

## End Violence Against Women Coalition

### Response to New Plan for Immigration

May 2021



#### **About the End Violence Against Women Coalition**

The End Violence Against Women Coalition is a UK-wide coalition of over 100 women's organisations and others working to end violence against women and girls (VAWG) in all its forms, including: sexual violence, domestic violence, forced marriage, sexual exploitation, FGM, stalking and harassment. We campaign for improved national and local government policy and practice in response to all forms of violence against women and girls, and we challenge the wider cultural attitudes that tolerate violence against women and girls and make excuses for it.

#### **Introduction**

The End Violence Against Women Coalition (EVAW) is a national coalition of violence against women and girls (VAWG) organisations, academics and activists, including organisations supporting migrant, refugee and asylum-seeking women, many of whom are specialist led "by and for" Black and minoritised women's services. Our member Women for Refugee Women is a London-based charity that supports women who have sought asylum in the UK and challenges the injustices they experience. They support women who are either within the asylum system, have leave to remain, or have been refused and made destitute. They also work closely with a number of grassroots groups, across England and Wales, who support asylum-seeking and refugee women.

Alongside our own submission, we strongly endorse the submission of Women for Refugee Women in response to this New Plan for Immigration and would encourage the Home Office to meet Women for Refugee Women and other VAWG organisations, particularly those led 'by and for' Black and minoritised women, to ensure the New Plan for Immigration does not cause harm to migrant, refugee and asylum-seeking victims/survivors of VAWG.

#### **Executive Summary**

We strongly oppose several aspects of the New Plan for Immigration. We believe that the proposals under the New Plan would have a negative impact for all migrants. However, it is our firm contention that **these proposals will have a disproportionate and catastrophic impact on migrant and asylum-seeking women, many of whom have experienced VAWG in their country of origin and/or on route to the UK.** Furthermore, these damaging impacts would be compounded and further exacerbated for asylum-seeking people who are women, LGBT and who are Deaf or disabled.

For the purposes of this consultation response, we have focused our comments on Chapters 4 and 5 and how the New Plan for Immigration will affect people with characteristics protected under the Equalities Act. In particular, we have focused comments on:

- How the proposed changes that would render claims by those arriving in the UK via irregular routes inadmissible is not consistent with the Refugee Convention and would harm asylum-seeking women.
- The lack of clarity on the proposed reception centres and the potentially damaging impact staying in such centres might have on victims/survivors of VAWG's mental health.
- The potentially retraumatising impact of temporary protection status for asylum-seeking women who have experienced VAWG.
- The impact of a new "balance of probabilities" standard for asylum-seeking women whose VAWG-based claims are already poorly understood.
- The "one-stop" process and its disastrous impact on asylum-seeking victims/survivors of VAWG who may face barriers to disclosure.
- Proposed changes to the legal standard for a reasonable grounds decision and its impact on women who may still be at risk from their traffickers.
- The damaging impact of amendments to the public order exemption for victims/survivors of trafficking.
- The disproportionate impact of the New Plan for Immigration on people with characteristics protected under the Equalities Act, most notably sex, sexual orientation, gender reassignment, disability and race.

#### **Chapter 4: Disrupting Criminal Networks and Reforming the Asylum System**

##### Inadmissible Claims and Removal

The proposals covering anyone who arrives into the UK via irregular routes, unjustly differentiates between vulnerable people based on how they have arrived to the UK. **These proposals fail to consider the fact that those seeking asylum and thus vulnerable, have very little choice in how they travel and are often forced to make irregular journeys when seeking protection.** This might include falling into the hands of traffickers, having to travel on false papers, or being unable to access normal travel arrangements on account of fleeing conflict and/or failed states.

The New Plan states that the proposal to consider claims inadmissible for anyone who enters the UK via irregular routes "where they could reasonably have claimed asylum in another safe country" is consistent with the Refugee Convention. However, as the [UNHCR recently confirmed](#), the Refugee Convention "does not oblige asylum seekers to apply in the first safe country they encounter." Furthermore, for asylum-seeking women, the decision to travel to the UK may be based on community or familial links, which would be much needed for women who have experienced VAWG to cope and recover from trauma and rebuild their lives in safety.

## Reception Centres and Accommodation

We are very concerned that there is no clarity regarding the location of the proposed reception centres and whether they would be open or closed. We are also extremely concerned that such reception centres might amount to a form of indefinite detention that would be incredibly traumatising for trafficked women and those who have experienced VAWG.

The New Plan cites the example of Denmark, even though studies have shown that “the distance between asylum centres... and towns or cities, means people are effectively confined”,<sup>1</sup> given the small amounts of financial support available to those seeking asylum. The same study also shows how asylum centres are completely inappropriate for vulnerable women who have survived VAWG to heal and feel safe.

Under the New Plan’s proposals, many asylum-seeking women could be deprived of their liberty for several months. The proposals state that the Home Office will first attempt to remove a person who has arrived to the UK irregularly and, where that is not possible within six months, will begin to process their asylum claim. Such an extended period of detention has been found to have a significant impact on asylum-seeking people’s [mental health](#). For asylum-seeking women who have experienced VAWG, such impact and extended detention can then act as a further barrier to disclosure of VAWG, as they are forced to relive traumatic memories of imprisonment and abuse. We are concerned that the use of reception centres could make it even more difficult for women to share their experiences, and to have their cases resolved fairly.

We also note that the New Plan supports continued use of detention for those seeking asylum. Research by Women for Refugee Women has consistently found that **detaining women who have already survived trauma and violence inflicts immense harm and retraumatises them, particularly when there is no time limit**; one in five of the women Women for Refugee Women spoke to in 2014 said they had tried to kill themselves in detention,<sup>2</sup> while 40% of the women interviewed in 2015 said they had self-harmed.<sup>3</sup>

## Temporary protection status

There is a real risk that temporary protection status for those who have entered via irregular routes would result in some of the most vulnerable women being refused refuge in this country. Many women who have experienced VAWG in their country of origin are sexually or physically abused again when they travel to the UK via journeys that sometimes involve irregular routes so that they can quickly escape danger.

[Home Office guidance](#) states that “[v]iolence against women can occur more commonly within the family or community.” Yet decision-makers have often shown a poor

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<sup>1</sup> <https://www.bristol.ac.uk/media-library/sites/policybristol/Policy%20Report%2049-Mar-2019-%20Reimagining-refugees-rights.pdf>

<sup>2</sup> <https://www.refugeewomen.co.uk/wp-content/uploads/2019/01/women-for-refugee-women-reports-detained.pdf>

<sup>3</sup> <https://www.refugeewomen.co.uk/wp-content/uploads/2019/01/women-for-refugee-women-reports-i-am-human.pdf>

understanding of how violence at the hands of individuals as opposed to the state falls within the UN Refugee Convention, and the UK's obligation to grant asylum. The proposed temporary status would mean cases are reviewed every 30 months with a view to return to the country of origin or removal to a third country.

Severe cuts to legal aid since 2005 mean that it is virtually impossible for a first-time applicant to secure adequate representation. Despite the proposal to improve provision of legal advice, we are very concerned that access will remain challenging; the periodic review of cases, every 30 months, could increase the demand for legal aid, as refugees will want to ensure a successful renewal of their status.

**A lack of more permanent settlement and restricted access to welfare benefits and family reunion, are conditions that contribute to women's vulnerability to abuse.**

We believe that everyone who needs safety should be able to access it, regardless of how they come to the UK. The proposed expansion to resettlement is not a realistic option for everyone who is fleeing danger.

#### Strengthening Well-Founded Fear of Persecution Test

As mentioned, many asylum-seeking women already struggle to evidence their claims. A higher standard would only make it more difficult for them to obtain a fair assessment.

Proposals to introduce a 'balance of probabilities' standard are said to be necessary to "[make] it harder for unmeritorious claims to succeed." However, it must be emphasised that the Refugee Convention is based on the principle of 'benefit of the doubt', in favour of the person seeking asylum. These proposals conversely appear to be based in false assumptions that most asylum claimants lie and would only serve to strengthen a culture of disbelief within the Home Office and society more widely.

**The current well-founded fear test is routinely applied in such a way that Home Office staff demand unrealistically high levels of consistency, coherence and credibility from traumatised individuals.** This is a particular concern for asylum-seeking women with claims of VAWG which is often poorly assessed due to an insufficient understanding of how these harms fall within the Refugee Convention. That is particularly the case when it comes to violence by non-state actors, resulting in women with such claims routinely denied asylum in the UK. The Home Secretary has previously [promised](#) to dismantle the culture of disbelief, and ensure that all decision-makers are fully trained in handling gender-based claims. These proposals do not align with this promise.

### **Chapter 5: Streamlining Asylum Claims and Appeals**

#### "One-stop" Process

The one-stop process could result in many women being wrongly refused asylum. The process would force traumatised women to raise all protection claims at the outset, with "minimal weight" given to evidence raised later in the process "unless there is good

reason". However, the [Home Office's own guidance](#) acknowledges the barriers that survivors of gender-based violence often face, including "guilt, shame, concerns about family 'honour' or fear of family members." The Home Office's guidance states that late disclosure should not prejudice a woman's credibility. It is therefore unclear why the department is now considering changes that go against these standards, and particularly when the fresh claim policy is already so restrictive. Furthermore, lawyers and NGOs have both found that the fresh claim threshold is extremely high, and that the majority of submissions are not treated as a fresh claim, and are rejected without a right of appeal.

**It can take any victim/survivor of VAWG many months, even years, to feel safe in speaking of the abuse they have suffered, and these proposals do not take account of these barriers to disclosure** at all. The above-mentioned guidance also acknowledges that women who have been trafficked to the UK may be facing threats from their traffickers at the time of their asylum interview, such that they are unable to speak openly with officials. This, once again, is not reflected in the one-stop process proposals.

As well as increasing the likelihood of women being returned to countries where their lives remain in danger, we are concerned about an increase in destitution. [In research](#) by Women for Refugee Women and regional partners on the effects of destitution on women seeking asylum in the UK, a third of the women interviewed who had been raped or sexually abused in their countries of origin were sexually abused again after they were made destitute in the UK.

We would welcome changes to ensure more efficient decision-making, so long as they centre fairness. The proposed one-stop process fails to do that.

## **Chapter 6: Supporting victims of modern slavery**

### Legal standard for a reasonable grounds decision

Proposals to strengthen the evidence threshold for deciding whether someone is a potential victim are said to be necessary to stop people claiming to be trafficking victims in order to prevent removal from the UK. Yet **it can take many months for a woman who has been forced into sexual exploitation to speak of the abuse she has suffered**. The current standard of proof for issuing a reasonable grounds decision is relatively low in order to ensure that potential victims have a window to access support such as safe housing. Following a positive reasonable grounds decision, someone would require a positive conclusive grounds decision before being officially confirmed as a victim of trafficking. A higher standard of proof at the first stage would result in harm to female trafficking victims, keeping them in the hands of their traffickers. It would also ignore [the government's own statistics](#) which show that the majority of people in immigration detention who are referred into the National Referral Mechanism (NRM) are subsequently recognised by the Home Office as potential victims of trafficking.

### The 'Public Order Exemption'

We object to any amendments to the 'public order exemption' that would deny access to the NRM and associated protections to certain women who may be victims of trafficking,

including those with a criminal sentence of 12 months or more. We are aware of a number of women who have been subject to sexual and other forms of labour exploitation, who have been prosecuted and imprisoned for criminal offences related to their exploitation. The government's changes would have a damaging impact on survivors of trafficking.

### **Public Sector Equality Duty**

The negative, disproportionate impact of the Government's proposed New Plan for Immigration is hugely concerning for asylum-seeking women. The New Plan would also have a disproportionate, negative impact on Deaf and disabled asylum-seeking women, lesbian and bisexual asylum-seeking women and Black and minoritised asylum-seeking women. We therefore have grave concerns regarding the Government's proposed plans and believe that they do not comply with the Public Sector Equality Duty under the Equalities Act.

### **Sex**

The proposed New Plan is cause for serious concern regarding asylum-seeking women disproportionately impacted on account of their sex. For asylum-seeking women who have experienced and/or are at risk of VAWG, the proposals under Chapter 4 and 5 are particularly worrying.

Many women who claim asylum in the UK have suffered extreme sexual abuse or other violence because they are a woman. For example, research by Women for Refugee Women into destitution of refugee and asylum-seeking women<sup>4</sup> found that of the women interviewed:

- 78% had experienced gender-based violence
- 59% had been raped.
- 30% were raped by state authorities
- 17% were fleeing forced marriage
- 13% were fleeing forced prostitution
- 10% were fleeing female genital mutilation (FGM) or the threat of FGM on their daughters
- 27% were trafficked within their country of origin or to the UK or another country

Additionally, 45% had experienced rape, sexual violence, torture, physical violence and/or imprisonment on their journey to the UK. **Women who have experienced VAWG, including rape, persecution on grounds of their sexuality, and trafficking into forced prostitution, often require mental health support and quality legal advice before they can build the confidence to disclose their experiences.** The ability to lodge fresh claims and bring new evidence to appeals is therefore a vital safeguard for vulnerable women. A "one-stop" approach does not take into account the difficulty women who have experienced trauma might have in disclosing their experiences, nor the support required to help them disclose. Experiences of VAWG that asylum-seeking women may disclose are often of a highly sensitive, traumatic and personal nature. To share details of such experiences with Home Office officials, who would be strangers and authority figures, is incredibly difficult and is

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<sup>4</sup> <https://www.refugeewomen.co.uk/wp-content/uploads/2020/02/WRW-Will-I-ever-be-safe-web.pdf>

why many asylum-seeking women require mental health support and quality legal advice before they feel confident to disclose such intimate details.

The impact of the need to disclose full details of VAWG in one interview would also be highly traumatising for any children acting as interpreter for their mother which happens often.<sup>5</sup> Women for whom English is not their first language, can find it significantly harder to disclose abuse, especially in the absence of a female interpreter.

It must also be recognised that women who have been trafficked may be too scared to detail their experiences of trafficking for fear of reprisal from their traffickers.

### Disability

For Deaf and disabled asylum-seeking women, difficulties in disclosing experiences of VAWG would be compounded under the Government's New Plan. **For Deaf women, disclosures of VAWG would, in addition to the previously mentioned barriers, be highly dependent on whether there is appropriate interpretation available.** Those needing a relevant sign language, Deaf asylum-seeking women and other women facing communication barriers, such as those for whom English is not their first language or women who are non-verbal, or have learning difficulties, would have great difficulty in disclosing details of VAWG under the one-stop process and thus would be unfairly penalised under this system.

We are aware that Stay Safe East are submitting a response to the consultation that discusses the impact of the New Plan on Deaf and disabled asylum claimants in more detail. Stay Safe East is a user-led organisation run by disabled people, providing specialist and holistic advocacy and support services to disabled people from diverse communities in London who are victims/survivors of domestic or sexual violence, hate crime, harassment and other forms of abuse. We strongly endorse their submission and encourage the Home Office to take account of their submission when considering the impacts of the New Plan on Deaf and disabled people.

### Sexual Orientation and Gender Reassignment

Lesbian and bisexual asylum-seeking women can often experience violence on account of their sexual orientation in their country of origin. Women for Refugee Women's research found that 16% of women were persecuted because they are or were suspected of being lesbian or bisexual.

We strongly endorse the statement of strong opposition to the New Plan by Rainbow Sisters,<sup>6</sup> a group of more than 70 women and non-binary people who have sought asylum in the UK. Rainbow Sisters state that **it is unreasonable to expect “women who are in danger due to their gender identity or sexual orientation to rely on resettlement as a route to safety.”** This is due to the very real fear that such women would be targeted by their Government if their attempts to flee were discovered.

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<sup>5</sup> <https://gal-dem.com/the-trauma-of-bridging-worlds-as-a-child-translator/>

<sup>6</sup> <https://www.refugeewomen.co.uk/rainbow-sisters-strongly-oppose-the-governments-proposed-immigration-plan/>

For many LGBT asylum-seeking women, they may not feel able to disclose their sexual orientation or gender identity until they reach safety because of such fears of targeting. Additionally, it is also the case that many people will not have come out before arriving in the UK and so may need the help of specialist support services to overcome the shame and stigma that had been forced upon them to speak openly about their sexual orientation or gender identity.

#### Race

The nature of immigration, and particularly of seeking asylum, is such that it is likely that the majority of women seeking asylum would be Black and minoritised women. This means that the proposed plans would have negative impacts on asylum-seeking women as relates to race as well as on account of sex. These **intersecting identities compound the inequality currently experienced by asylum-seeking women and would be further exacerbated by the New Plan for Immigration.**

**ENDS**

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