

Commentary of the agreement with Rwanda for outsourcing the UK's asylum system.

April 2022

About the Refugee Council

The Refugee Council is one of the leading organisations in the UK working with people seeking asylum and refugees. We provide a range of specialist services to adults and children, and also work with them to ensure their needs and concerns are addressed by decision-makers. Our services provide information, advice and practical support to people who were forced to seek safety in the UK.

This briefing outlines key aspects of the April 2022 agreement with Rwanda to transfer some people who have sought asylum in the UK to have their asylum claims processed in the Rwandan asylum system and the concerns we have about this agreement.

Outline of the agreement and key statements by Ministers.

On Thursday 14 April 2022, the Home Office announced that it had agreed a deal with Rwanda, which would see people seeking asylum in the UK transferred there to enter the Rwandan asylum system¹.

The Memorandum of Understanding (MoU) between the two countries was also published². Under the agreement some of the individuals whose asylum claims that are found to be 'inadmissible' after an initial screening will then be proposed for transfer to Rwanda, with final sign-off coming from that country. The applicants' asylum claims will be processed under Rwanda's asylum and immigration laws. Asylum applicants are referred to in the agreement as 'relocated individuals'; the agreement makes brief mention of the commitment to provide accommodation and support 'that is adequate to ensure the health, security and wellbeing of the Relocated Individual' and states that people will have equivalent freedom of movement rights as all who reside in Rwanda. Relocated individuals will have access to an interpreter and to procedural **or** legal assistance, at every stage of their asylum claim, including if they wish to appeal a decision made on their case. No mention is made of where this is to be found or how it is to be funded.

The MoU includes reference to a resettlement arrangement whereby an unspecified number of vulnerable refugees currently residing in Rwanda, will be permanently resettled to the UK. No detail is given about the process under which this will take place.

¹ <https://www.gov.uk/government/news/world-first-partnership-to-tackle-global-migration-crisis>

² <https://www.gov.uk/government/publications/memorandum-of-understanding-mou-between-the-uk-and-rwanda/memorandum-of-understanding-between-the-government-of-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-government-of-the-republic-of-r#part-1--transfer-arrangements>

A Monitoring Committee is to be established, independent of each government, to provide some scrutiny of the process.

The agreement will last for five years unless both parties agree to end it earlier, and may be renewed in four years' time. It takes effect immediately.

More information has been gleaned from statements and in press conferences but the demographic information for who will be eligible is neither in the original statement nor in the MoU. The Home Secretary, responding to questions in the House of Commons on the day of her statement stated that she would not provide details of eligibility criteria and that the policy could apply to anyone who meets the inadmissibility criteria.³ The Prime Minister's statement on 14th April⁴ detailed that the transfer to Rwanda would be considered for those who had arrived from 1st January 2022 (and subsequently found to have a claim deemed inadmissible in the UK).

The UK Government will be providing Rwanda with an initial £120 million as part of the deal, but Refugee Council understands that the UK will also be funding asylum processing there, which could end up costing more than £1 billion⁵.

Relevant statistics

According to the UNHCR's Global Trends report, over 80 million people were forcibly displaced in 2020 and we expect this number to continue to grow.⁶ 85% of forcibly displaced people are hosted by developing countries and a very small proportion arrive in Europe. Of those who do, only 8% come to the UK to claim asylum.⁷

In 2021 just over 10,000 decisions were made on asylum claims made in the UK. 70% of the initial decisions were to recognise the applicant and their dependants as refugees or provide them with Humanitarian Protection. Of those who are refused and appeal this decision almost half are successful⁸.

In 2021 the Refugee Council published government statistics relating to the nationalities of those who arrive in the UK having crossed the Channel in a small boat; 91% came from just ten countries, with a higher than average grant of protection at initial and appeal stage⁹.

Although the Rwanda agreement is not restricted to those who have travelled on small boats, both the Prime Minister and Home Secretary have indicated that the agreement with Rwanda is primarily aimed at stopping those individuals from arriving in the UK. Given the above demographic information, this means that it is likely that about three quarters of those transferred to Rwanda will be refugees.

Whilst it is difficult to estimate the number of people who could be at risk of being transferred to Rwanda, our analysis of official inadmissibility data for 2021 showed that 172 people could have been sent to

³ <https://hansard.parliament.uk/commons/2022-04-19/debates/04A9FDC8-59F6-4CA9-BEBD-3B6F5850D707/GlobalMigrationChallenge>

⁴ <https://www.gov.uk/government/speeches/pm-speech-on-action-to-tackle-illegal-migration-14-april-2022>

⁵ <https://togetherwithrefugees.org.uk/wp-content/uploads/2022/02/A-bill-at-what-price-2.pdf>

⁶ <https://www.unhcr.org/flagship-reports/globaltrends/>

⁷ <https://www.refugeecouncil.org.uk/information/refugee-asylum-facts/top-10-facts-about-refugees-and-people-seeking-asylum/> and <https://www.unhcr.org/uk/asylum-in-the-uk.html>

⁸ <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2021>

⁹ <https://media.refugeecouncil.org.uk/wp-content/uploads/2021/12/24155629/Channel-crossings-and-asylum-outcomes-November-2021.pdf>

Rwanda last year had a deal been in place.¹⁰ Whilst it's possible that the Home Office could look to determine an increased percentage of cases as inadmissible now that the agreement with Rwanda is in place, we believe similar numbers of people are likely to be deemed inadmissible each year (assuming the number of asylum claims remains static).

Refugee Council's concerns about the Rwanda Agreement.

The primary concern is not the outsourcing of the UK's obligations towards refugees to Rwanda specifically, it is the principle of a country that takes such a small proportion of the world's refugees deeming it necessary to transfer anyone to another country when it is fully capable of finding adequate resources to process the claims it does receive, as well as providing a greater number and variety of safe routes to avoid the need for so many people to take dangerous journeys at all.

Externalisation of asylum

Denying anyone the right to claim asylum in the UK is very concerning, it erodes the very foundation of not only our domestic humanitarian protection regime but creates an alarming precedent which other countries might follow. As a result, we are likely to see a lowering of humanitarian standards globally and such a situation will have dire consequences when countries are shifting responsibility for refugee protection to a third country.

It is difficult to see, when 85% of displaced people are hosted by developing countries, how this agreement is in line with the Global Compact on Refugees, to which the UK agreed to adhere; one of the key principles of the Global Compact is to strengthen cooperation and solidarity with refugees and host countries. The United Nations Refugee Agency has spoken out strongly on this point, stating that the arrangements 'shift asylum responsibilities, evade international obligations, and are contrary to the letter and spirit of the Refugee Convention' and warn that refugees should be treated with 'compassion and empathy' not 'traded like commodities and transferred abroad for processing'¹¹.

It is unlikely to achieve the government's aims.

This Government is keen to place the blame for an ill-functioning UK asylum system at the feet of those seeking its protection, instead of addressing backlogs of decision-making, improving the quality of decisions and providing an appropriate level of support to those claiming asylum in the UK so that they are supported to engage with the process. Its own analysis concluded that this policy may not work in deterring people from making dangerous journeys to safety.¹²

The development of this policy specifically has caused the Home Office's current Permanent Secretary to express concern that 'evidence of a deterrent effect is highly uncertain'.¹³

¹⁰ <https://www.refugeecouncil.org.uk/latest/news/over-19000-people-fleeing-war-and-persecution-including-those-escaping-ukraine-could-face-imprisonment-under-government-plans/>

¹¹ <https://www.unhcr.org/uk/news/press/2022/4/62585e814/un-refugee-agency-opposes-uk-plan-export-asylum.html>

¹² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005042/CCS207_CCSO_621755000-001_Consultation_Response_New_Plan_Immigration_Web_Accessible.pdf

¹³ <https://www.gov.uk/government/publications/migration-and-economic-development-partnership-ministerial-direction/letter-from-matthew-rycroft-to-rt-hon-priti-patel-accessible>

Indeed, it is widely understood that this policy is based on unsuccessful Australian model which was proved to be costly, inhumane and not delivering at all on its intended aims.¹⁴ The agreement with Rwanda emulates a similar memorandum signed by Denmark, which has been widely criticised and, as far as we know, has not been operationalised to date. The African Union called Denmark's Agreement with Rwanda *'xenophobic and completely unacceptable'* arguing that by taking such steps Denmark is effectively expanding the control of its border to Africa and interfering with relations on this continent.¹⁵

Lack of clarity about to whom this agreement will apply

At this stage it is unclear how the new agreement will be put into practice. No guidance has been written to explain at what point in the process people will be selected and upon what basis. The inadmissibility process currently requires that Home Office decision makers identify any applicant who may have travelled through another country where they could have claimed asylum, as well as those with a connection to (e.g. have family residing or have lived in the past). Transfer is then considered not just to those countries but any country that agrees to take them¹⁶. The rules are no more specific than that although current guidance advises that unaccompanied children are not subject to this policy. Even if that continues to be the case we are concerned that applicants, including those treated initially as adults but who are in fact children, will not all get the advice and assistance they need to ensure they are not transferred before their age is finally determined. It is unclear what rights any applicants will have to present an argument as to why they may not be suitable for transfer into the Rwandan asylum system.

What should the government be doing instead?

We agree that it is important to tackle the number of dangerous crossings and address the issue of people smugglers. There are credible and viable ways to do this. We need well thought-out, long-term solutions, which address the reasons why people are forced from their homes, and create safe routes for people to reach the UK.

The Government needs to introduce a simple humanitarian visas system to allow people fleeing persecution to travel to the UK safely. Alongside this, the Government must seek to work with France – rather than Rwanda - to enable people seeking safety to make asylum applications to the UK from there, via joint processing centres. This would allow some refugees to travel safely and legally to the UK.

The Government should also be focusing on investing in fair and effective asylum processing in the UK, to reduce the cost to the tax payer, and allow people claiming asylum to find work more rapidly and contribute to the UK economy.

¹⁴ The use of camps was condemned by the UN, the International Criminal Court and prominent human rights organisations, for cruel, inhuman and degrading conditions. Recent academic research provides analysis on the offshore processing in Australia:

https://www.kaldorcentre.unsw.edu.au/sites/kaldorcentre.unsw.edu.au/files/Policy_Brief_11_Offshore_Processing.pdf

¹⁵ <https://au.int/en/pressreleases/20210802/press-statement-denmarks-alien-act-provision-externalize-asylum-procedures>

¹⁶ <https://www.gov.uk/government/publications/inadmissibility-third-country-cases>

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