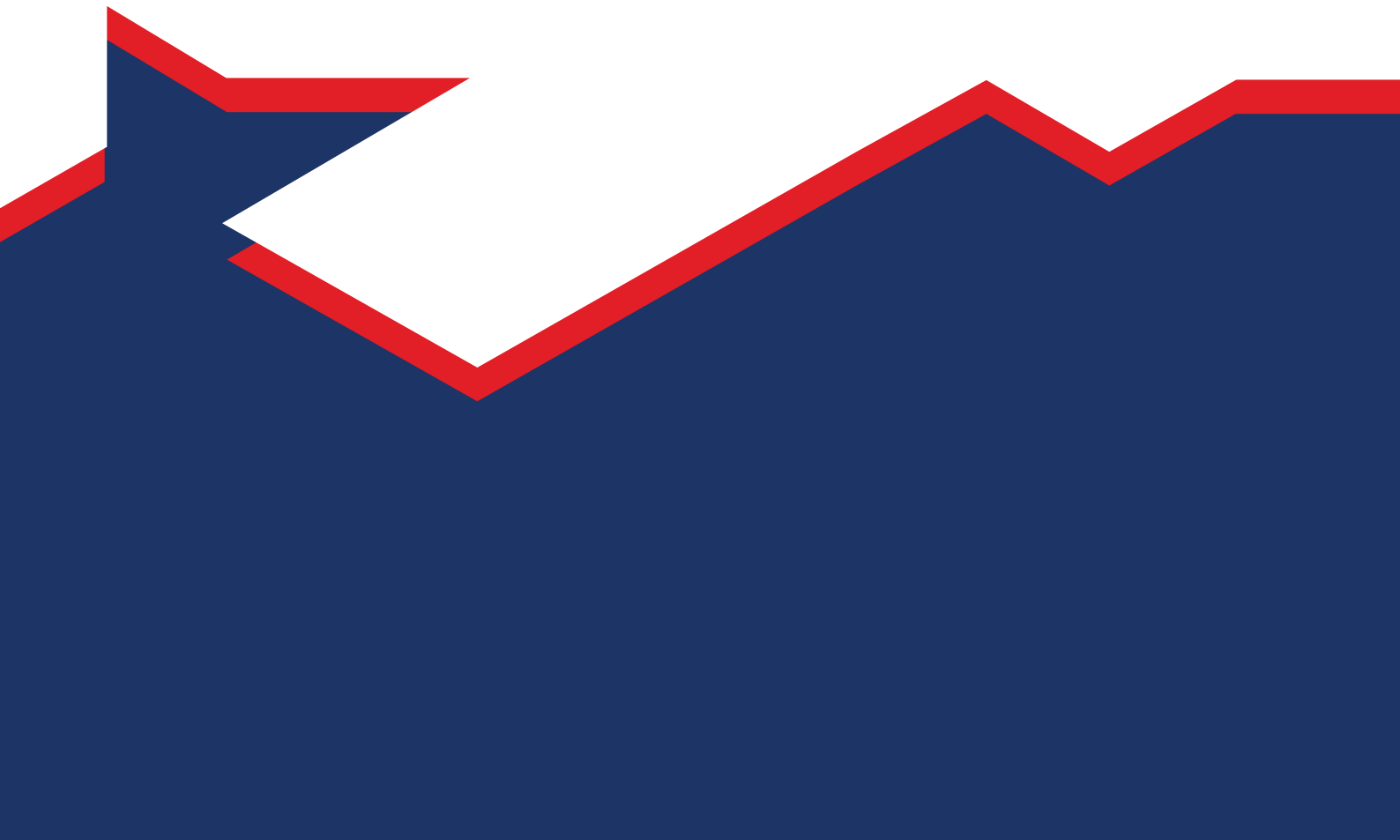




REFORMING ASYLUM SUPPORT: EFFECTIVE SUPPORT FOR THOSE WITH PROTECTION NEEDS

November 2009



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FOREWORD BY PHIL WOOLAS MP MINISTER OF STATE FOR BORDERS AND IMMIGRATION



We have a proud tradition in the UK of providing our protection to those who need it. Between 2006 and 2008, more than 28,000 asylum seekers, including dependants, have received our protection. When individuals seeking asylum enter the UK, they will have their claim determined fairly, humanely and as quickly as possible. Progressing claims quickly is important and we have made great progress in this area. We reached our target of concluding 60% of new asylum cases within 6 months in December 2008 and we continue to set ourselves challenging targets for the conclusion of cases.

Those who are seeking our protection, and their families, have full access to health care and education for their children throughout the process. In addition asylum seekers who need support to avoid destitution are given it from the time they arrive in the UK until their claim is fully determined.

But we expect those who apply for asylum to abide by the rules. If their claim has been refused, we expect them to leave the country. If they do not, we will enforce their return.

It is vital that the whole of the asylum system is focused on ensuring the system is fair and is not abused. Our proposals to reform and re-focus the asylum support system will ensure our legislation and policies work effectively to support our goals.

If we are to continue to provide protection to those who need it, we must tighten up the system to enable more effective performance and reduce potential for abuse. We are already taking steps to do this and when this reform is implemented real progress will have been made in achieving case conclusion targets, clearing the legacy caseload and deciding further submissions put forward by those who have already been through the system quickly.

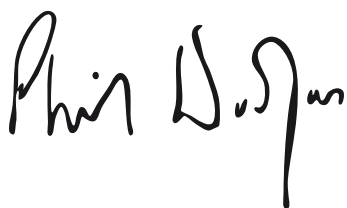
In this context, we are looking again at the big questions of who should be supported and how. The proposals in this paper set out to:

- make the principles of the asylum system clear to all who apply, rewarding those who play by the rules and getting tough with those who don't;

- streamline the current complex system of support to make it easier to understand and easier to operate; and
- place the emphasis on active case management, working in new partnerships with local authorities and non-governmental organisations.

I believe these proposals offer a way forward which ensures that those seeking asylum are effectively and comprehensively supported during the determination of their claim; that the system for achieving this is as simple and efficient as possible; and that it encourages the return of those who have no protection needs and who have no right to be in the UK.

I very much look forward to receiving your views.

A handwritten signature in black ink, appearing to read "Philip D. Jones". The signature is written in a cursive, flowing style with a long vertical tail on the final letter.

REFORMING ASYLUM SUPPORT

The United Kingdom is committed to fulfilling its obligations under the 1951 United Nations Convention relating to the Status of Refugees (Geneva Convention), and to ensuring that those genuinely fleeing persecution are given the protection they need. Equally, the Government is determined to deal with abuse of the asylum system by those who do not have a well founded fear of persecution, but seek to use an application for asylum to by-pass legitimate immigration controls.

Everyone who seeks to use the asylum system – or who is engaged in operating it – needs to be clear on how it operates and what we expect in return for provision of support.

We will:

- provide our protection to those who have a genuine need for it;
- consider claims for asylum quickly and fairly, giving asylum applicants the opportunity to consult (at their expense, or at public expense in accordance with the provision of the Legal Services Commission or otherwise), a legal representative to assist them in presenting their claim, with an independent appeals system as the final arbiter;
- support people who are playing by the rules if they would otherwise be destitute while their claim, either under the Refugee Convention or Article 3 of the European Convention on Human Rights, is being decided and, in some circumstances, after a claim has been determined, whilst claimants are preparing to leave the UK or where there are legitimate barriers to their returning home;
- work to integrate successful applicants into our communities;
- process further submissions from those who have already been through our system once quickly, to reduce any uncertainty about their status; and
- provide support to people to go home under the Assisted Voluntary Returns programme.

In return we expect applicants:

- to be honest in their dealings with us, presenting us with the true facts of their situation and their nationality and not making an unfounded application for asylum;
- to co-operate with the process and provide all the necessary information and documentation in a timely manner;
- to comply with the conditions under which support is offered, including not working illegally; and
- if they are found to have no need of protection, to respect that decision and leave the United Kingdom as soon as they can.

When unsuccessful applicants can go home but do not, it is right that we should enforce their removal in a humane way.

Over the last two years, we have made significant progress in ensuring our system is fair and firm.

- In 2008, we granted asylum, humanitarian protection or discretionary leave to nearly 10,000 asylum seekers (including dependants).

- We are succeeding in our goal of handling applications faster than ever before. Our focus is on concluding cases (asylum grant or removal from the UK) within six months. We met our target of concluding 60% of cases within 6 months in December 2008 and we continue to set ourselves challenging targets for the conclusion of cases. This allows people granted asylum, humanitarian protection or discretionary leave to begin their lives in the UK, integrating into society with our help and being able to gain employment.
- We are committed to further improving decision quality, building on the established work with UNHCR through the Quality Initiative project.
- The UK Border Agency and the Tribunals Service published their joint plans for reforming the appeals system on 8 May 2009. In early 2010, the Asylum and Immigration Tribunal will transfer into the unified tribunals system, which will help ensure that appeals are concluded faster than at present. We will aim to conclude 40% of asylum appeals within six weeks and 80% within twelve weeks.
- Up to the end of September 2009, the Case Resolution Directorate concluded 220,000 older asylum cases. We are committed and on track to conclude all legacy cases by summer 2011.
- In 2008, 11,640 former asylum seekers (including dependants) were removed or departed voluntarily from the UK.
- In June 2008 our enforcement business plan, “Enforcing the Deal”, set out our strategy to introduce a number of significant changes that will reinforce the message that when people come to the UK they enter into a deal with the UK – to work hard, play by the rules and earn their right to stay. This strategy is supported by new ways of working, bringing regional staff closer to the communities they serve through newly established Local Immigration Teams.

- At the end of 2008, 32,580 asylum seekers (including dependants) were in receipt of support¹ and 10,295 applicants (excluding dependants) were in receipt of support under section 4 of the Immigration and Asylum Act 1999.²

THE ROLE OF THE ASYLUM SUPPORT SYSTEM: PRINCIPLES FOR REFORM

We are publishing this consultation paper alongside the Draft Immigration Bill, which seeks to simplify immigration law. This means the asylum support powers contained in the proposed primary legislation are of a high level and afford us a great deal of flexibility in how we implement our asylum support system. You can find the Draft Immigration Bill on the UKBA website.

Progress made in improving our system means that reform will take place in an environment where the legacy caseload has been cleared, the majority of cases are being concluded within 6 months and further information put forward by those who have already been through our system is dealt with quickly. This gives us a range of options going forward.

The proposals in this paper maintain the basic principles established in the 1998 White Paper “Fairer, Faster and Firmer”, whilst ensuring that the asylum system helps us to provide effective support to those seeking protection in the UK and fully utilising the case-ownership approach rolled out in 2008. They are underpinned by two basic principles:

- The asylum support system must provide an appropriate level of support for those going through the process, but
- those who are found, including after appeal to the independent judiciary, to have no protection need, should return to their own country. We cannot ask the UK taxpayer to support them indefinitely. Neither can they expect to be allowed to work as to do so would undermine the integrity of the managed migration system.

1 Excludes unaccompanied asylum seeking children supported by local authorities, estimated at around 4,470 in December 2008.

2 Applicants are eligible for support under section 4 if their asylum application has been finally determined as refused but they are destitute and there are reasons that temporarily prevent them from leaving the UK or in some circumstances if they have been granted immigration bail.

We recognise that working in partnership with local authorities and the voluntary sector to support case management and conclusion, and to ensure that applicants know where they stand throughout the process, is integral to delivering the fairest and most efficient outcomes. We are exploring new ways of working together so as to improve delivery and build trust. Partnership working will underpin these proposals and we will pilot these so that we can come to Parliament with a clear idea of how we want to use the powers.

BUILDING ON THE PRINCIPLES

As this is an issue which can only really be tackled together with our stakeholders, in developing the proposals in this paper we have conducted some pre-consultation discussions both regionally and nationally. We have listened to the views of the voluntary sector and local authorities as partners who have extensive experience of dealing with people as they make their way through the asylum process.

We know that this document does not address every concern raised. It is important to be frank about the existence of a divergence of views and the strength with which those views are held. We need to balance the needs of those seeking protection with the importance of a practical and robust system of immigration control, which functions for the benefit of people in the UK.

However, there were areas of consensus. The support system must continue:

- to ensure that genuine asylum seekers are not left destitute;
- to provide for asylum seekers separately from the main benefits system; and
- to provide some support for failed asylum seekers whilst they make departure arrangements or whilst there is a legitimate barrier to leaving.

But the system must also be designed to enable and encourage:

- those who are granted asylum to integrate into their new community as effectively as possible; and
- those who are refused asylum to leave the country as soon as possible – voluntarily, with our support, or forcibly if they are not willing to respect the asylum decision.

The system should be simple and cost-effective to deliver, avoiding unnecessary administrative processes and allowing us to provide support in ways which make the best use of taxpayers' money.

The system must be effective in tackling abuse, for example reducing unmeritorious further submissions from those who have already been through the system, which are used as a means to delay removal and increase our support costs. There should be clear distinctions made between those who are co-operating with us in seeking to return home and those who are not.

We need to make full use of our new case-ownership arrangements and empower our staff to make decisions on support which are appropriate and tailored to the circumstances of the individual.

Stakeholders from local authorities and the voluntary sector are willing to work closely in partnership with the Agency. The common aim is to reform the current system in a way which brings about the best possible, practically workable and sustainable solutions for those who are found not to have a protection need.

THE CURRENT SYSTEM

The current asylum support system – illustrated by the chart at Annex A – provides support for those who would otherwise be destitute in the following categories.

- 1) Adult asylum seekers including both those claiming under Refugee Convention provisions and Article 3 of the European Convention on Human Rights and their dependants throughout the course of their claim and any subsequent appeal.
- 2) Individuals (without children, or with children born or who join the family after the main applicant has exhausted his/her appeal rights) who have been refused protection where:
 - a. they are taking all reasonable steps to leave the United Kingdom or place themselves in a position in which they are able to leave the United Kingdom, which may include complying with attempts to obtain a travel document to facilitate their departure;
 - b. they are unable to leave the UK due to a physical impediment to travel or some other medical reason (e.g. late stages of pregnancy);
 - c. they are unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available;
 - d. they have made an application for judicial review of a decision in relation to their asylum claim and, where necessary, permission has been granted; and/or
 - e. the provision of accommodation is necessary for the purpose of avoiding a breach of a person's rights under the European Convention on Human Rights (the "ECHR").
- 3) Families who have been refused asylum (until dependent children in the household are 18, or they leave the UK), regardless of barriers to return, subject to application of section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 which enables support to be withdrawn from unsuccessful asylum seeking families who fail without reasonable excuse to take reasonable steps to leave the UK voluntarily.

Support for the first and third categories is currently provided in accommodation and subsistence, or subsistence-only, with that subsistence provided in cash. Support in the second category is currently provided, under section 4 of the Immigration and Asylum Act 1999, in the form of accommodation and food vouchers or supermarket payment cards. These will be replaced by a personalised pre-paid payment card that will benefit both the service user and UKBA by providing a wider range of retail outlets and reducing fraud and abuse. The payment card will be launched in phases, starting before the end of this year. Section 4 support cases are subject to review, to determine continuing eligibility under the criteria set out above.

Our successes in managing intake and speeding up the decision-making process have seen the overall amount spent on support halved over the last six years. However, this success does not extend to the amount spent supporting those whose claims have been unsuccessful and whose appeal rights have been exhausted. Over half of our asylum support spend in 2007/8 was provided to those who had been found to have no protection needs.

Issues over support of unsuccessful asylum seekers have been emphasized in the National Audit Office report on the management of the asylum system *Management of Asylum Applications by the UK Border Agency*.

TAKING IMMEDIATE ACTION

We won't wait for longer term reform to tackle some of the key issues. We are already undertaking pilots with key partners on ways to ensure decisions are right first time, enhance understanding of and trust in the process, and to encourage those who do not have a protection need to return home voluntarily.

We also want to improve how we deal with further submissions and judicial reviews put forward by those who have already been through our process and independent appeals system.

- On 13 October, we announced changes to the way individuals who are appeal rights exhausted make further submissions about their case following a change in personal or country circumstances. Anyone wishing to make a further submission now needs to do so in person by appointment, and we have stopped accepting further submissions by post.
- We have introduced pro-formas for making and responding to further submissions to make the process clearer and more transparent.
- We have introduced guidance to increase awareness of what information UKBA would like to see in a further submission, with the aim of raising the quality of further submissions and supporting fast and fair decision making.
- We will get tougher with legal representatives who make unmeritorious further submissions on behalf of their clients.
- On 9 January 2009 we published a modification to current enforcement policy regarding judicial reviews. This will affect the cases of people who make another application for judicial review within three months of a judge refusing permission on a previous judicial review application. UKBA will no longer automatically suspend removal, particularly where the first claim has been found to be clearly without merit.
- The Borders, Citizenship and Immigration Act contains a provision to allow the transfer of some judicial reviews currently heard in the High Court, Court of Session and High Court of Northern Ireland into the Upper Tribunal established under the Tribunals, Courts and Enforcement Act 2007. This provision will help ensure that judicial review cases are concluded as speedily as possible.

IMPROVEMENTS PROPOSED TO THE CURRENT SYSTEM

Our reform proposals are focused on making six changes, which will make the current system more effective.

Streamlining legislation

Firstly, we wish to reduce complexity – currently, support is provided under three different provisions of the 1999 Act.

We therefore propose to streamline the legislation under the Immigration Bill to make it easier to understand and to operate. We will replace the current provisions with a cohesive single scheme to provide support, to be determined by the claimant's case-owner within a framework set out in regulations. There will still be separate provisions for support for asylum seekers and for eligible failed asylum seekers, and the division between the two will be clear. This will enable us to deliver flexible support provision appropriate to applicants, to provide best value for taxpayers' money and to send a clear signal to failed asylum seekers when appeal rights are exhausted that they should be taking steps to leave.

We will, under that structure, continue to support all destitute asylum seekers and their dependants throughout the course of their claim and any subsequent appeal, as now. Initial accommodation will be provided whilst a decision is made as to eligibility for support. Subsequent support will then be provided in the form of either dispersed accommodation and cash, or subsistence only cash support, according to need.

To tackle the issue of people frustrating the system, **we also propose** to re-enact section 55 of the Nationality, Immigration and Asylum Act 2002. This prevents access to support for those who have not claimed asylum as soon as reasonably practicable unless it is necessary to provide access to support in order to prevent a breach of the European Convention on Human Rights.

Provisions for repeal

Secondly, we wanted to listen to the views of partners across the asylum system to ensure a consultation which contained practical proposals which meet the concerns of those engaged with the system and which reflected the changes we have made to our asylum system in recent years. Section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 was designed to provide a mechanism for ceasing support for families who had no protection needs and who were refusing to co-operate in leaving the UK. Based on an evaluation of the pilot carried out in 2005 and the feedback we have received, we have concluded that there are more effective ways to encourage unsuccessful asylum seeking families to appreciate the reality of their situation and consider options of voluntary return.

Under the new legislation, we will ensure that families with no protection needs continue to be supported where the alternative would be recourse to local authority services. However, it is important that these families are helped to accept that they have no lawful basis upon which to stay in the United Kingdom and must leave. We are already using case management and the reporting system to help families understand their situation at an earlier point in the process, and we intend to build on this by developing closer partnership working and options for tailoring the support package families receive. These proposals are outlined in more detail below.

We therefore propose to repeal provisions under section 9 relating to withdrawal of support for families and not bring forward an equivalent provision in the new legislation.

The amendment to section 4 made by section 10 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 allowed for failed asylum seekers to be required to undertake Community Activities as a condition of support. Since then, we have focussed on increasing the speed of case conclusions. We are now in a position where the majority of cases are decided within 6 months and we continue to set ourselves challenging targets for the conclusion of cases. Against that backdrop, we want to focus on making quick decisions and, therefore, reducing the amount of time asylum

seekers are supported while their case is being considered rather than administering this sort of scheme.

We therefore propose to repeal provisions relating to Community Activities and not bring forward an equivalent provision in the coming legislation.

Working more closely with our key partners

Thirdly, the current system does not do enough to encourage those whose asylum application has been refused to take the appropriate steps to return home. This is demonstrated by the increasing proportion of the budget currently spent on section 4 support and the fact that in 2007/8 over half of our support spend went on those who have been found to have no protection needs. This balance is inappropriate – we believe the support system should be primarily focused on those who need support while their claim is being assessed. Conclusion of the legacy caseload will provide us with a stable basis from which to address this through reform.

The understanding and knowledge of what is happening at all points in the system, and from the earliest possible stage, needs to be improved. Since the end of 2008, every case has had a named case-owner. This has meant cases have been more actively owned and reviewed, and communications about what is happening at each stage of the process have been clearer. However, the risk remains that those who have reached the appeal rights exhausted stage, and who have been found to have no protection needs, do not understand fully the options available to them and hence are not making fully informed decisions about their future.

Applicants rightly trust the voluntary sector to be independent organisations. One way to build on this position of trust would be to work with voluntary sector organisations from the start of the asylum process to provide applicants with the best possible, honest and realistic appraisal of the potential outcomes for their application and manage their expectations.

We have agreed to work with the voluntary sector on pilot projects to assess how voluntary sector organisations can be better used in this way. This scheme will ensure that applicants found not to have a protection need will be in a better position to make an informed judgement about their options when they become appeal rights exhausted. Examples of other schemes already underway in Scotland are contained in Annex C.

We also propose to work more closely with local authorities to make use of all opportunities afforded by the contact they have in order to integrate those in need of protection more effectively and, for those who have been found not to have a protection need, to manage the transition to removal, whether voluntary or enforced. As announced in June 2008 in our enforcement business plan “Enforcing the Deal”, we are taking forward roll-out of Local Immigration Teams in every part of the UK. These teams will work closely in partnership with local authorities and other local partners and will provide the basis for a more active multi-agency casework approach to encouraging, enabling and, where necessary, enforcing returns. Good, accurate communication with our partners is an essential part of this.

We propose to use the newly created Local Immigration Teams to work with local authorities to respond to local issues and to find ways of sharing information, where appropriate, which will help to expedite this process.

We want to continue exploring the potential advantages of offering early access to legal advice for asylum seekers, particularly in terms of increasing decision quality and ensuring asylum seekers feel more engaged with the process. An initial pilot was carried out to test the efficiency and effectiveness of this. Following that work, we have decided to operate the new process for access to legal advice across the Midlands Region to further test the balance between any improvements in quality, and any impacts on the cost and timeliness of the overall system.

Aligning support provision with departure planning

Fourthly, we plan to support our work with partners by rebalancing the system so that it recognises those who abide by our immigration laws by co-operating with timely departure planning where they have no protection needs. This new framework would provide support to unsuccessful asylum applicants who would otherwise be destitute in the following categories:

- 1) Individuals and families who are co-operating fully and are actively engaged in working with us to plan and implement their departure, including through the Assisted Voluntary Returns programme. From the very start of the asylum process, as part of helping asylum seekers understand what we expect in return for provision of support, we will make it clear that this support is not indefinite and will be time limited.
- 2) Individuals and families who would otherwise be destitute and for whom there are accepted barriers to return, as set out below. Support on this basis will continue for an appropriate time depending on the nature and likely time-period of the relevant barrier.
 - a. They are unable to leave the UK due to a physical impediment or some other medical reason (e.g. late stages of pregnancy).
 - b. They are unable to leave the UK because in the opinion of the Secretary of State there is no viable route of return available.
 - c. There is an outstanding judicial review claim for which permission (in England and Wales) or leave (Northern Ireland) has been granted or which has been made (in Scotland).
 - d. There is another issue outstanding which would require support to be provided to prevent a breach of a person’s human rights
 - e. Families with children, born before or after the appeal rights exhausted stage, who may otherwise fall to be supported by local authorities.

It is reasonable to expect unsuccessful applicants to return home at the end of the asylum process and to complete arrangements to leave the UK within a 3 month period. So, since 8 June 2009, those whose appeal rights are exhausted are only eligible for one three month period of support to take steps to leave the UK. This will normally be by returning voluntarily with the assistance of the Voluntary Assisted Return and Reintegration Programme – the scheme by which the UK Border Agency and International Organization for Migration provide assistance to those in the asylum system who wish to return voluntarily to their country of origin. This support is contingent upon their co-operation with us in helping them to return, with the option of tailored support to re-establish their lives in the country to which they return.

We propose, as a further step under the Immigration Bill, to have a power to set a fixed time limit for cases supported on the basis that they are taking steps to leave. The effect would be that there would be no right of appeal when support stopped at the end of the fixed time limit, if the supported individual had not left the UK. Whilst such support would automatically end after 3 months (or upon earlier departure of the supported individual), as with our policy change from June 2009, any applicant experiencing genuine difficulty in leaving UK might make a reapplication for support if appropriate, on the basis of the evidence provided of the barrier to leaving. Such reapplications could be made before the end of the three month period to enable UKBA to complete assessment whilst the individual is still in our accommodation.

Provision of support to failed asylum seeking families

Fifthly, under the current system there is too little recognition in the type of support provided as to whether failed asylum applicants and families are co-operating with us in the returns process. This is particularly true for families where support is currently provided in the same way regardless of whether or not there is active co-operation or whether there are legitimate barriers to leaving the UK.

We need to make it clear that when people reach the end of the asylum process, we expect them to leave and to co-operate with removal. A simplified system will make this easier, particularly with the support provided by partnership working.

We propose to support eligible failed asylum seekers who are taking steps to leave the UK, or who provide evidence of a legitimate barrier to return and would otherwise be destitute, or families who may otherwise fall to be supported by local authorities, as follows:

- Support to be provided in the form of dispersed accommodation and payment cards.
- Subsistence only support, provided in the form of payment cards, may continue for families but not individuals.

As is currently the case, individuals will continue to have to reapply for asylum support once they are appeals rights exhausted – and they will be able to avoid a gap in support by making that application during the grace period. We do not currently intend to make families reapply for support. We hope that closer partnership working will achieve the results we need in marking the change in status and encouraging voluntary returns. For simplification purposes, we will look to ensure legislation gives us the power to require everyone to reapply for support when they become appeals rights exhausted, if partnership working does not yield the results we expect.

However, where families fail to respond to the interventions by UKBA and other partners intended to improve understanding of the process and the options available to them, and instead purposefully frustrate the system, we need to be able to take action.

We propose improving our ability to monitor and work with these individuals and want to be able to tailor the type of accommodation and support we provide – bringing failed asylum-seeking families into full board accommodation where we believe that will help removal.

The chart at Annex B sets out support provision at end of process.

Countering asylum support fraud

Finally, one of the current complexities is that specific offences relating to asylum support and the related investigatory powers do not apply to all types of support. Such offences include those for false or dishonest representations and delay or obstruction under sections 105, 106 and 107 of the Immigration and Asylum Act 1999. These offences do not currently apply to those supported under section 4. This means that alternative general criminal law provisions are used to investigate and prosecute suspected fraud involving section 4 support instead of provisions specifically intended to counter asylum support fraud. We must be able to investigate in the same way all those who act fraudulently and abuse our asylum support system, particularly when that is to the detriment of others in genuine need of our help.

We propose to correct this anomaly by ensuring that support fraud and related criminal activities can be rigorously pursued regardless of the type of support involved.

We consider that these proposals will create a coherent support system which meets our obligations and provides for the needs of individuals and families but at the same time recognising the fairness of treating those who co-operate with the UK's immigration laws less restrictively than those who do not.

We welcome your views on the proposals.

SUMMARY OF QUESTIONS

Q1. Some asylum seekers frustrate the system by not making their claim at the earliest possible stage. Should we reserve the right not to support them in some circumstances?

- Yes
- No
- Don't know

- Please give reasons:

Q2. Do you agree with our proposals to repeal those parts of legislation which we do not intend to use and which:

a) relate to the withdrawal of support for families where they fail to cooperate with removal processes [*Section 9, Asylum and Immigration (Treatment of Claimants, etc.) Act 2004*];

- Yes
- No
- Don't know

- Please give reasons:

b) require failed asylum seekers to participate in Community Activities as a condition of support [*Section 10, Asylum and Immigration (Treatment of Claimants, etc.) Act 2004*];

- Yes
- No
- Don't know

- Please give reasons:

Q3. Should we support any failed asylum seekers who have been found to have no protection need by the independent appeals system?

- Yes
- No
- Don't know

- **If yes, under what circumstances should we support failed asylum seekers (tick the box next to the circumstances with which you agree):**
- Where they are unable to leave the UK due to a physical impediment or some other medical reason (e.g. late stages of pregnancy).
- Where they are unable to leave the UK because in the opinion of the Secretary of State there is no viable route of return available.
- Where there is an outstanding judicial review claim for which permission (in England and Wales) or leave (Northern Ireland) has been granted or which has been made (in Scotland).
- Where there is another issue outstanding which would require support to be provided to prevent a breach of a person's human rights
- Families with children, born before or after the appeal rights exhausted stage, who may otherwise fall to be supported by local authorities.
- Where an individual is making steps to return voluntarily.
- Other circumstances (please list)

Q4. Do you agree that we should be able to set a fixed time limit for support for those supported on the basis that they are taking steps to leave, with no right of appeal?

- Yes
- No
- Don't know

- Please give reasons:

Q5. Do you agree that the way in which support is provided to asylum seekers should be different than the way support is provided to those who have been found to have no protection need?

- Yes
- No
- Don't know

- Please give reasons:

Q6. Do you think that closer working with both the voluntary sector and local authorities will:

a) help applicants understand the options available to them at each stage of the process?

- Yes
- No
- Don't know

b) encourage those who are found to have no protection need to accept their position and return voluntarily?

- Yes
- No
- Don't know

- Please give reasons:

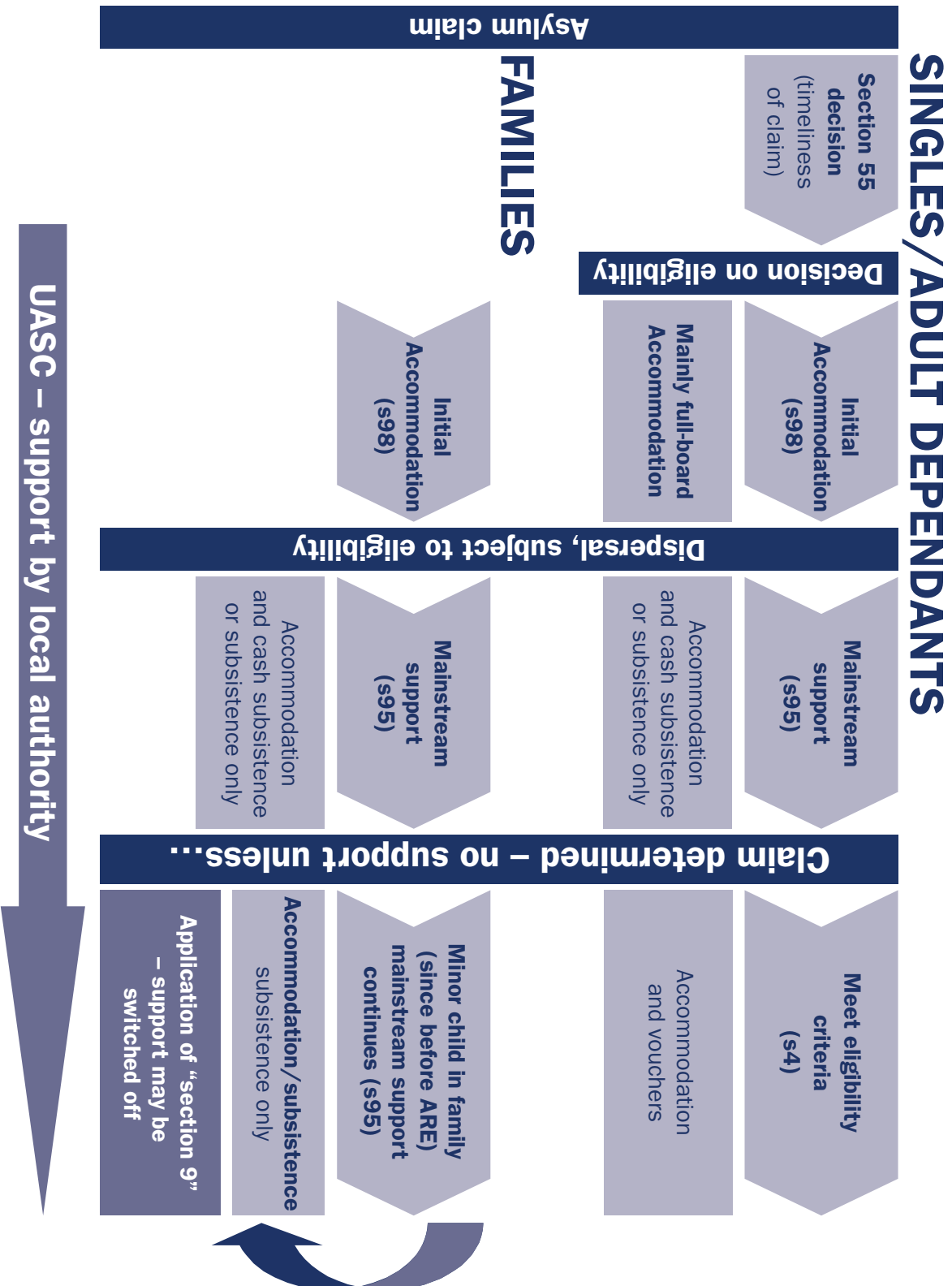
Q7. Do you agree that case owners should be able to tailor accommodation provisions for those who have been found to have no protection need and bring families who purposefully frustrate the system into full board accommodation (where this could assist with removal or return)?

- Yes
- No
- Don't know

Q8. Do you agree that the offences to tackle support fraud should apply to all types of support?

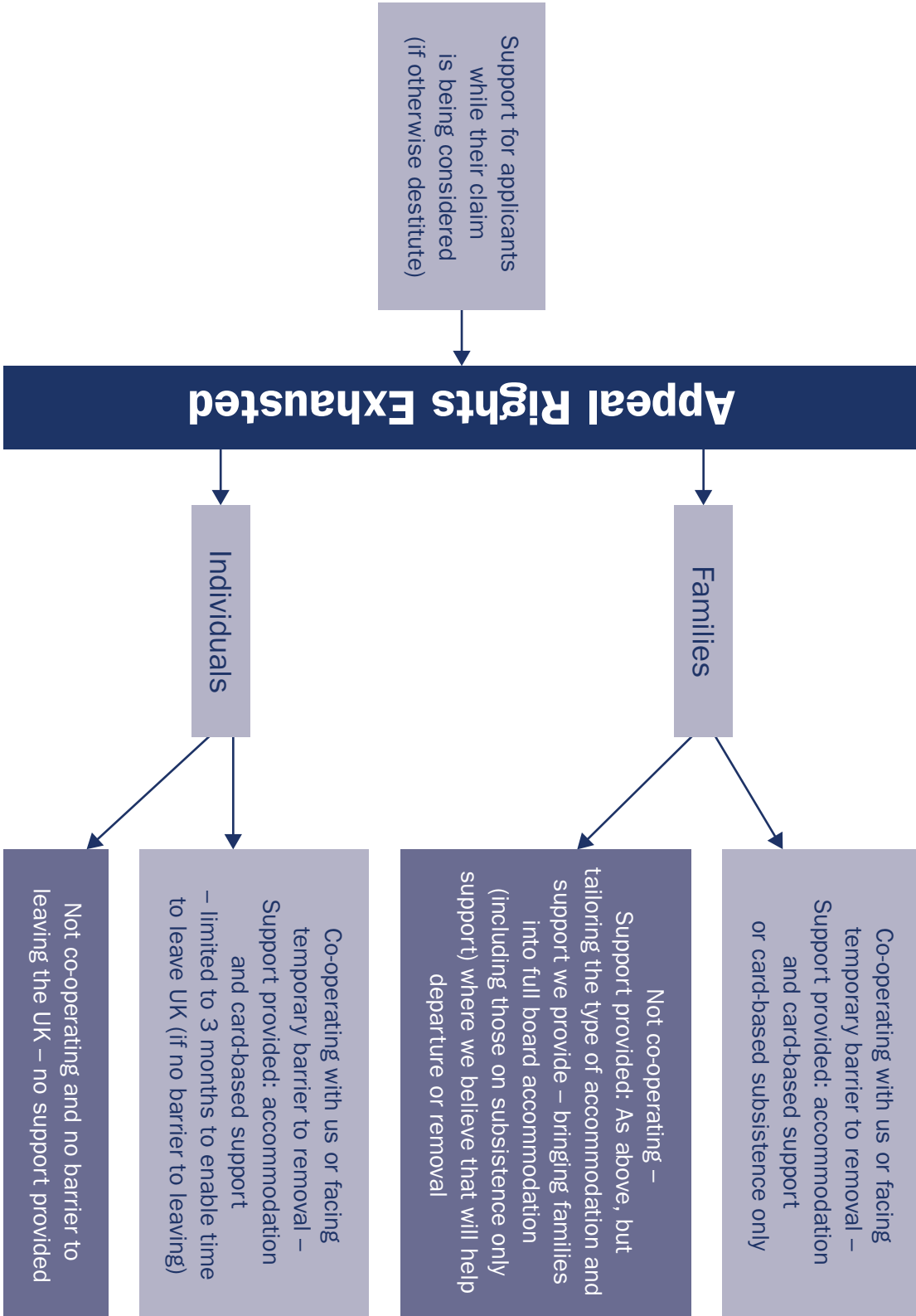
- Yes
- No
- Don't know

ANNEX A CURRENT SUPPORT FRAMEWORK



ANNEX B

NEW SUPPORT FRAMEWORK UNDER IMMIGRATION BILL – END OF PROCESS



ANNEX C

EXAMPLES OF PARTNERSHIP WORKING IN SCOTLAND

Example 1 – helping case conclusion, removal and ensuring eligible cases are supported

The regional office works closely with both Edinburgh and Glasgow City Council to reduce cost to the local authority for supporting failed asylum seekers, including families. The objective is to ensure eligible cases are receiving the right type of support – whether local authority or UK Border Agency. The regional office works in partnership with the local authority to ensure all individuals subject to immigration control are fully engaged with the Home Office and are in receipt of asylum support where eligible. The close working has resulted in the successful removal of some cases, take up of Assisted Voluntary Return and grants under Case Resolution Directorate's (CRD) legacy programme. If clients refuse to engage with the Home Office, the regional office works in partnership with the local authority to refuse support for non compliance.

Example 2 – ensuring a successful move on strategy for those granted leave

The Move On Team at Glasgow City Jobcentre was initially set up in response to dealing with grants of leave under the CRD legacy programme. The successes of the Move On Team have been recognised within the Department for Work and Pensions (DWP) at the highest level. The recognition is of successful partnership working to moving on refugees from Home Office support through the benefit system into work, transforming their lives and assisting their integration in to British society. Building on this success, DWP has now agreed to expand the team to deal with all refugees granted leave in Glasgow. The regional asylum support team has daily contact with the Move On Team to quickly resolve issues. It is an excellent example of inter departmental cooperation.

ANNEX D

RESPONDING TO THIS CONSULTATION

The Government welcomes comments on the proposals in this consultation paper.

Responses should be made using the consultation response proforma which can be found at:

www.ukba.homeoffice.gov.uk/aboutus/consultations/current/

Completed consultation proformas should be sent no later than 4th February 2010 to the following address:

Electronic: AsylumSupportReform@homeoffice.gsi.gov.uk

By post:
Asylum Policy (Immigration Policy)
9th Floor, West Wing
B Block
Whitgift Centre
Wellesley Rd
Croydon CR0 2AD

CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.

Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The Department will process your personal data in accordance with the DPA – in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

ALTERNATIVE FORMATS

You should also contact the Asylum Policy team should you require a copy of this consultation paper in any other format, e.g. Braille, Large Font, or Audio.

CONSULTATION CRITERIA

The Consultation follows the Government's Code of Practice on Consultation – the criteria for which are set out below:

Criterion 1 – When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 – Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 – Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 – Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 – The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 – Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation

Criterion 7 – Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of practice is available at:
<http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office Consultation Co-ordinator, Nigel Lawrence. Please **DO NOT** send your response to this consultation to Nigel Lawrence. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation.

The Co-ordinator can be emailed at:
Nigel.Lawrence@homeoffice.gsi.gov.uk or alternatively write to him at:

Nigel Lawrence, Consultation Co-ordinator
Home Office Performance and Delivery Unit
Better Regulation Team
3rd Floor Seacole
2 Marsham Street
London SW1P 4DF

ANNEX E

SCOPE OF THE CONSULTATION

Topic of this consultation:	Proposals for reform of asylum support. The ministerial foreword highlights our objectives to ensure those seeking asylum are effectively and comprehensively supported during the determination of their claim; that the system for achieving this is as simple and efficient as possible; and that it works towards the return of those who have no protection needs and who have no right to be in the United Kingdom.
Scope of this consultation:	The consultation asks questions to elicit views on: streamlining of legislation; provisions which should be repealed; limitation of duration of support in certain circumstances; whether types of support provision should be differentiated depending on whether those found not to be in need of protection participate in active departure planning; tailored use of accommodation for non-co-operating families; whether the same offences should apply to all types of support; finally, how UKBA can benefit from closer working with its external delivery partners. The aim of this consultation paper is to seek a range of views on how to improve the way that we provide asylum support to asylum seekers and other categories of claimants, ensuring the needs of children are fully considered. Primary legislation will take the form of broad, simplified powers for provision of asylum support; responses will inform the shape of the secondary legislation and also on changes the Agency can make now, through improved partnership working, to provide asylum support more effectively.
Geographical scope:	The scope of this consultation is limited to the United Kingdom. Immigration is a non-devolved matter, however we recognise the interaction between non-devolved matters and policies for which Devolved Administrations have responsibility, for instance in education, housing and health. We are committed to working with colleagues in the Devolved Administrations during the consultation period to ensure that these interactions are fully considered during the development of the final Immigration Bill. Provisions for asylum support are formulated within the context of conditions set down in the Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers (the EU Reception Conditions Directive).
Impact assessment:	A consultation stage impact assessment has been produced for this document. It is available online. Feedback from the consultation will also be used to inform the evidence-base of potential impacts of the proposals identified and will be reflected in the final impact assessment. We welcome views on the evidence provided in the impact assessment.

BASIC INFORMATION

To:	This consultation document will be circulated for comment to members of the National Asylum Stakeholder Forum and officers for devolved administrations, but we are also interested in responses from others with an interest in asylum support issues.
Duration:	This is a 12 week consultation starting on Thursday 12 November 2009 and closing on Thursday 4 February 2010.
Enquiries:	Please contact Anna Kasparian on 020 8604 6677 for enquiries about the content or scope of the consultation, requests for hard copies, etc or e-mail AsylumSupportReform@homeoffice.gsi.gov.uk
How to respond:	<p>Completed consultation proformas should be sent to arrive no later than Thursday 4 February 2010 to: AsylumSupportReform@homeoffice.gsi.gov.uk or by post to:</p> <p>Asylum Policy (Immigration Policy) 9th Floor, West Wing B Block Whitgift Centre Wellesley Rd Croydon CRO 2AD</p> <p>You should contact the address above if you require a copy of this consultation paper in any other format, e.g. Braille, large font or audio. Individual responses will not be acknowledged unless specifically requested.</p>
Additional ways to become involved:	We will organise a stakeholder event for members of the National Asylum Stakeholder Forum to discuss the proposals outlined in the consultation.
After the consultation:	We plan for a response to the consultation to be made available on the UKBA website.

BACKGROUND

Getting to this stage:	<p>UKBA is currently taking forward the public commitment made in the review of the immigration system (July 2006) to radically simplify immigration law. That is why we have published a draft Immigration Bill. As part of this process, consideration must be given to the future shape of asylum support.</p> <p>Existing asylum support legislation is too complex, with support provided under three different sections of the Immigration and Asylum Act 1999, with subsequent provision or amendment made by the Nationality, Immigration and Asylum Act 2002, the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, the Immigration and Asylum Act 2006 and the UK Borders Act 2007. Regulations made under secondary legislation, for example the Asylum Support Regulations 2000 and the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005, include conditions for support.</p>
Previous engagement:	During the summer and autumn 2008, we held regional seminars and discussions with officials, both internal to UKBA and external, involved in the delivery of asylum support. We have listened to the views of, in particular, the voluntary sector and local authorities as partners who have extensive experience of dealing with people as they make their way through the entirety of the asylum process. These initial consultation discussions have informed proposals within the consultation document.

