

Ein cyf/Our ref MA/JH-/4169/21

Rt Hon Priti Patel MP
Home Secretary

By email only.

09 December 2021

Dear Home Secretary,

We write jointly following the tragedy which occurred in the English Channel on 24 November, where 27 people lost their lives seeking to cross to the UK. Whilst this is the biggest loss of life in one incident this year we know that there are numerous reports of other individual deaths, with the International Organisation for Migration, reporting that 166 people have been recorded as dead or missing after undertaking this perilous journey since 2014.

Our three Governments agree that we must ensure people do not attempt to make the English Channel crossing by small boats and that the influence of people smugglers must be curtailed. However, we do not believe that increased marine or beach patrols, diversion, criminalisation, changes to legal status or reduced support to those who arrive in the UK, that the UK Government proposes will solve this issue.

We therefore want to offer to work together constructively with you on proposals which can seek to end any further tragic waste of human life and ensure a humanitarian solution and seek an urgent meeting to fully discuss.

Safe and legal routes

People do not make dangerous journeys to the UK because they believe our welfare system will support them. They arrive because of existing family or kinship ties in the UK, their ability to speak English or as a consequence of cultural connections linked to former British colonialism. The UK has moral and international legal obligations to uphold the 1951 UN Refugee Convention, to which the UK was a founding signatory. The UK must recognise our moral duty to enable people to seek safety and also help ease pressure in countries of initial displacement with the highest numbers of refugees.

It is therefore clear that the UK Government must reconsider its hostile environment strategy and, vitally, develop sufficient safe and legal routes for asylum seekers to claim asylum from outside the UK, negating the need for perilous journeys and disrupting the business model of people smugglers. As Zoe Gardner from the Joint Council for the Welfare of Immigrants told the Home Affairs Committee “until we provide people with a regulated alternative means of travel to the UK, every round of security spending we throw at this and every attempt at this failed model of

deterrence and pushbacks will be celebrated by the smugglers, because it simply lines their pockets.”

The ‘Dubs Scheme’ was one such legal route which closed a number of years ago and we urge you to reopen – with an expanded offer to ensure the scheme is seen as accessible for those who need it. Properly funded successor schemes must support many thousands per year, as opposed to the 480 people who were accommodated through the previous scheme. Those considered to have meritorious claims can and should be brought safely to the UK, avoiding any further loss of life.

The Dublin Regulations also provided a safe and legal route for people seeking asylum to be reunited with family members they had become separated from and for their asylum application to be considered in the country their family were already living in. Home Office data shows that 882 people were transferred into the UK under Dublin Regulations in 2020. As the UK is no longer subject to Dublin regulations this safe route to be reunited with family and have an asylum claim considered here in the UK has been lost and a replacement is urgently required.

EU Withdrawal has made it harder to return migrants to France and other European countries. This was confirmed when the UK Minister for Immigration, Compliance and Courts told the Home Affairs Committee on 17 November that only five people have been returned so far this year compared to several hundred the previous year. As yet, no returns agreements have been made between the UK and other Member States. Progress requires a joint UK-EU response and we urge the UK Government to do more to work effectively with our European neighbours.

National Transfer Scheme

We recognise the pressure which various parts of the asylum system are currently operating under and note your recent decision to mandate local authority participation in the National Transfer Scheme to try to alleviate pressure to support unaccompanied asylum seeking children. We have unresolved concerns about the way the Scheme will operate but with Ministerial willingness, we believe that suitable compromises can be made to ensure the Scheme works effectively across the UK. Our governments and local authorities are keen to ensure our Nations play a full part, but we urgently need clarity that adequate funding and flexible arrangements will be put in place to ensure the operation of the Scheme works in a devolved context.

Asylum dispersal

We are extremely concerned by the Home Office’s recent approach to procuring contingency accommodation for asylum seeking adults and families without consultation with our Governments or local authorities. We understand the time pressures involved but there is ample time for proper consultation if these conversations are prioritised in the Home Office operational delivery. In Wales, we were recently able to avert a disaster, where the Home Office wanted to open a hotel very close to the office of a far-right organisation which would have caused major disruption and safeguarding risks. We can offer this local knowledge if involved early enough but this is not happening at present.

The current approach will undo all of our good work in the last year in bringing new local authorities into the asylum dispersal system and we urge you to take action to prevent this. Similar significant concerns about the procurement of hotels as contingency initial asylum accommodation in Scotland were set out in 21 October correspondence. The offer for our three Governments to have meaningful discussions on asylum dispersal with the Convention Of Scotland's Local Authorities (COSLA), the Welsh Local Government Association (WLGA) and our combined 54 local authorities remains.

Nationality and Borders Bill

Finally, we have far-reaching concerns about the impact of the provisions included in the Nationality and Borders Bill on our Nations. Although we understand that you have different policy intentions to our Governments, we also believe the current provisions will have a counter-productive effect in achieving the aims you have outlined. People seeking asylum should be accommodated within communities and have access to the support and services they need to rebuild their lives.

- The UK government claims that this legislation contains measures that will prevent migrants crossing the English Channel in small boats, including the barbaric suggestions for "push-back" exercises involving enforcement officials seeking to repel small boats. Rather than help matters, these measures will delay rescues and endanger lives. It is an obligation under maritime laws and conventions to guarantee people's safety. As reported by the UK Parliament's Joint Committee on Human Rights a "policy of pushbacks fails to comply with the obligations to save those in distress, contrary to the right to life and international maritime law." Our governments wholeheartedly support the Joint Committee's position and call again for this policy to be urgently reviewed.
- Provisions which penalise Group 2 refugees will inevitably lead to more illegal working and exploitation of refugees (other Home Office priority areas to tackle) in our communities, a point reinforced by a range of experts who presented to the Public Bill Committee.
- Differentiation between refugees based on how they arrived rather than their protection needs is entirely counter to integration. Focus should be on improving the asylum system, not finding new ways to make the system more challenging and prolonged for people seeking safety.
- Restrictions on Family Reunion rights will lead more family members to attempt the Channel crossing.
- The provisions aimed at ensuring asylum seekers put their full case together at the first opportunity will lead to increased litigation for the Home Office if asylum seekers are dispersed to immigration legal advice 'deserts' unless there is a radical increase in Legal Aid support.
- Provisions relating to the operation of accommodation centres will lead to the rise in far-right extremism (another Home Office priority to address), as we saw in Penally in West Wales.

Our officials and ministers have repeatedly sought engagement on the matters raised in the Nationality and Borders Bill, the impact that they will have in our nations and the possible need for legislative consent. This includes key considerations on

issues relating to unaccompanied asylum seeking children and human trafficking but meaningful engagement on these matters has not been forthcoming. Welsh Ministers have now decided that a Legislative Consent Memorandum will be required to be laid at Senedd Cymru in relation to the age assessment clauses in the Bill, whilst Scottish Ministers still require urgent clarity from the Home Office to ascertain whether similar legislative competence issues need to be addressed in Scotland.

We further note that, on 1 December, less than a week before report stage, the Home Office have tabled some 80 amendments, again, without any advanced notice or meaningful engagement. This approach makes cooperative working virtually impossible and we would urge the UK government to engage constructively to address our real concerns.

Next steps

Scotland and Wales have always played their part in providing sanctuary to those fleeing conflict and persecution and we stand ready to do so again. We are committed to working with you to build cross-party support around revisions to the Bill which could make it workable and effective in achieving your policy aims whilst also ensuring effect integration of all arrivals within our Nations.

It is notable that we have had no Ministerial meetings in relation to these matters and we urge you to meet with us before the end of the year to discuss how we can work together on these vitally important issues.

We are keen to follow a Four Nations approach to this issue so we are also copying this letter to the First Minister and Deputy First Minister of Northern Ireland and we urge you to include us all when the meeting is convened.

A handwritten signature in blue ink that reads "Shona Robison".

Shona Robison MSP

Cabinet Secretary for Social Justice, Housing and Local Government
Scottish Government

A handwritten signature in black ink that reads "Jane Hutt".

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice
Welsh Government

