided to support this conclusion. At least half of those who enter the UK to claim asylum will be successful in demonstrating either a well-founded fear of persecution or a real risk of serious harm if returned. As mentioned above, those who do not succeed cannot simply be labelled as economic migrants.

There is no evidence that the outcomes of the estimated 8,500 who have arrived via the Channel are unmeritorious. This group has caused the Home Secretary most concern (pg 36) and has arguably influenced these proposals, therefore we would expect evidence of the motivations and hard outcomes of this group.

The Plan suggests that the appeals system is being abused by appellants. There is a very detailed report by Jo Wilding that points to complete market failure in the provision of legal advice in immigration and asylum cases.[[8]](#footnote-8) There are serious concerns that many asylum seekers are denied access to justice as advice is neither affordable nor accessible. Our experience suggests that the Home Office is responsible for considerable delays in decision-making and for seeking to challenge successful appeals without good grounds. Not only does vexatious appealing by the Home Office increase the anxiety of the applicant it adds significantly to the cost of the asylum system.

It is of particular concern to note that the Plan cites with approval the treatment of asylum seekers in Denmark. Recently the Danish authorities were internationally criticised for reviewing the temporary refugee status of Syrian nationals and returning a group of 100 Syrians to Damascus.[[9]](#footnote-9) In January the Danish prime minister Mette Frederiksen indicated to Parliament that Denmark intended to have no asylum applications in the future.[[10]](#footnote-10) Denmark has been criticised by the UNHCR for its paradigm shift that included changing long-term status to temporary protection and reducing rights of family reunion.[[11]](#footnote-11) In our view it would be deeply regrettable and damaging to the UK’s reputation as a country of tolerance if we were to embark on a similar journey.

**THE HOME OFFICE PROPOSALS**

1. **A two-tier asylum system**

The Plan envisages a two-tier asylum system (similar to the controversial policy used in Denmark), giving preference to the applications of those resettled from regions of origin. Those who enter illegally (which is not given a clear, consistent definition), will be treated differently irrespective of the legitimacy of their claim. If successful in meeting the criteria for refugee protection they will only receive temporary, reviewable protection and will be denied vital family reunion rights. If unsuccessful, they can expect to be returned to their country or origin or any third country that agrees to accept them.

The Plan provides no evidence to suggest that those entering illegally are less likely to be ‘genuine’ applicants. This is unsurprising as, to our knowledge, no such evidence exists.

It is a fact that the majority of asylum seekers enter the UK through irregular means. Technically even those that enter through another immigration route, such as a student visa, who then claim asylum can be considered illegal entrants as they have entered by deception. Only those resettled or sur place refugees will be regarded as lawful entrants under this Plan. Article 1A of the Refugee Convention 1951 requires applicants to be outside their country of origin when making a claim for refugee status. They will struggle to obtain travel documents from their home country when fleeing persecution and host states apply a variety of measures, such as visa requirements and carriers’ liability, which make it impossible to travel lawfully without such documents.

In *R v Uxbridge Magistrates’ Court, Ex p Adimi* [2001] QB 667, Lord Justice Simon Brown noted that the combined effect of visa requirements and carriers’ liability has made it “well nigh impossible” for refugees to travel to countries of refuge without false documents. This was cited with approval by the House of Lords in the later case of *Afsaw* [2008] UKHL 31.

Article 31 of the Refugee Convention (which is not explicitly mentioned in the Plan) recognises this problem when it provides that refugees who come directly from their country of origin and show good cause for their illegal entry should not be punished for illegal entry. This provision is often applied incorrectly to argue that those who transit through a safe country on route to the UK cannot avail themselves of protection here.

In the UNHCR *Global Consultations on International Protection*, listed a number of specific considerations which included the following in relation to Article 31 (1):[[12]](#footnote-12)

“(a)  Article 31(1) requires that refugees shall not be penalized solely by reason of unlawful entry or because, being in need of refuge and protection, they remain illegally in a country.

(b)  Refugees are not required to have come directly from territories where their life or freedom was threatened.

(c)  Article 31(1) was intended to apply, and has been interpreted to apply, to persons who have briefly transited other countries or who are unable to find effective protection in the first country or countries to which they flee”

This attempt to reframe irregular migration as illegal fails to respect the obligation which is fundamental to the Refugee Convention (an instrument ratified by 145 countries). Instead breaches of immigration provisions that are necessary for applicants to exercise their right to seek and enjoy asylum are depicted as ordinary criminal acts that deserve condemnation and punishment.

***Yonas’s story***

*Yonas is originally from Eritrea. He came to the UK after crossing the Mediterranean on a boat. In this journey he lost his mother and sister, who drowned. His asylum claim was refused, and his appeal rights were eventually exhausted, leaving him destitute. However, eventually further submissions were accepted. This case took over 10 years to resolve.*

**ii) Increasing penalties**

We share the Home Office’s desire to punish those profiting from the suffering of migrants through smuggling and trafficking activities. However, we have grave concerns that the proposals will do nothing to address this problem and will instead expose asylum applicants to even greater risk of harm. There is no evidence that such measures stop people making these journeys. There is ample evidence from similar initiatives in the US and the Mediterranean, to suggest that a clampdown on smuggling activity puts migrants at greater risk of exploitation as smugglers embark on more dangerous, less visible modes of travel. This includes removing engines from boats and using over-crowded, less sea-worthy vessels. Again, it should be reiterated that a focus on the method of entry is irrelevant to the legitimacy (or merits) of the asylum claim. A proposal to tackle the harm of people smuggling and trafficking needs to be based on evidence which seeks to understand why migrants take these enhanced risks. It may be suggested that a genuine attempt to reduce trafficking and smuggling would begin by opening up legal methods of travel.

Increased sentencing and punishment for those who assist illegal entry (from 14 years to life imprisonment) is unlikely to constitute an effective deterrent and the law should be clear to distinguish assisting for gain from the benevolent actions of those who are attempting to help asylum seekers access safety.

**iii) Accommodation centres**

We welcome the decision to end the use of initial hotel accommodation. However, the proposal to re-introduce accommodation centres is a cause for great concern. There is little detail on what these centres will look like and there are a variety of different approaches used in other countries. We do know that asylum seekers and refugees are five times more likely to experience mental ill- health when compared to the wider population. It is widely acknowledged in research and caselaw that immigration detention both exacerbates existing mental health conditions and can cause otherwise healthy people to experience breakdowns.[[13]](#footnote-13) International human rights standards indicate that detention should be a measure of last resort, only applied exceptionally after all alternatives have been found unsuitable. For children it is never in their best interests to detain them in immigration detention and immigration detention of children should cease. [[14]](#footnote-14)The reintroduction of accommodation centres is likely to be damaging for the health of detainees, costly for the taxpayer and will result in increased litigation and compensation claims.

***Naomi’s story***

*Naomi arrived in the UK as a student nurse twenty years ago. She fled a violent, abusive husband in a rural community in East Africa. Her husband was old, wealthy and had considerable influence in the community. Her family disowned her as a witch after she left. Naomi is entirely without family support and suffers from a variety of serious health conditions. She has twice attempted suicide and been hospitalised.*

*When Naomi arrived, she knew nothing about asylum but wanted to work in the UK as a nurse and never return. When her nurse visa was not renewed, she sought advice and applied for asylum which was refused. Her refusal letter noted that she was not able to demonstrate risk from her family or husband and could not prove that her family had no contact with her! She has submitted letters stating that her brothers will kill her if she returns as she is a witch who has bought shame on the family.*

*Naomi suffers from several serious medical conditions that require regular medication.*

*After reporting regularly for years Naomi was detained in Yarlswood in 2014 without her medication. Although accompanied by an ambulance, she was called an actor and a liar when she requested her tablets.*

“My blood pressure was very high, and I collapsed, and as I was lying there I could hear their voices better ‘leave her, leave her, she is lying’ and I felt sad. When I got conscious, the nurse came to take my blood pressure, and it was really high. They got sacred. They come every hour to check on me. When I got out of the detention, I went to the GP”

*After several months she was released back into the community and has lived in constant fear of detention and removal ever since. Her mental ill health has spiralled after access to a support worker was withdrawn when her case was refused.*

*Naomi made further submissions in July 2019 and she has not received a response. In September she will apply for Leave to Remain on the grounds of long residence. For almost twenty years Naomi who arrived determined to contribute to society in her work as a nurse, has not been allowed to work. She has survived on less than £5 a day and the support of friends and charity. Naomi once dreamed of becoming a nurse but she knows this is no longer possible.*

**iv) Preventing abuse of asylum appeals**

The Plan notes that 73% of claimants have been in the asylum system for more than a year (p8). We agree that this is shocking, and we are aware of cases where applicants are waiting over a year between their screening and substantive interviews. This causes immense hardship to those desperate to rebuild their lives. The situation has deteriorated markedly since the UK abandoned the European Union’s target of 6 months for straightforward asylum claims in 2019. This delay is not the fault of asylum seekers and cannot be attributed purely to the marginal increase in asylum applications in 2019. If it is possible for France, Germany and Spain to aim for compliance with a six month target it should also be achievable in the UK- a country with far fewer applications.

A 2017 review by the Chief Inspector highlighted that 25% of decisions did not meet the satisfactory criteria from the Home Office’s own quality assurance standards.[[15]](#footnote-15) This echoes the findings of the Bach Commission that raised serious concerns over the quality of decision-making in asylum and immigration casework.[[16]](#footnote-16) The Plan does not acknowledge nor seek to address these problems.

The Plan states that 56% of appeals are unsuccessful (pg 9), giving the impression that these are completely unfounded cases. Whilst this figure is accurate it would be more useful to focus on the 44% success rate as that tells us more about the quality of first instance decision making.

Our experience of the decision-making and appeals process suggests a very different picture which we have evidenced in the following case studies. Home Office mistakes, delay and general indifference to the precarious situation and vulnerability of asylum seekers characterises the asylum system. It is widely accepted that there is culture of disbelief [[17]](#footnote-17) and our clients are often dismayed to realise that their story is not believed due to a minor inconsistency.[[18]](#footnote-18) The UNHCR Handbook on the Refugee Convention (which is persuasive authority in the UK) provides that applicants should be given the benefit of the doubt when their testimony appears broadly credible.[[19]](#footnote-19) Regrettably, this is not our experience. Clients do not understand why there is inconsistency in decisions and outcomes and routinely comment that the system is weighted against the truth. The adversarial nature of proceedings can compound this situation as it increases the cost and the need to find good quality legal representation (which is itself a considerable challenge).[[20]](#footnote-20)

***Sarah and Kate’s story.***

*Sarah and Kate are two young sisters originally from Bangladesh.*

*Their further submissions were refused by the Home Office in 2019.*

*In Jan 2020 they received a date for an appeal hearing but the Home Office forgot to send the completed case files. The date was therefore postponed to March 2020. As a result of the pandemic this date was postponed indefinitely.*

*The FTT eventually heard their case in August 2020 and they were granted leave to remain as refugees and on human rights grounds. The judge found them to be believable in all aspects. They were relieved that finally they could re-build their shattered lives.*

*4 days later the Home Office appealed on the grounds that the FTT tribunal judge had disagreed with earlier credibility assessments and had no grounds to find that they would be in danger if returned.*

*Leave to appeal was then refused by FTT.*

*The Home Office appealed again to the Upper Tribunal.*

*Leave was refused by the Upper Tribunal one month later.*

*It took more than 6 months from receiving a positive decision to receiving confirmation of their leave to remain. Both sisters have now found employment and one has received a place to study at University.*

***Abdul’s story***

*Abdul is a young, single Sudanese man who entered the UK illegally (via Libya, Italy and France) and claimed asylum on the grounds that his family and tribe suffered persecution by the Janjaweed militia (this is acknowledged by the Upper Tribunal to be a significant problem in the region).*

*After two years he was finally refused on the ground that the Home Office did not believe he came from his tribe (he noted that the interpreter did not understand what he was saying as his Arabic is limited and his first language is that of his tribe).*

*He then spent a year sleeping rough in parks and on the floor of other acquaintances who took pity on him. He wandered the streets in the daytime until it was safe to sleep. He visited the local homeless night-shelter but was too frightened to go in.*

*His solicitor obtained expert evidence to confirm his tribal identity and he then made further submissions in Liverpool in September 2019. The new claim entitled him to s4 support but after making his submissions he was moved out of Nottingham to accommodation 50 miles away (losing all his support networks)*

*He has heard nothing about his further submission in almost two years.*

*Abdul dreams of playing professional football and getting enough money to drive a fast car.*

v**) Child asylum seekers and family reunion**

The Home Office reports that half of those resettled into the UK are children and that the UK received asylum applications from over 3000 unaccompanied asylum seeking children, more than any other European country (pg 5).

The proposals fail to acknowledge the rights of children in the UN Convention on the Rights of the Child (UNCRC), a Convention which the UK ratified in 1991. There has been no attempt to conduct a child rights impact assessment of the proposals on children. At no point in the proposals does the Home Secretary acknowledge the duty to safeguard the welfare of the child which is enshrined in the UK’s immigration law.[[21]](#footnote-21) An asylum seeking child has a right to be protected under Art 22 UNCRC and the child is entitled to a family life (Art 16 UNCRC), a right not to be separated from their parents (Art 9 UNCRC) and a right to family reunification (Art 10 UNCRC).

We would like to reiterate the disappointment expressed by all refugee advocates over the government’s refusal to extend the Dubs amendment[[22]](#footnote-22) and to introduce a family reunion route for unaccompanied children in Europe with family members in the UK to replace the Dublin Regulation when enacting the recent EU Withdrawal Agreement Bill. This decision occurred notwithstanding considerable public support and the attempt by the House of Lords on four separate occasions to include these rights in UK Law after Brexit. The UK stands alone in Europe in not allowing children granted protection status in the UK to reunite with their families. This is a direct and unjustifiable violation of the children’s rights to family life under the UNCRC.

The closure of both the Dublin family reunion route and the Dubs scheme is having a devastating impact on the most vulnerable of the asylum-seeking community. We urge the government to re-think this approach and to adopt a family reunion policy that is fully informed by our humanitarian obligations. Establishing more safe and legal routes to the UK for both accompanied and unaccompanied children will prevent children dying on dangerous journeys.

The two-tier system proposed in this Plan will have a devastating impact on the majority of unaccompanied children who arrive in the UK via irregular routes. They rarely have a choice in where they end up and, in our experience, have little knowledge about the UK before they come here unless they have family members already living here. Under this plan it is unlikely that children who arrive in the UK will be entitled to anything more than a temporary reviewable form of protection which will provide no security or certainty for their future– a measure which will inevitably be in conflict with the Home Secretary’s duty to safeguard the welfare of the children.

***Amir’s story***

*Amir is 16 years old. He is an Iranian national whose family were persecuted in their home village because they did not support the government. Amir was also abused because of his disability. Amir fled with his brother to Turkey, but he knew it was not safe for them in Turkey because of their ethnicity. They knew it would be safer for them in Europe. The smugglers who facilitated their journey to the UK told the brothers they had to separate. Amir travelled alone to the UK, which included being hidden in a lorry to get to the UK. Amir is still trying to find his brother and is hoping they can be reunited soon. He enjoys learning English and feels very supported by NEST,*[[23]](#footnote-23) *his social worker and the medical staff looking after him. He feels he is treated as an equal in the UK. He hopes to be an interpreter one day.*

***Eldana’s story***

*Eldana has recently turned 18 and is originally from Eritrea. She and her family were in danger and had no choice but to cross the Eritrean border illegally (It is a criminal offence in Eritrea to cross the border without authorisation). They made it to a refugee camp in Ethiopia. Eldana’s mother carried on the journey to the UK. Eldana moved to Addis Adaba to live with a distant relative. She remembers going to the UK Embassy to get her family reunion visa and after 6 months she was able to join her mother in the UK. She feels a lot safer in the UK and loves studying. She hopes to be a doctor one day.*

1. **Modern slavery**

It is undeniable that the delays and destitution characterising the current asylum system increase the likelihood of labour exploitation and modern slavery. Many survivors of slavery do not seek help and support for fear that they will be removed due to their immigration status.[[24]](#footnote-24) As a result, perpetrators are able to engage in slavery without fear of consequence. Indeed, there is evidence that unscrupulous employers actively target migrants for this reason.

The International Organisation for Migration recommends that any serious attempt to reduce vulnerability to modern slavery should include, inter alia, protection for those fleeing repressive regimes, expansion of child protection systems and reducing the threat of deportation and detention for migrants seeking redress from employment abuses.[[25]](#footnote-25)

Regrettably, the Plan does not address any of these points, rather it focusses on abuse of the national referral mechanism by migrants that have no right to remain in the UK.

***Mary’s story***

*Mary came to the UK from West Africa where she had lived on the streets. She was abused and sold into prostitution from a very young age. Mary was eventually helped by a lady who bought her to the UK and promised that she would provide her with an education and a future. On arrival Mary found herself forced into prostitution as she was required to repay the debt of her journey. Mary never received an education. She now suffers from a number of mental health issues that can lead to unpredictable behaviour. Her asylum case has been refused and she has no right to enter the National Referral Mechanism as her case predates the legislation. Mary receives no state support and is accommodated by a friend in exchange for childcare. Mary dreams of becoming a chef but she has no means of resolving her status.*

***Swan’s story***

*Swan has been in the United Kingdom for twenty years. She is a refused asylum seeker and has an outstanding claim for statelessness (submitted 18 months ago with no decision). Swan is highly educated and articulate but she has experienced the dire consequences of a life in destitution. She has observed how exploiters identify and gravitate towards migrants, especially refused asylum seekers who are afraid of being reported and returned. On different occasions she has been subjected to sexual abuse, confinement and labour exploitation and unwanted sexual advances culminating in personal threats. She has no doubt that her vulnerability and desperation have made her an easy target for this abuse and is clear that her poor physical health is a direct consequence of the considerable stress she has experienced. Swan is currently making an application for leave to remain on the grounds of long residence. She dreams of being a human rights activist in East Africa.*

**Concluding remarks**

There are many areas in the current asylum system that require urgent reform. An asylum system that takes years to process an application, frustrates rights of family reunion and which pushes claimants into long periods of destitution, is not giving effect to our international legal or moral obligations.

Crucial to reform is the need to have a clear impact assessment (including a discrete children’s rights impact assessment) based on objectively verifiable evidence – this is available from academic research, judicial decisions, the considerable knowledge and research of the voluntary sector and the lived experiences of asylum seekers and refugees. The absence of this evidence has resulted in ill-conceived and unsubstantiated recommendations, some of which lie in contravention of existing legal obligations. These obligations include the Human Rights Act 1998 and Article 3 of the European Convention on Human Rights which prohibits inhuman and degrading treatment or torture; Article 31 of the Refugee Convention which prohibits punishment on account of illegal entry and Article 33(1) of the Refugee Convention which prohibits refoulement/return to a place of harm. In the case of children, the duty to safeguard the welfare of the child set out in the UN Convention on the Rights of the Child 1989 and s55 Borders, Citizenship and Immigration Act 2009 is completely omitted. The justification for the proposals namely to prevent a significant increase in the number of asylum applicants is not borne out by evidence (the UK has fewer applications than Germany, France, Spain and Greece and significantly less than the number in 2002).

Concern about the financial cost of asylum would be very easy to address. Costs would be saved through more efficient and accurate decision making and allowing asylum applicants to access the labour market after six months (the European Union standard). This would also improve health outcomes, self-esteem and the chances of successful integration.

Several aspects of the Plan are not fully developed. It is suggested that asylum seekers could be returned to countries of which they are not nationals. Whilst attempts to secure cooperation with safe third countries have so far fallen flat, this proposal raises further issues with Human Rights Act compliance. Cases before the Strasbourg court such as *MSS v Belgium and Greece* [2011] and *Hirsi Jamaa v Italy* [2012] establish that the returning state has a duty to ensure that those returned will not be subjected to destitution or onward repatriation in violation of fundamental rights. Similar issues arise regarding third country processing which was originally advanced by Tony Blair in 2003.[[26]](#footnote-26) Blair’s ‘new vision’ proposals were widely condemned by human rights organisations and other European governments due to the challenges of ensuring that the rights of refugees are adequately protected when they are processed by third countries. Reflecting on this eighteen years later we can certainly see that reprocessing asylum seekers in some of these countries (including Albania, Ukraine, Iran, Turkey and Northern Somalia) would have resulted in serious human rights abuses. This should remind us that there are no easy, short-cut solutions in refugee protection.

Central contact point: Dr Helen O’Nions, Nottingham Trent University. [Helenonions@hotmail.com](mailto:Helenonions@hotmail.com)

**About us.**

**Nottingham and Nottinghamshire Refugee Forum (**NNRF) are an independent charity established in 2000 to work with and for refugees and asylum seekers in Nottingham and Nottinghamshire. We offer practical advice, information, support and friendship, and campaign on issues affecting them.

<http://www.nottsrefugeeforum.org.uk/about-us/>

Contact: Jennie Flemming, chair@nottsrefugeeforum.org.uk

**Nottingham Arimathea Trust** (NAT) is a small housing charity established in 2007 with a clear mission to support destitute asylum seekers, newly recognised refugees and modern slavery/trafficking victims.

https://www.nottinghamarimathea.org.uk

Contact: Beatrice Giaquinto, [Bea@nottinghamarimathea.org.uk](mailto:Bea@nottinghamarimathea.org.uk)

**HOST** Nottingham is a charity formed in 2011 as a response to the growing number of destitute asylum seekers and refugees needing housing support across Nottingham. We provide temporary accommodation for asylum seekers and refugees utilising individuals spare rooms, as well as providing a support network for those already informally hosting asylum seekers and refugees.  
https://www.hostnottingham.org.uk/who-we-are.html

Contact: Roger van Schaick, [rogervanschaick@live.com](mailto:rogervanschaick@live.com)

## **Emmanuel House** is an independent charity that supports homeless, vulnerable and isolated adults in Nottingham.

## https://www.emmanuelhouse.org.uk/about-us/

Contact: Denis Tully, denis.tully@emmanuelhouse.org.uk

**NEST** is the Nottingham Education Sanctuary Team which provides access to education for 15–19 year old asylum seeking and refugee young people. Contact: Ruth.Brittle@ntu.ac.uk

**Vanclaron CIC** is a small community interest company that was set up in 2019 to empower individuals and communities from migrant and BAME communities to take control of their health, thereby breaking the perpetuating cycles of social and economic inequalities through generations.

https://www.vanclaron.co.uk/home/about-us/

Contact: Edith.Iheama, edith.iheama@vanclaron.co.uk

**Refugee Roots** (previously the Rainbow Project) is a Christian charity founded in 2001 that helps asylum seekers and refugees build relationships and navigate the complexities of building a new life in the UK. A range of empowerment initiatives include befriending, accompanying asylum seekers to appointments, information, advice and guidance, as well as supportive groups and activities, such as free English conversation classes.

https://www.refugeeroots.org.uk

Contact: Adam.Baker, adam@refugeeroots.org.uk

**Nottingham StAR (Student Action for Refugees)**

STAR is a national charity of 34,000 students welcoming refugees to the UK. There are StAR groups at both University of Nottingham and Nottingham Trent University. Together we volunteer at local refugee projects, campaign to improve the lives of refugees, and educate the community about issues facing refugees and asylum seekers

Contact: NTSUSTARSociety@ntu.ac.uk

**The Friary** are a charity based in the West Bridgford area of Nottingham. Our mission is to help homeless and vulnerable adults to rebuild their lives by offering practical and emotional support, health services and advice.

<https://the-friary.org.uk>

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9. https://www.aljazeera.com/news/2021/4/20/denmark-what-may-happen-to-syrian-refugees-who-refuse-to-return [↑](#footnote-ref-9)
10. https://www.infomigrants.net/en/post/29842/denmark-aims-for-zero-asylum-seekers [↑](#footnote-ref-10)
11. https://ec.europa.eu/migrant-integration/news/unhcr-urges-denmark-to-change-refugee-policy [↑](#footnote-ref-11)
12. Feller, Türk and Nicholson (eds), *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection* (CUP 2003) page. 255 [↑](#footnote-ref-12)
13. see for example <https://bmcpsychiatry.biomedcentral.com/articles/10.1186/s12888-018-1945-y>. cases involving victims of torture unlawfully detained include *EO and Others v SSHD* [2013] EWHC 1236; *Temsely v SSHD* (Unreported); *Mohammed v SSHD* [2017] EWHC 280; *Medical Justice & Ors v SSHD, EHRC intervening* [2017] 2461 (Admin) [↑](#footnote-ref-13)
14. Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return. para 5. [↑](#footnote-ref-14)
15. Independent Chief Inspector of Borders and Immigration, “An inspection of asylum intake and casework”, November 2017 [↑](#footnote-ref-15)
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18. See for example Wendy Williams *Lessons Learned Review* 2020 p.7 [↑](#footnote-ref-18)
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