



## The Government's five-year asylum and immigration strategy

This briefing outlines the main asylum features of the Government's five-year strategy for asylum and immigration, published on 7<sup>th</sup> February 2005:

- Controlling our borders
- Making migration work for Britain
- Five-year strategy for immigration and asylum

Despite three major pieces of asylum legislation since coming into office, the Government has announced more far-reaching measures, which have serious implications for the future of asylum in the UK.

The Refugee Council welcomes the strategy's firm commitment to the 1951 Refugee Convention, as well as the Prime Minister's promise to make sure we don't slam the door on refugees fleeing death and persecution. However, the strategy contains measures to toughen the UK's borders, fast-track applications, and to control and detain asylum seekers without addressing the more fundamental issues of poor quality decision-making. Nor does the strategy outline how the Government will tackle the public's fears on asylum and immigration by challenging myths.

This paper outlines the main measures proposed and the concerns that we have.

### **Government measure one:**

- *Refugees will be granted temporary leave to begin with while the situation in their countries is kept under review. If it has not improved within five years they will be allowed to stay permanently, but if conditions improve within five years they will be expected to return.*

Under Article 1 (c) 5 of the 1951 Refugee Convention, the Convention will cease to apply if a refugee "can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality".

The possibility of invoking this Article, also known as the 'cessation clause' is perhaps the most serious and unwarranted of the proposed changes. It is unacceptable that

someone who has been accepted as a refugee has to live through five years of uncertainty until the UK government confirms they can remain here permanently.

On the one hand, it is right that asylum seekers who have had their claim fully and fairly assessed, and have been turned down should return to their countries. On the other, it is reasonable and fair to expect traumatised refugees to be able to get on with their new lives and not be left in limbo, unable to rebuild their lives for fear of having their refugee status withdrawn. This will undermine the Government's own integration strategy as it gives refugees a less settled status.

The important thing is to focus on getting good decisions right first time, and not to let the legal system get bogged down.

Our experience is that many refugees would like to go home if their country was safe and once a country gets back on its feet, many refugees do go home voluntarily.

The Government has provided no information about the criteria that will be used to decide that a country is safe enough for a refugee's status to be revoked. The United Nations High Commissioner for Refugees (UNHCR), in expressing its concerns about these measures, pointed out the *change which has taken place in the country must be fundamental - not a mere transitory change in the facts surrounding the individual refugee's fear*. The UNHCR also referred to concerns about misinformation in the UK immigration debate and the need to improve initial decision making.

## **Government measure two:**

- *Target for the monthly rate of removals to exceed the number of unfounded applications by the end of 2005. We will achieve this by detaining more failed asylum seekers; introducing fast track processing of all unfounded asylum seekers; greater control over applicants throughout the process including through more detention capacity; the use of electronic tagging.*

The Refugee Council accepts that removal is an essential part of a credible asylum process. However, it can only be seen as such if it is the end of a process which is itself fair and in which asylum seekers have been able adequately to present their cases.

There is increasing reliance in the UK on fast-tracking cases, which have been effectively prejudged as unfounded. Fast-tracking involves tight timescales that provide insufficient time for legal representatives to fully prepare the case. There is growing concern that cases are not being adequately presented, and that procedures are too inflexible in situations where evidence is required but there is not sufficient time to gather or present it.

The Refugee Council is concerned that measures associated with criminality are being increasingly used for asylum seekers. The UK already detains more asylum

seekers than its European neighbours and the strategy proposes that detention becomes the norm.

Where people are not actually detained they may be subject to electronic tagging, another measure that is associated with criminal activity, that stigmatises asylum seekers and that is highly intrusive in personal life.

The Refugee Council accepts the need for contact management through reporting as well as other user-friendly methods of electronic management such as voice recognition telephone contact, which is currently being piloted. Only where such approaches have failed should greater compulsion through tagging or detention be used.

### **Government measure three:**

- *Strong border controls with fingerprinting of all visa applicants and electronic checks on all those entering and leaving the country.*

The UK has already introduced many strict border control measures that have made the UK difficult for refugees to enter to seek asylum. Currently border controls do not distinguish between refugees fleeing persecution and migrants, and are therefore responsible for keeping refugees out of the UK, as reflected in the dramatic drop in the numbers of asylum applicants.

The classic example is Zimbabwe where visas were introduced despite the widely acknowledged continuation of human rights abuses.

### **Government measure four:**

- *Maximising returns to safe countries and finding ways to return unaccompanied asylum seeking children.*

We have grave concerns about the Government's perception of which countries are 'safe' for removals. Zimbabwe is a case in point but we have been equally concerned about premature and inappropriate removals to Somalia, Iraq and Afghanistan. We also have concerns about the human rights records of countries with which we have return agreements, such as Sri Lanka and China. The Refugee Council believes that human rights safeguards must be at the forefront of any return agreements, which the UK reaches with countries to which people are removed.

We are most concerned about the recent move to return unaccompanied children, as it is clear that the best interests of the child will be a secondary consideration to the determination to demonstrate tough enforcement measures. Save the Children have expressed their concern in a press statement.

Responding to the announcement, Mike Aaronson, Director General of Save the Children said:

*"We are extremely concerned that vulnerable children are being used as scapegoats for the Government to appear tough on asylum. Separated children come to the UK for protection - many are fleeing from conflict and abuse, others are the victims of trafficking and exploitation. These children must not be forced to return home without thorough investigation of what they are returning to."*

*Returning a child to their country of origin requires sensitive and thorough investigation. There are clear child protection issues when children are returned alone to countries where their safety and welfare needs cannot be met.*

*The Home Office is about to conduct a pilot on the return of unaccompanied children. As a minimum, the government must conduct this pilot before announcing a major increase in returns."*

## **Conclusion**

The Government has become so preoccupied with the perceived need to appear to be in control of asylum that is resorting to ever tougher measures at the expense of fairness. These mean ever accelerating procedures, further restricting asylum seekers' ability to reach the UK, cutting back on access to legal help and appeal rights, and increasing use of criminal measures such as tagging and detention. It is doing this without tackling core issues such as the quality of decision making – overall, 20 per cent of decisions are still overturned at appeal and for some countries this approaches 50 per cent – and the fairness of the procedures themselves are being called into question.

Underlying all this is a public perception that is fed by myth and misinformation from all quarters that the Government should be addressing and challenging rather than reinforcing through unnecessarily punitive approaches.