

# Local Government Association (LGA)

## Immigration Bill

### Second Reading, House of Commons

Tuesday 13 October 2015



#### Key messages

- Local authorities are responsible for preventing the most vulnerable migrants who are unable to access benefits or support due to their immigration status from falling into destitution and homelessness. The changes to the asylum support system set out in Schedule 6 are likely to particularly affect the most vulnerable, such as families with children, adults who require care and former looked after children. The LGA is concerned that the proposed measures will significantly increase the numbers of destitute families within communities as well as numbers of homeless children.
- This is likely to result in increased referrals to local authorities of families who have been refused indefinite leave to remain in the UK. The proposed changes would therefore be a clear transfer of responsibility for the costs of assessing and supporting such cases from the Home Office to local authorities.
- The LGA is not convinced that the removal of support will encourage an increase in the numbers of refused asylum seekers and other unlawfully present migrants who leave the UK. Unless there is a change in the Home Office's current approach to enforced removals, the result is likely to be the transfer of costs currently met by the Home Office on to local government.
- Home Office resources should be focussed on getting decisions right on asylum applications and then progressing cases to removal should the claim be unsuccessful. In particular, the Home Office should focus on making existing systems work for all groups of migrants that have no further procedural right to pursue their immigration or asylum case, which would also reduce existing local authority expenditure on migrants.
- The proposals in clauses 38 and 41 to require customer-facing public authority staff to speak fluent English could have significant legal, financial and employment implications for councils. Until the codes of practice which can be issued under clause 41 are made available in draft the full implications of these provisions cannot be assessed. The LGA would therefore urge the Government to publish a draft of the code covering local government as a matter of urgency to allow parliamentarians to arrive at an informed view of the affect of these provisions.

#### Background

##### Support for certain categories of migrant (clause 34 and Schedule 6)

###### *Removing support for the vulnerable*

The proposed reforms to the asylum support system would particularly affect those who are vulnerable, such as families with children, adults requiring care and support and former looked after children. Given their safeguarding duties, local authorities are concerned that the effect of the changes in Schedule 6 of the Bill

# Briefing

For more information, please contact:  
Lee Bruce, Public Affairs Manager  
[Lee.Bruce@local.gov.uk](mailto:Lee.Bruce@local.gov.uk) / 0207 664 3097

will lead to a significant increase in the numbers of destitute families within communities and greater numbers of homeless children who are at risk of harm. There is a parallel concern that those who do not engage local authority statutory duties, such as single adults with no children or care needs will have no access to support and remain destitute within local authority communities.

#### *Cost implications for local authorities*

Local authorities will face increased referrals, and may be required to support refused asylum seeking families who do not return to their countries of origin, regardless of whether amendments are made to Schedule 6, unless there are clear processes in place to resolve the family's destitution (for example their removal from the UK). The proposed changes would therefore be a clear transfer of responsibility for the costs of assessing and supporting such cases from the Home Office to local authorities. A database run by the No Recourse to Public Funds (NPRF) Connect shows that at the end of June 2015, 30 local authorities were providing support to 1,976 households at a weekly cost of £591,275 in accommodation and financial support. The average number of days spent on support was 781.

The proposed measures in the Bill ignore the complexities of working with children and their parents or, indeed, the rights that children may have acquired in the UK on account of many years spent in receipt of Home Office support. If a local authority decision to refuse assistance was challenged in the courts, it is highly unlikely the judiciary would support the council's position given the clear safeguarding responsibilities towards children that are set out in the Children Act 1989. Legal challenges have cost and resource implications for local authorities. These would be expected to rise should assistance be refused to more people.

#### *Assumptions regarding behavioural changes*

A key objective of the proposals is that the changes will remove financial incentives for refused asylum seekers and other unlawfully present migrants to remain in the UK and, as a result, will return to their countries of origin. Local authorities are therefore very concerned that such a behavioural change will not take place as expected. In a report assessing the impact of the previous pilot that sought to withdraw support, it was found that 35 out of 116 families had disappeared, losing all contact with services.

#### *Low rates of enforced removal action undertaken by the Home Office.*

Local authorities doubt whether stopping support will result in refused asylum seekers leaving the UK when there are low rates of enforced returns by the Home Office to people's country of origin. In the year ending March 2015, 12,498 enforced removals were undertaken; less than in the preceding year. The number of irregular migrants estimated to be in the UK at the end of 2007 was between 417,000 and 863,000<sup>i</sup> and the Home Office is providing support to 15,000 refused asylum seekers. The Home Office's processes regarding progressing cases to removal were criticised by the Chief Inspector of Borders and Immigration in his report, *An Inspection of Overstayers: How the Home Office handles the cases of individuals with no right to stay in the UK*. From the experience of local authorities, the failure to achieve returns is often attributed to procedural and case-working delays, as opposed to a simple reluctance to co-operate with the return process of those hoping to stay in the UK.

#### *Alternative suggestions*

Home Office resources should be focused on getting decisions right on asylum applications and then progressing cases to removal should the claim be unsuccessful. In particular, the Home Office should focus on making existing systems work for all groups of migrants that have no further procedural right to pursue their immigration or asylum case. Such action would also reduce existing

local authority expenditure on migrants currently supported under social services legislation.

Local authorities are keen to continue to work with the Home Office to ensure that vulnerable migrants do not become homeless and destitute when they have exhausted all procedural avenues to pursue their claim, and that safeguarding responsibilities are maintained. Local authorities are engaging with the Home Office in discussions around the implementation of the proposals to withdraw support, and amendments that can be made to legislation governing the exclusions to social services support to make it more workable, which will affect all excluded groups, not just refused asylum seekers.

### **Language requirements for public sector workers (clauses 38 and 41)**

The provisions in Clause 39 requiring public authority staff in a customer-facing role to speak fluent English could have significant legal, employment and financial implications for local authorities given the diverse range of services provided by councils and the diverse workforce they employ. The full extent of the implications are impossible to gauge at this stage as some of the key definitions such as what is meant by a customer-facing role, what standard of spoken English is required of staff, how failures to meet that standard are to be dealt with and the procedures for dealing with complaints will be covered in the Code of Practice, which is not yet available. For example would a carer, employed by a local authority to work in a care home, who has been providing exemplary care for a number of years, but does not speak fluent English, be required to attend a course to improve their English? What would the employee's and council's position be if the member of staff refused to attend such training? The LGA would urge the Government as a matter of urgency to publish a draft Code of Practice so parliamentarians can properly assess the full implications of this requirement on public services.

---

<sup>i</sup> Gordon I., K. Scanlon, T. Travers, and C. Whitehead. *Economic Impact on London and the UK of an Earned Regularisation of Irregular Migrants in the UK*. GLA Economics, Greater London Authority, London, 2009. The report is available at: [http://legacy.london.gov.uk/mayor/economic\\_unit/docs/irregular-migrants-report.pdf](http://legacy.london.gov.uk/mayor/economic_unit/docs/irregular-migrants-report.pdf)