

Briefing: Impact of the Illegal Migration Act on people seeking asylum

This is one of three briefings that are the outcome of research by Sue Lukes and Richard Williams, commissioned by the Refugee Council in May 2023, into the implications of the Illegal Migration Act that was introduced in the House of Commons on 7 March 2023 and that became law on 20 July 2023. The research assesses the implications of the Act for people seeking asylum. In particular, it looks at the impact the Act may have on their principle needs to live with safety and dignity and to access protection and barriers to addressing them, such as access to legal advice and representation, appropriate housing, and financial support. This is the subject of this first briefing.

Secondly, the research looked at the likely impact on the asylum and refugee support organisations refugees and people seeking asylum rely on for their safety and other needs, and how they plan to sustain and adapt their activities. This is the subject of a second briefing.

A third, private briefing, assesses the implications for the future provision of the Refugee Council's asylum services and the impact on their services strategy, together with potential implications for their influencing priorities and activities.

Research was conducted in June- August 2023 and comprised:

- A review of relevant documents, including internal Refugee Council briefings;
- An online survey of key organisations in the sector, which received 41 responses;
- Six online discussion groups: three with Refugee Council staff and three with representatives of organisations across the refugee sector, of which one was targeted at legal practitioners
- Semi-structured interviews with senior Refugee Council staff and key representatives from the voluntary sector and local government

These sources were then analysed thematically.

Respondents to the survey, as well as discussion group participants and interviewees, were assured that their contributions would not be attributed. Quotes from these are in *italics*. We would like to take this opportunity to thank publicly all those who contributed.

A decision was made not to consult people with lived experience directly after discussions with people involved in safeguarding.

The Illegal Migration Act

The Illegal Migration Act was introduced with the stated intention to “stop the boats”: the people arriving on the south coast from France and applying for asylum. But it applies to many more people. The main provisions of the Act are aimed at those who arrive irregularly into the UK, meeting the following four conditions:

- They arrived on or after 20 July 2023 (the date the Act become law) **and**
- They entered irregularly (including those who arrive without leave e.g. in small boats and those who used false documents or deception to get in) **and**
- They have no leave to enter or remain **and**
- They did not travel directly from the country they were fleeing.

Under the Act, the Home Secretary will be under a duty to remove all those people who arrived after 20 July 2023, and who meet the four conditions, as soon as practicable to

- their country of nationality, if they have not made protection claim or they are from one of 32 countries (The EU27, Iceland, Norway, Switzerland, Liechtenstein or Albania)¹ **or**
- to one of the 57 countries listed in the Act as considered safe (including 8 specifically safe only for men).

If they have claims for protection as refugees or victims of trafficking or modern slavery those claims will be expected to be made and dealt with in the country to which they have been removed. Any protection or human rights claim will be automatically deemed “inadmissible” – i.e. the UK government will not consider it.

At the time of writing, these provisions are not in force. The government stated that it would not implement the duty to remove until after the Supreme Court ruling on removals to Rwanda. After the Court ruled that such removals were not lawful, the Prime Minister stated that he intends to legislate to make them possible. However, it is likely that any such measures would also be subject to legal action, and so there could be further delays.

The people covered by this duty to remove can also be detained for up to 28 days before they can apply for bail and the government expects to increase the number of people in detention. Additionally, the Act also bans those meeting the four conditions from ever being granted leave to enter or stay or acquiring UK citizenship.

The Home Secretary can, by introducing a statutory instrument, amend the 20 July 2023 date to a later date, so that only those arriving after that new date are impacted by the duty to remove and automatic inadmissibility.

There are exceptions to the duty to remove and the detention powers:

- unaccompanied children will not be removed until they are 18, unless they can be removed to their country of origin or for the purpose of family reunion
- Pregnant women cannot be detained for more than 72 hours without authorisation from the Home Secretary
- Unaccompanied children can apply for bail after being detained for eight days

¹ The Home Office have laid draft regulations that would add Georgia and India to this list. The regulations are currently awaiting debate and approval by the House of Commons and House of Lords - The Nationality, Immigration and Asylum Act 2002 (Amendment of List of Safe States) Regulations 2024, <https://www.legislation.gov.uk/ukdsi/2024/9780348253481/contents>

- The Home Secretary may give a person leave to remain if it is necessary to avoid a breach of the European Convention on Human Rights or in other exceptional circumstances
- The Home Secretary may exempt groups of people from the ban on leave and/or the duty to remove by regulation and the government is considering who this might cover
- Some victims of slavery or human trafficking may not be removed if there are “compelling circumstances” requiring them to be in the UK to cooperate with criminal investigations or proceedings
- If someone is notified that they are to be removed, they have just 8 days to contest it, to show either that the removal would cause a [‘real, imminent and foreseeable risk of serious and irreversible harm’](#) or that they do not meet the conditions for removal (i.e. that the Home Office has made a mistake). While the Home Office decides on this claim, the person cannot be removed (called a “suspensive appeal”). Other challenges to removals do not delay the removal, so could be dealt with after the person has been removed.

Anyone who meets the four conditions listed above and who arrived before 20 July 2023 will have their asylum claims dealt with under the pre-Illegal Migration Act legal framework, including the inadmissibility procedures in the Nationality and Borders Act 2022. However, anyone who arrived between 7 March (the date the Act was first introduced in parliament) and 19 July 2023, and who meets all but the first of the four conditions, is also banned from ever being granted leave to enter or stay or acquiring UK citizenship. So, for now:

- **People who meet the four conditions, or who arrived between 7 March and 19 July and meet the other three conditions, can apply for asylum** and join the tens of thousands waiting for a decision.
- But even if their application is successful, **they may not get leave unless it is granted “exceptionally”**.
- **If/when the duty to remove is introduced**, people who have arrived after 20 July (other than those exempted) will be notified that they are **subject to removal and any protection or relevant human rights claim will be inadmissible**. They will have **8 days to make a suspensive appeal**.
- All those people will be liable for **detention**.

It is important to note, however, that:

- There are currently only up to 3,000 detention places available, more cannot be created quickly, and some will be used for the detention of other groups of people.
- Even if the government finds lawful ways to send people to Rwanda, there is doubt about Rwanda’s capacity to take all of those covered by the Act. While the Home Secretary has said Rwanda could take thousands of people and has stressed the scheme is uncapped,² neither the UK government nor the Rwandan government have made clear how many people could be sent each year or what the capacity is for Rwanda to receive people.
- Decisions on claims of harm or error to stop removals will take time.

The result of this will be that many thousands of people will be told that their asylum claim is inadmissible and they cannot get leave or citizenship but will instead be left in limbo. Refugee Council estimates that “in the first three years of the legislation coming into effect, between 225,347 and 257,101 people will have their asylum claims deemed inadmissible. This includes

² [Suella Braverman speaking on BBC Radio 4 Today programme 26 April 2023](#)

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between 39,500 and 45,066 children.³ The vast majority will not be removed or detained but will be placed in Home Office contracted accommodation and given minimal asylum support either under section 4 of the Immigration and Asylum Act 1999 consisting of accommodation and a prepaid card for food and other essentials, or, if they are a family with children under the age 18, under section 95 of that Act with financial support paid in cash.

Adding to the uncertainty, the UK is facing a period of political change and it is possible that the government will change at the next election which must be held before the end of January 2025. Some of the provisions of the previous Nationality and Borders Act were never implemented because current legislation superseded them. This could also happen with the Illegal Migration Act if the current government decided it needed further measures before an election or an incoming government declined to implement it.

The context

When asked about the knowledge of, or concerns about, the impending Act that people seeking asylum have, people in the voluntary, legal and statutory sectors in daily contact with them said that there was little accurate knowledge of what was in the Act itself, but many were fearful of being sent to Rwanda. Some understood that more changes were going through Parliament but were hazy about the details. Organisations working with refugees and people seeking asylum felt constrained about explaining too much, because they felt it might not be implemented immediately or in part, or because they were unsure about the facts and, most importantly, because they did not want to add to people's existing confusion, hopelessness and sometimes desperation which might cause them to "go underground" and put themselves at risk of exploitation or other harm. They also felt it could cause or add to mental health problems.

This speaks to the context of the Act. It comes at a time when the entire system for receiving and dealing with people seeking asylum and asylum applications is facing serious challenges:

- The backlog of asylum cases waiting for an initial decision has grown from under 10,000 in 2012 to 125,173 cases or 165,411 people at the end of June 2023. Three quarters had waited for more than six months⁴. This has been driven both by a decrease in the numbers of cases decided and an increase in numbers applying. While waiting, most people cannot work and live in accommodation provided by Home Office contractors.
- A streamlined process involving a questionnaire for the five nationalities with highest rates of success in asylum claims was introduced in February 2023. Charities working in hotels say the questionnaire has caused confusion on occasions and become the focus of rumours.
- As the numbers increase, more accommodation has been sourced. Instead of a pathway from initial reception to dispersed accommodation in a selection of areas, many people (56,042 as at end September 2023)⁵ are now facing months and even years in hotels designated as contingency accommodation all over the UK. Some of these hotels are in quite isolated areas, some with no effective access to key services, some in areas where

³ [Illegal Migration Bill – Assessment of impact of inadmissibility, removals, detention, accommodation and safe routes, Refugee Council, 2023](#)

⁴ Immigration System Statistics, year ending September 2023, Asylum and Resettlement - Asylum applications awaiting a decision <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-september-2023>

⁵ Immigration System Statistics, year ending September 2023, Asylum and Resettlement - Asylum seekers in receipt of support <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-september-2023>

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local authorities have opposed their arrival. The people accommodated in hotels get a weekly allowance of £9.58 per person to cover everything except food.

- The Refugee Council and many other support groups have raised concerns about the quality of accommodation and food and the safety risks in hotels and other contingency accommodation, including some instances of attacks and harassment⁶. Even for those people seeking asylum who find the provision adequate the prolonged uncertainty and isolation takes its toll on mental and physical health.
- The Government has a stated aim to reduce the costs of hotels and now seeks to double up on room occupancy (so people will share with strangers) and is sourcing other large scale accommodation. Barracks are already in use at Napier (in Folkestone), an MOD base in Essex is now in use, and another planned for Lincolnshire, and the Bibby Stockholm barge is being used for accommodation at Portland port. All have caused at least some opposition locally, some are subject still to legal action.
- Detention centres already in use are facing their own problems. The holding centres through which people come when they arrive in boats have been found to not have adequate facilities if there are large scale arrivals and are designed to keep people for a couple of days⁷. Manston came under major adverse scrutiny in 2022 when families with children were held there for weeks. There have been tensions in Immigration Removal Centres, exacerbated by detainee protests, poorly maintained facilities and power outages, as staff face increased work pressures and uncertainty about what will happen to detainees.
- People claiming asylum, whether in accommodation or detention, need reliable information and advice and that is increasingly difficult to access. As new hotels and centres are opening up, voluntary sector organisations said they faced challenges to develop adequate responses. Even if local organisations and services have the capacity to help and the skills needed to work with this new group, they still need to access the places. This can be fraught: distance and the lack of affordable transport compound the problems, on-site managers may not be helpful, and there may simply be no space to meet with clients. The immigration minister barred Care4Calais volunteers from visiting people in Napier barracks⁸. Organisations who have worked with people seeking asylum for some time also report staff exhausted by several years of responding to more hostile measures.
- Most importantly, people seeking asylum need legal advice. Immigration advice is a regulated profession, so however willing other agencies or volunteers are to help, only lawyers and regulated advisers can provide this. But legal aid, and specifically legal aid for people seeking asylum, has gone beyond a crisis. By 2021, researchers reported that 6,000 new applicants could not get access to legal aid. In the next year this rose to 25,000 people, nearly half of all new asylum applicants. There are large areas of England with no legal aid whatsoever available for people seeking asylum⁹.

The Illegal Migration Act lands in these interlocking challenges, alongside issues affecting the whole population (the cost of living, public services facing financial pressures and local authorities struggling to provide services with some facing acute pressures). Voluntary sector organisations told us that people seeking asylum themselves do not necessarily distinguish between each of

⁶ [Lives on Hold: The Experiences of People in Hotel Asylum Accommodation](#), Refugee Council 2022

⁷ Interviewee

⁸ [Robert Jenrick stops charity giving asylum seekers clothes, haircuts and legal help at migrant centres](#), Inews November 2023.

⁹ [New Freedom of Information data indicates half of asylum applicants are unable to access legal aid representation, Joe Wilding blog post for Refugee Law Initiative, 4 Nov 2022](#)

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these and the Act itself. And they also point to the issue of expressed hostility to their arrival and existence. While polling has consistently shown a trend towards more positive views regarding immigration in the UK, there has been an increase in visible hostility. Demonstrations outside hotels, hostile rhetoric from some prominent politicians and a continuing verbal commitment by government to the idea that a “hostile environment” as a suitable policy tool are all part of a situation where Hope Not Hate have reported that “the British far right is more active than it has been for many years”, with “migrant hunting activity” increased 102% from 2021 to 2022.¹⁰

How would the Illegal Migration Act work if implemented fully?

There are a lot of caveats to be made here as much of the infrastructure is not in place yet and may not be for a number of months and we do not know what dates are envisaged for which sections to be implemented. Several participants characterised some provisions of the Act as “performative”.

Who is covered by the Act?

The Government focus is clearly on small boat arrivals, although they accounted for less than half (45%) of asylum claims in 2022¹¹, and the planning appears so far to be mainly for them. However, the Act will apply to anyone arriving irregularly to whom the “four criteria” apply.

“Irregular arrivals” includes people who arrive at airports on false travel documents, and, since their documents are false, any prior leave or entry clearance they have is invalid. If they have also not travelled directly, they would therefore be covered. People whose documents are in order may also be covered if they are found to have entered by deception e.g. have got a tourist visa but with the intention of applying for asylum once they were here.

Process for people seeking asylum who do not arrive in the UK by small boat

In 2022 49,155 people were reported as having arrived irregularly, either in small boats (45,755) or were otherwise detected arriving irregularly (3,400)¹², and 89,398 people claimed asylum. Arrivals by small boats accounted for less than half (45%) of the total number of people claiming asylum in 2022¹³. Organisations working with people seeking asylum said they understood around 20,000 people each year will not be covered by the Act once implemented, but the number may be higher. They will simply be dealt with as now, their claims processed, and offered asylum support if destitute. There is also an unknown number of people who will not arrive by boat but will be treated as irregular arrivals and no information is available about the processes envisaged for them. It is likely that at some point they may be detained (or already be in detention), and either there or at some other point after making an asylum application will get the equivalent of the duty interview and may then be put into the removal process.

What happens then?

A removal notice will be issued soon after a decision that the duty to remove applies. This states the country to which the person is liable to be removed, but not when; it may not be possible, in practice to carry out the removal. From the moment the notice is issued the applicant has eight days (including weekends and holidays) to secure legal advice and make a **suspensive claim**

¹⁰ See Hope Not Hate’s ‘State of Hate 2023’ report <https://hopenothate.org.uk/2023/02/26/state-of-hate-2023-rhetoric-racism-and-resentment/>

¹¹ [Irregular migration to the UK, year ending December 2022, Home Office, 23 Feb 2023](#)

¹² [Illegal Migration Bill Economic impact assessment, Home Office 2023](#)

¹³ [Irregular migration to the UK, year ending December 2022, Home Office, 23 Feb 2023](#)

that, if they are to be removed to a third country they would suffer “serious and irreversible harm” (death, torture, inhuman or degrading treatment or persecution) or that a factual mistake has been made. Pain or distress resulting from the unavailability of medical treatment in the country of return would not be sufficient to prevent removal. **All other legal challenges to removal, whether on human rights or other grounds, would only be considered after removal.**

Those who want to challenge a removal notice will be entitled to legal aid, but as noted above, there are whole areas of the country where legal aid is not actually available to anyone who is seeking asylum, and it is likely that, as now, people will get their decision in a variety of places all over the country: detention, large scale sites or asylum accommodation. The Ministry of Justice has offered an increase in some legal aid fees, but practitioners do not believe it will be enough to ensure the provision necessary. It is not obvious who, other than legal representatives, will have access to detention centres and some of the larger sites with security, such as the barges. Medico-legal reports may also be needed to prove “serious and irreversible harm” and these will take time to compile.

People who successfully win a stay on removal on the basis of the risk of serious and irreversible harm would still be liable to be sent to another third country. However, the Act also allows for them to be given **some kind of temporary, limited leave**. The Home Secretary will also have a discretionary power to grant leave on human rights or other exceptional grounds. The situation for people who cannot be removed because their country of origin is not one of the 32 considered “safe” or because there is no option for a relocation to a safe third country will be kept under review - i.e. they will be in limbo – until removal becomes possible. The current working assumption is that this will be the vast majority of people and they will be barred from working and will be entitled to cashless section 4 support, other than families who may be eligible for section 95 support.

Immigration Removal Centres currently house people seeking asylum (usually between one half and two thirds of those detained)¹⁴ and others caught up in immigration enforcement, including some prisoners who have served their sentences and are awaiting removal. It is likely that this will continue, and the new cohort of people who may have a protection claim deemed inadmissible will join them. Asylum accommodation will then house:

- People who have made a claim for asylum which is being processed (including the thousands in the current backlog).
- People whose claim has been deemed “inadmissible” and are awaiting removal (although the Home Office’s intention is to have them in detention, the numbers involved may make that impossible and they could be bailed to non-detained accommodation).
- People who are waiting for an inadmissibility decision, some of whom may have been detained and bailed.
- People who have been told the duty to remove applies to them and their protection claim has been deemed inadmissible but who cannot be removed and are now “in limbo”.

What is not clear is whether they will all be housed together or in different places or types of accommodation.

¹⁴ Detention Summary Tables, year ending June 2023, Home Office, published 24 August 2023.

The effect on people seeking asylum

As noted above, interviewees, survey respondents and discussion group participants reported that people seeking asylum generally do not distinguish between this Act, previous legislation, the Rwanda deal, the threat of removal and detention and the proposed new bases and barges. They find out about what is happening from the news (mainly TV), community grapevines and rumours, none of which are necessarily accurate sources. These also operate in northern France prior to arrival. There is little reliable information from hotel contractors or Home Office staff.

People have begun asking advice and support agencies about the Act, but staff and volunteers do not always have the information needed, and (as noted above) are concerned not to upset people, worry them unnecessarily or give them inaccurate or misleading information in a fast-changing context. Not all rumours are negative. Discussion group participants, for example, reported that the appearance of the Home Office asylum questionnaires had sparked talk of an amnesty on TikTok. Participants noted that rumours of amnesties often accompany changes, good or bad, in immigration law or procedures.

People arriving will not know or understand the Act or what it means for their rights and entitlement to seek protection in the UK. Given the short timescales and likelihood that they will be in detention, large scale accommodation centres or hotels, their ability to access good quality, reliable and independent information to understand the Act as it relates to them and their needs as individuals will be limited. Without that information they will be hard pressed to understand their choices and how to engage with the system effectively in order to stay safe.

Will people be deterred from coming?

The Home Office's own Impact Assessment acknowledges that people seeking asylum may find other routes to the UK. It states: "There is a risk that unintended behavioural changes from migrants impact the outcomes achieved by the Bill. Rather than being deterred, migrants might instead be displaced into other UK inbound routes, for example undetected clandestine routes or initially legal routes such as visa overstayers".¹⁵

Charity staff with contacts in northern France and the countries that people seeking asylum in the UK originate from are sure that people will not be deterred: "*People are saying they will not stop coming: it's better to die trying*". A survey respondent said, "*We anticipate that some people seeking asylum may continue to come to the UK but may either try to avoid the authorities altogether, or after arrival seek to evade or lose touch with the authorities*".¹⁶_[OBJ]

While information about changes to the processes in the UK may not stop people coming, some interviewees believed it might change the ways in which they arrive. An interviewee from a national organisation said, "*already people are taking longer routes to cross. We have seen an increase of people moving from Ireland.*" Another interviewee concurred: "*The risk is that small boats won't want to be detected. They'll try to avoid Dover. They'll end up on random beaches and get off and run away, which from a humanitarian perspective is pretty awful.*"

Many participants expressed concerns that people seeking asylum's attempts to avoid detection and/or find alternative routes would likely put them at risk of injury or death when crossing the Channel and put them at increased risk of sexual or labour exploitation in the UK. Reluctance to contact health care providers would bring risks to themselves or to others.

¹⁵ [Illegal Migration Bill Economic impact assessment, Home Office 2023](#)

¹⁶ Interviewee

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Doctors of the World has warned of the detrimental health impacts of living with insecure or no immigration status. Undocumented people are at high risk of becoming homeless, which is associated with significant health inequalities and poorer health outcomes than the rest of the population. Mortality rates are ten times higher than the rest of the population and life expectancy is around 30 years less¹⁷.

Some interviewees and respondents cited individual cases of people who had left the UK, possibly irregularly, to go to other countries in Europe because they had been told there was no hope of getting asylum here. And it was highlighted some young people, especially those wrongly assessed as adults, are going to Scotland because they believe they will be treated better there.

Will people “go underground”?

The consensus from participants was that significant numbers of people will attempt to avoid all contact with authorities, in case they were detained and removed. A voluntary sector leader interviewed underlined that people would have little reason to maintain contact with services:

“What is someone's incentive to stay known to the authorities - known to the Home Office – when, in theory, you're being told, the only thing that will happen to you while you're here is we will put you on a plane at some point to send you somewhere else? So what is anybody's incentive to stay in the system, even if they're being offered a hotel bed, some kind of accommodation, not to just disappear? which has a massive, especially if you're talking about minors - a massive, safeguarding risk.”

This was not simply a hypothetical notion: participants reported that people had already gone “underground” for fear of being sent to Rwanda. A participant in a discussion group for the voluntary sector said, *“A lot of people are going under the radar (we have gone from 70 clients down to 40). I fear that people are falling away from certain services fearing they might be rounded up and sent to Rwanda.”* A solicitor said she was worried that people would increasingly go underground, which she felt was already happening, *“as a result of Rwanda and extended hotel living.”* An interviewee from a regional charity concurred, *“Lots of people in hotels are already absconding.”* An interviewee from a national charity also pointed to the fear that spread in hotels after the Rwanda policy was announced: *“They just want to run away. The massive TV screens are constantly showing immigration news. The asylum questionnaires alarmed people. A lot of people have been trafficked. When the news about Rwanda came out a lot went missing. They have no one to talk to or get answers about it.”*

Interviewees and other participants anticipated that people seeking protection would simply not apply for asylum. This would mean they would not be able to work legally and would have no entitlement to accommodation or financial support. A survey respondent from a regional refugee agency said, *“Most people will be too scared to claim asylum and will have no entitlement to support or work and as such they will be in more of a risk of exploitations in order to survive.”*

Many participants, including one from the discussion group for legal practitioners pointed to the increased risk of modern slavery that would accompany a decision not to claim asylum: *“Our worry is that people will simply be too frightened to come forward for help and, for example, for survivors of trafficking and modern slavery they might feel forced to remain with traffickers rather than come forward for help if this will result in detention and removal.”* While the increased vulnerability to exploitation was conjecture, it was based on the experience of advice

¹⁷ [The medical consequences of the new ‘Illegal Migration Bill’, Doctors of the Word and others, April 2022](#)

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organisations. As this participant said, *“it is going to make people vulnerable in the same way it has in the past, but on speed. If particularly unlucky, they will be churned through a cycle of abuse until they come to the attention of the authorities.”*

Interviewees and other participants pointed to the specific risk to children: *“Asylum seekers will hide and vanish into abusive and exploitative trafficking networks. Already children in Home Office accommodation are disappearing, lured or kidnapped by gangs in the UK. This will significantly increase under this Bill.”*

How else may people respond?

Increased risk of exploitation

Whether or not people go underground, there was agreement amongst interviewees and other participants that the current measures together with those to be introduced via the Act vastly increase the risk of exploitation and risky behaviour.

Participants predicted that traffickers would use the fear of detention and removal caused by the Act as a lever with which to control their victims: *“Traffickers portray UK as a golden land. People will still come. But once they get here, the fear will help the traffickers control them”*. A survey respondent saw the removal of Modern Slavery protections as empowering traffickers: *“In relation to modern slavery, by removing protection and support they are likely to empower traffickers, by forcing victims of trafficking to choose between remaining in exploitation, or facing detention and traumatising.”*

A participant from a health access project reported that their *“clients already get offered “work” providing sexual services or cultivating drugs. While they may not take up those offers now, they may agree in the future”*. Several participants talked about the likelihood that destitution would drive people to take more risks, such as illegal working, in order to survive. *“(They) will isolate themselves and possibly place themselves at greater risk by hiding or working in the black market. Asylum seekers will avoid seeking medical help when needed.”*

Impact on mental health

There was consensus amongst participants that the Act would have an adverse effect on mental health and wellbeing, ranging from concern about how people’s self-image would be affected through to “a general hopelessness” and the likelihood of severe consequences.

A survey respondent was clear that the Act’s impact on the mental health of people seeking asylum was likely to be severe: *“We also expect mental distress to increase and clinical symptoms and presentation to deteriorate significantly, meaning more people will experience acute episodes of mental health breakdown and require emergency psychiatric care.”*

Increasingly arduous journeys were already affecting people seeking asylum’s mental health and participants expected that to worsen under the Act:

“In the past seven years journeys have become much more torturous and difficult. They are being exploited all through Europe. Lots of push backs en route. So there’s a much higher level of trauma. So we are anticipating much more poor mental health, suicidal ideation, exploitation”.

Those offering therapeutic help noted that government rhetoric affected refugees’ self-image: *“Refugees start internalising the idea that they are inferior and don’t have the right to work or health care.”*

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Front line workers were already finding that clients' fears of being sent to Rwanda were taking a severe toll, including thoughts of suicide: *"One client said he'd end his life if he was sent to Rwanda. Many experience panic and fear at the prospect of being sent to Rwanda, fear and danger, just when they are feeling safe"*.

Some participants talked of clients threatening suicide if faced with being return to their country: *"If the government forces them to go back, young people will prefer to die."* Many thought that the provisions of the Act would cause people to self-harm and attempt suicide. *"We might see more people trying to take their own life as a result of being placed in a very harsh, unfair and inhumane system."*

How will this affect relationships with support organisations?

At just the time when people seeking asylum need objective, accurate and timely information, the processes in the Act and other factors make this more difficult for them to get from support organisations.

People could potentially be moved quite quickly from one area or type of provision (including detention) to another, with tight deadlines on decisions, appeals and providing evidence. When they are detained or sent to unsuitable places the difficulties are compounded.

A discussion group participant from a national NGO said, *"(They will have) very little time to get advice, get understanding about the country they are being sent to, what it means for them, what evidence they might need."*

This will disadvantage the more vulnerable, particularly those at risk of discrimination. *"I have seen how detained expedited processes impact on disclosure, how it impacts particularly on people with protected characteristics"*.

The dramatic increase in detention and use of large-scale accommodation centres planned under the Act will particularly affect LGBTQI+ people. Studies¹⁸ support the view expressed by this participant: *"LGBTQI+ people who are detained, placed in hotels, barracks or other large-scale accommodation are systemically harassed, bullied and abused. This can also affect their ability to access the welfare and other specialist support they need."*

Many services, large and small, were concerned that fear and lack of trust would also drive people away from the help they needed. *"Fewer people are going to present to services, will be scared of presenting to services, even non-governmental."*

Several participants said that people seeking asylum often did not understand the difference between government bodies, charities and other organisations. One participant said, *"New arrivals often can't distinguish between charities, government and the policy. (My organisation) think people will stop trying to access their services."* This was supported by a representative of a small housing charity: *"although we make it clear that we are not Home Office, as we interpret and explain Home Office policy, people are wary."*

Participants warned that people seeking asylum were already wary of presenting to services; the Act would only make this worse. *"People will fear being detained and removed. It's already there,*

¹⁸ [LGBTQI+ people's experiences of immigration detention: A pilot study. Rainbow Migration](#) 2023

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but it will become huge. It's already the case that people don't access services, when it doesn't need to be."

What about asylum seeking children?

All children's claims for asylum will be inadmissible on the same grounds as adults'. Those deemed inadmissible will also generally be unable to get long term leave or citizenship.

Children in families can be detained with the adults, potentially indefinitely, with no option to apply for bail before 28 days.

Separated inadmissible children will generally not be subject to the duty to remove until they turn 18, but there are powers to remove some to "safe countries" such as Albania. They will be given leave to remain until they are 18 and then be subject to the same processes as adults. They can be detained in some circumstances although there will be regulations which may limit this. Once detained they will be able to apply for bail only after eight days (unlike adults, who can only apply after 28 days) in some limited cases.

A questionnaire respondent from a specialised charity working with young people seeking asylum warned that all their clients would likely fall within the ambit of the Illegal Migration Act and render their work with them impossible: *"All the young people we see have arrived via an irregular route. In our 15-year experience we have never encountered an unaccompanied minor seeking asylum who had arrived via a so-called "legal route". All are therefore at risk of being significantly marginalised by this bill and their access to all relevant social, financial and legal services reduced. The work we are doing, of supporting them in building resilience and working to their rehabilitation, will be made impossible."*

The Act gives new powers to the Home Office to provide accommodation and support to separated children. The government has stated that it expects local authorities to look after these children until they are 18. It can mandate local authorities to provide information to the Home Office and also direct them to receive separated children or to hand them over to the Home Office. The Home Office has not ruled out the use of hotels for separated children.

Children whose age is disputed are in a particularly vulnerable position. If they are assessed as over 18 on arrival they will be detained alongside adults, and may be served with notice of removal, with only eight days to contest it. A child refusing the age assessment process (which might include physical tests) will automatically be treated as an adult. Any legal challenge to an age assessment can only be on points of law, not facts, and will not stop a removal.

Local authorities, the "corporate parents" of separated children said they are concerned that:

- Children will go missing from their care as soon as they know they face deportation when they turn 18. Given that 75% of children who arrive are 16 or 17, these numbers could be very high and become a serious child protection crisis.
- Councils have duties to young people leaving care which they cannot fulfil if the children are removed when they turn 18.
- Councils with large scale accommodation sites in their areas will face significant challenges particularly in looking after children who arrive as "adults" into the accommodation but are then assessed as children. In many sites this is thought to be 10 per cent of those housed, so local councils could find themselves caring for unsustainably large numbers.

- The fear of deportation, detention or of being left in limbo is likely to have a severe effect on children's health, well-being and development that will make working with them even more challenging.

Those working with young people and children are concerned that this fear will make their work impossible or difficult. It will undermine hard won trust and make it less likely that children will engage with any services, statutory or voluntary.

Young people were reported to be starting to call themselves "illegal", especially those from Albania, even though they may be victims of trafficking. Young Albanians in particular were said to be highly distressed: *"Those fleeing LGBT-based persecution or blood feuds see return as certain death."*

Participants predicted that living in protracted limbo would harm young people's mental health: *"When a young man whose self-worth depends on providing for his family finds himself in permanent limbo, it could have a massive effect on his mental health"* .

Without hope children have nothing to live for and are more likely to make self-destructive choices from self-harm to substance dependence. Many participants reported young people seeking asylum experiencing suicidal ideation.

That fear of the future applies as much to children in families, who face the same uncertain and frightening futures. The effect of detention on children is well documented. But outside detention, the concern is that children of all ages will be unable to engage with or enjoy leisure or education, and that puts them at risk of exploitation, and in schools of entering the "exclusion to prison pipeline".

Conclusion

This briefing sets out the impact that the Illegal Migration Act is expected to have on people seeking asylum in the UK, drawing on the expertise and experience of those who work in voluntary and statutory services. There are still many unknowns about the implementation of the Act, including when the key provisions will commence, such as the duty placed on the Home Secretary to remove anyone arriving irregularly and the connected automatic and permanent inadmissibility of any asylum or human rights claim made by those individuals. Regardless of these uncertainties, the research found that the Act will have a number of serious impacts on the safety of people seeking asylum and will influence the decisions they take about how and if they engage with the refugee protection system in the UK.

The research found that people will be more likely to avoid or drop out of contact with support organisations and statutory bodies and will instead "go underground". This in turn will put people at higher risk of exploitation and harm. It will have a damaging impact on refugees' mental and physical health, especially for young people seeking asylum. These changes present numerous challenges to organisations working with refugees and people seeking asylum and these are set out in a second briefing paper.

The research did not find that the Act would have a deterrent effect on people attempting to reach the UK. Instead, it was suggested that people would be more likely to take increasingly dangerous journeys, seeking to avoid interception by the UK authorities on arrival.