

## Visa Policy Paper Draft

This paper discusses a possible policy solution to the current dangerous and uncontrolled situation in the English Channel.

### Executive summary

- In 2022 Channel crossings have hit an all-time high.
- The British Government has stated its intention to stop asylum-seekers arriving in the UK “illegally”, but the reality is that the vast majority of persons seeking asylum in the UK have no way to legally travel here.
- Providing visas to refugees other than Ukrainians, for travel only, so that they can cross the Channel safely would remove profits made by people smugglers and stop refugees risking their lives.
- On arrival in the UK they would claim asylum under the normal asylum process – meaning that if they do not satisfy the requirements to claim asylum in the UK, their claims would fail.
- An online screening process would be required, similar to current asylum screening, in order for the visas to be issued only to those who have a viable asylum claim.
- Online screening would mean no processing centres would be needed in France and there would be no build up of refugees in Calais.
- This would not mean that more people would come; the simple fact is they are already coming and nothing the Government has done to date has had any impact on the numbers – this proves that deterrents do not work.
- It does mean we would know who is crossing and have control, rather than the current chaos in the Channel.
- Greatly speeding up processing of claims in the UK would cut the massive cost of refugees staying in hotels.

### Channel crossings in small boats

The Government wants to reduce the number of people entering the UK in small boats. Figures up to 14 August 2022 show that so far this year, over 22,000 people had crossed the Channel in small boats, which is almost double the number up to the same point in 2021.

It is estimated that 60,000 people will make the journey in total this year.<sup>1</sup>

Government Officials have said they believe that since June 2022, 3,500 Albanians might have crossed the Channel in small boats, although these figures have not been officially

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<sup>1</sup> <https://www.gov.uk/government/statistics/migrants-detected-crossing-the-english-channel-in-small-boats-weekly-data>

verified<sup>2</sup>. If correct this would indicate a recent change in behaviour that could be attributed to the success of the small boat crossings.

## Safe and legal routes

When discussing safe passage for refugees it is important to note the Government's language regarding legality. Under international law, claiming asylum is not illegal. Anyone has the right to apply for asylum in a country that has signed the 1951 Convention on Human Rights and can stay in that country until their claim has been assessed.<sup>3</sup>

When the Rwanda policy was launched in April this year, Prime Minister Boris Johnson said "It is a plan that will ensure the UK has a world-leading asylum offer, providing generous protection to those directly fleeing the worst of humanity, by settling thousands of people every year through safe and legal routes".<sup>4</sup>

This desire to encourage people to use safe routes doesn't take into account the fact that for many people, there is no safe passage for them to enter the UK due to the narrow scope of current schemes. If there was a safe route by which people could enter the UK and claim asylum, it's difficult to see why tens of thousands would make the dangerous journey in small boats. People are left with no other choice.

Refugee Family Reunion is one of the safe and legal routes for people seeking asylum to use. It's a safe way for someone who has already been granted refugee status in the UK to be joined by their family. Since 2018, 29,000 people have safely come to the UK under this scheme, 90% being women and children.<sup>5</sup>

Changes to Family Reunion - through the Nationality and Borders Act - limit the number of people able to enter the UK under this scheme. It's estimated that 3,500 people per year will be prevented from joining their families, with 17,500 people being excluded from this safe and legal route over the next five years.<sup>6</sup>

Another of the safe and legal routes that are available is Refugee Resettlement. The UNHCR identifies refugees in need of resettlement and they then submit these candidates to the UK Government, which decides which cases to accept. If their case is accepted, they are safely transferred to the UK, where they are given support from local councils and charities. For most people wanting to claim asylum, this process isn't available as numbers resettled

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<sup>2</sup> <https://www.independent.co.uk/news/uk/priti-patel-channel-isu-albania-border-force-b2151836.html>

<sup>3</sup> <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/#:~:text=The%20Universal%20Declaration%20of%20Human,where%20they%20risk%20being%20persecuted>

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

<sup>5</sup> <https://www.refugeecouncil.org.uk/latest/news/government-plans-will-all-but-destroy-main-safe-route-out-of-conflict-for-women-and-children-at-risk-warns-refugee-council/>

<sup>6</sup> <https://www.refugeecouncil.org.uk/latest/news/government-plans-will-all-but-destroy-main-safe-route-out-of-conflict-for-women-and-children-at-risk-warns-refugee-council/>

globally are minimal. In fact, less than 1% of refugees are eligible for resettlement<sup>7</sup>, and in the last year only 1,622 refugees have been resettled in the UK<sup>8</sup>.

The current schemes made available to Ukrainians involve issuing visas. The sponsorship scheme allows people living in the UK to sponsor a named Ukrainian national or family to come to live in the UK with them, providing they have suitable accommodation to offer. The Ukraine Family Scheme allows applicants to join family members in the UK. However these schemes are not available to refugees of any other nationalities. The Government launches specific and time-limited schemes in reaction to world events, for specific nationalities (Afghans, Ukrainians, Hong Kong residents). But unfortunately those aren't the only places in the world which create refugees - far from it. Refugees from other places, despite being in equal need of protection, simply cannot enter the UK through these legal routes.

### Asylum and Safe Passage

At present, there is no system in place that allows a person seeking asylum (other than a Ukrainian) to apply for a visa to enter the UK, so that they can subsequently make an asylum claim on arrival. Therefore, people who are unable to enter the UK through either the refugee Family Reunion or refugee resettlement (i.e. the vast majority of refugees) can only do so without official permission, for example in the back of lorries or by crossing the Channel in a small boat.

However, if we were to offer visas for safe passage to other refugees, in a similar way to how this is done for Ukrainians, this would achieve the Government's stated objectives for the Rwanda policy, in a more humane and more effective manner. We have evidence, via the Ukrainian schemes, that safe passage works. No Ukrainians have crossed on small boats, and no Ukrainians have paid people smugglers because when safe and legal routes exist, refugees utilise them.

### Deterrence and numbers

A distinction should be made between deterring people from making dangerous journeys and deterring people from claiming asylum in the UK.

- Dangerous journeys

In recent years, the Government has tried various strategies to reduce the number of people crossing the Channel by dangerous means. However, none have had any impact and numbers continue to rise. If people were applying for visas to travel to the UK, we would have visibility, and therefore control, over the people who are coming to the UK. This would end the current chaos whereby anyone can get on a boat and turn up on our shores.

Evidence presented to the Home Affairs Select Committee in September 2020 was that 98% of people crossing on small boats claim asylum on arrival in the UK<sup>9</sup>. It therefore follows that 98% of those crossing on small boats would transition over to the new safe and legal

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<sup>7</sup> <https://www.unhcr.org/uk/resettlement.html>

<sup>8</sup> <https://refugeecouncil.org.uk/information/refugee-asylum-facts/refugee-resettlement-facts/>

<sup>9</sup> <https://twitter.com/commonhomeaffs/status/1301572511201665024>

route. By removing 98% of the people smugglers' business, and therefore profits, their operation would be transformed from a multi-million pound sophisticated enterprise to a small and insignificant activity.

Far more importantly, lives would be saved.

As noted above, the current success of the small boat crossings may in itself be leading to new behaviours, for example the new arrivals of Albanians. The reality is not that numbers will go up if we issue visas, but that numbers will go up if don't stop small boat crossings.

- Claiming asylum in the UK

In 2001, 7% of refugees in Europe came to the UK to claim asylum. This means that 93% claimed asylum in other EU countries for example, 28% went to Germany, 18% went to France, 10% went to Spain, and 8% went to Italy. It is a common misconception that 'all' refugees want to come to the UK; in fact most do stay in other safe countries. The most common reasons for travelling onwards to the UK are family and community ties, and language, and people with those ties are already coming to the UK. People do not choose to stay in their dangerous home countries, or go to a different country, because of UK Government policy. The fact is that most refugees who come to Europe do not try to come to the UK - they claim asylum elsewhere, and would continue to do so.

- Those who are turned down

There would be people who are denied a visa and there would be a risk of these people considering a dangerous journey as before.

It should be remembered that 98% of those who cross on small boats claim asylum on arrival – the incentive to cross is the hope of a safe life. If the visa is denied that possibility is removed. It is one thing to risk your life for the hope of a safe future, quite another to risk it for a life of permanent precarity.

In addition and as mentioned above, if 98% of the smugglers profits are removed, their operation would be transformed from a multi-million pound sophisticated enterprise to a small and insignificant activity that will be easier for border force to combat.

- Summary

While safe passage is more effective way of achieving the Government's objectives than the Rwanda policy, more importantly, it will be more humane and will not risk breaching international law. The Rwanda policy risks making the UK complicit in human rights violations. This is a not insignificant risk and has implications for the Home Office staff who will be implementing the policy.

### Practical matters

A similar idea, humanitarian visas, have been used by some countries, particularly by some EU member states as a means to reduce the number of migrants making the dangerous

journey across the Mediterranean.<sup>10</sup> France was one of the countries to offer humanitarian visas and between 2013 and 2016, the country granted over 3,000 humanitarian visas to Syrian refugees.<sup>11</sup> Other countries that use humanitarian visas (although not always referred to as such) include Belgium, Switzerland, Russia, Argentina, Brazil and the United States.

In December 2021, a group of MPs tabled an amendment to the Nationality and Borders Bill that sought to include the provision of humanitarian visas for refugees based in France wanting to enter the UK.<sup>12</sup>

One of the major barriers to this proposal, and to others like it in the past, is the extreme resistance on the part of France to anything that might cause a build up of refugees in or around Calais, and the resulting questions around their living conditions. However, experience with Ukrainian refugees once more suggests a solution. Very quickly after the introduction of the Ukrainian visas the system switched to an online system via which visas can be applied for from anywhere in Europe. The UK has an existing network of visa centres across Europe which can be visited if people have difficulties, for example with documentation. This is why there has not been a build up of Ukrainian refugees in Calais.

The more likely and real practical issue would be the potential for the visas to be declined as a means to prevent people from getting to the UK to make an asylum application in the first place. In this case we would quickly return to the position of many people in Calais crossing over in small boats. The visa system will only work if there is a real will from Government for it to do so. The incentive would be the fact that there would be political capital to be gained from halting small boat crossings, which the Rwanda policy will not do.

The related issue that should be addressed is the current excessive and unnecessary costs of the UK asylum system, which have been estimated at £5m/day for keeping people in hotels. The sensible step that should be taken is an urgent initiative to, firstly, process as many outstanding claims as possible and, secondly, to speed up processing for new claims. People with status can work, support themselves and pay taxes. There is no need for them to be living in hotels at taxpayer expense.

### How a visa system would work:

A visa would enable a qualifying person to travel safely to the UK so that they could claim asylum on arrival. They would then go through the normal UK asylum process (meaning that if it were ultimately determined that they were ineligible for asylum, they would not be allowed to stay in the UK).

A person would qualify if:

- They are in the EU;
- They are not an EU national or a national of Liechtenstein, Norway or Switzerland; and

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<sup>10</sup> <https://redcross.eu/projects/humanitarian-visas-in-practice>

<sup>11</sup> <https://www.europarl.europa.eu/cmsdata/150782/eprs-study-humanitarian-visas.pdf>

<sup>12</sup> <https://www.jcwi.org.uk/Handlers/Download.ashx?IDMF=3e589cfe-383e-40a1-ac82-eb3430e7b1d7>

- They have a viable claim for asylum in the UK.

There would be no fee for the application and legal aid would be available for any appeal

The visa would be applied for online and, if successful, the applicant would be sent an electronic letter that they could use to enter the UK. Necessary documents would be uploaded with the application or, if this is not possible, the applicant could visit a TLS visa centre located across Europe. On arrival in the UK they would be required to visit a UK centre to provide biometric data.

### An alternate option

An alternate option might be to adjust the requirements to obtain a visa, for example:

A person would qualify if:

- They are in *Northern France*;
- They are not an EU national or a national of Liechtenstein, Norway or Switzerland; and
- They have a viable claim for asylum in the UK.

The advantage would be that people who have travelled to Northern France have demonstrated their clear intention to go to the UK whereas those applying from elsewhere may just apply to see if they are accepted. However this option could risk a build up of refugees in Northern France unless focused efforts are made to process applications quickly.

### Conclusion

There is an urgent need for creation of safe and legal routes for refugees. Early analysis shows that since the Rwanda policy was announced, the policy has, if anything, had the opposite effect to the one intended, with record numbers of people making the dangerous crossing. With more people crossing than ever before, a visa scheme could drastically reduce the number of people forced to make the dangerous journey in small boats, break the model of people smugglers, provide control over those entering the UK, address our humanitarian obligations and remove the risk of the UK being complicit in human rights violation via the Rwanda policy.