

## About Law Centre (NI)

Law Centre (NI) works to promote social justice and provides specialist legal services to advice organisations and disadvantaged individuals through our advice line and our casework services from our two regional offices in Northern Ireland. The Law Centre provides advice, casework, training, information and policy services to our member organisations. We are the main advisers on immigration law in Northern Ireland and facilitate the Immigration Practitioners' Group consisting of lawyers and voluntary sector organisations. We also chair the Racial Equality Forum's Immigration Sub Group and are members of the NI Strategic Migration Partnership, the Refugee and Asylum Forum and the Home Office Asylum Stakeholders Forum.

We welcome the opportunity to respond to this consultation.

## Common Platform and preliminary comments

The Law Centre has signed up to the Common Platform and we fully support the principles and concepts outlined in that document.<sup>1</sup> We do not intend to restate those principles in this response; instead, we have focussed our thinking on Chapter 7 as immigration is of particular interest to the Law Centre.

However, we do wish to make a preliminary comment about the scope of the Strategy. At the moment, much of the draft Strategy is wide in scope and aspirational in tone e.g. it spans topics of good relations, building stronger communities, etc. It might be more workable to scale back the draft Strategy to retain a clear focus on racial equality. The right to racial equality is clearly delineated in international law.<sup>2</sup> At present, racial equality risks becoming diminished somewhat by the discussion on good relations and community cohesion. We suggest that *Together: Building a United Community* and *Delivery Social Change* are the better homes for these wider issues. By reframing the emphasis on racial equality, the Strategy would be more targeted with an opportunity for more focus on devising clear outline goals, actions, responsibilities, timeframes and indicators.

## Chapter 7: immigration

The Law Centre welcomes the inclusion of Chapter 7 and the thoughtful discussion of how immigration impacts on Northern Ireland. We particularly welcome the recognition that:

- Northern Ireland's regional interests may not coincide with those of Britain;

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<sup>1</sup> The Common Platform paper has been agreed by organisations working for and with people from Black and Minority Ethnic (BME) backgrounds living and working in Northern Ireland, in response to the draft Racial Equality Strategy.

<sup>2</sup> We agree with NICEM about the need to root the Strategy more firmly in international standards: <http://nicem.org.uk/wp-content/uploads/2014/09/Racial-Equality-Strategy-2014-2024-Consultation-Response.pdf> see para 3.22 paragraph 3.6

- Immigration status is a cause of inequality and as such is a barrier to integration;
- The Executive's indirect power in respect of immigration and the need for devolved administrations to scrutinise immigration policy.

We suggest that the Strategy makes reference to successful OFMDFM initiatives such as:

- The OFMDFM Emergency Fund, which proved to be a successful scheme to prevent/alleviate destitution of migrants.<sup>3</sup> This needs to be extended (see below);
- OFMDFM's ongoing commitment to working closely with voluntary and community sector e.g. through the Immigration Sub Group, which has helped secure positive changes in practice across government departments;
- OFMDFM's instrumental role in establishing the NISMP, which has again been an effective vehicle for identifying the need for, and securing, change.

We believe that Chapter 7 should also include a clear / stronger statement about:

- OFMDFM's responsibilities to migrants living in Northern Ireland e.g. by virtue to its responsibilities for human rights and equality. Put simply, this is an opportunity for Northern Ireland to position itself in respect of immigration and to clearly set out its interest - and rationale for such interest - in immigration matters;
- Integration beginning at Day One for all migrants;
- An acknowledgement of the social and cultural contributions of migrants (there is currently on reference to the positive economic contribution p.43).

We are interested in the idea of a forum comprising of ministers from the devolved administrations and from the Home Office. This would afford the opportunity for devolved administrations to share best practice as well as to collectively challenge national policy where necessary. Another possibility is a standing immigration item at the British and Irish Council or a mechanism whereby a Home Office minister submits annual reports to the Northern Ireland Assembly. Issues that the forum (or other mechanism) may wish to explore include:

- Obtaining immigration data. The fact that Northern Ireland does not have access to immigration data is a huge concern. The issue has always been that the Home Office does not routinely publish disaggregated figures.<sup>4</sup> Despite efforts from the Northern Ireland Strategic Migration Partnership, which has developed a migration information portal to collect data, the overall

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<sup>3</sup> McCann and McKittrick, 'OFMDFM Emergency Fund – Pilot Evaluation' (May 2012)

<sup>4</sup> Michael Potter, 'Asylum seekers and refugees in NI' (NIA Research and Information Service, 6 June 2014, NIAR 348-14)

<http://www.niassembly.gov.uk/Documents/RalSe/Publications/2014/ofmdfm/6314.pdf>

picture remains incomplete.<sup>5</sup> This impedes policy development and planning. It also makes it difficult to counter inaccurate information and myths.

- Establishing channels of communication with the Home Secretary. MLAs are not permitted to correspond with the Home Secretary on behalf of individual immigration cases; correspondence must be submitted through an MP. This long-standing arrangement is unsatisfactory as it causes disappointment for individuals and frustration for MLAs. All elected political representatives – including Northern Ireland MLAs, Scottish MSPs and Welsh Assembly Members – should be able to communicate with the Home Secretary and the Home Office. Further, there should be a mechanism whereby the First and Deputy First Ministers can request the Home Secretary to exercise her discretion on cases where there are particularly compelling issues in play (e.g. individual asylum cases).
- Challenging inhumane Home Office policies. When Home Office practice appears to depart so far from human rights standards, there is a role for NI (and other devolved administrations) to challenge practice. For example:
  - o The prohibition of work permission for asylum seekers. In 2007, the Joint Committee on Human Rights described this as a “deliberate policy of destitution” and concluded that the UK’s treatment of asylum seekers falls below the requirements of the common law of humanity and of international human rights law;<sup>6</sup>
  - o Policies that result in destitution e.g. due to asylum support policies<sup>7</sup> and the No Recourse to Public Fund rule;<sup>8</sup>
  - o The routine use of immigration detention. Unfortunately, the UK is exceptional in Europe given that it neither limits the length of immigration detention nor provides for an automatic right to judicial scrutiny. The use of immigration detention is on the increase<sup>9</sup> and is contrary to UNHCR’s guidelines that are clear that detention should be used as an exceptional measure only.<sup>10</sup>

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<sup>5</sup> We note that the First and Deputy First Minister have acknowledged ‘significant gaps in the knowledge base’ of poverty and minority ethnic communities in Northern Ireland. (AQW 32105/11-15)

<sup>6</sup> JCHR, ‘The Treatment of Asylum Seekers’, 10<sup>th</sup> report of 2006-07, HL 81-I/HC 60-I 30 March 2007, paragraphs 120-122.

<sup>7</sup> These hardships are outlined in a paper submitted by the Law Centre to a Westminster Inquiry. The paper draws on evidence from a wide range of NI voluntary and community sector organisations including Barnardos, Red Cross and others. See here:

[http://www.childrenssociety.org.uk/sites/default/files/tcs/Policy/asylum-inquiry/law\\_centre\\_ni.pdf](http://www.childrenssociety.org.uk/sites/default/files/tcs/Policy/asylum-inquiry/law_centre_ni.pdf)

<sup>8</sup> E.g. see campaign by Southall Black Sisters on Abolish NRPf accessible here:

<http://www.southallblacksisters.org.uk/campaigns/abolish-no-recourse-to-public-funds/>

<sup>9</sup> Home Office Immigration Statistics January – March 2014 (22 May 2014)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/313099/immigration-q1-2014snr.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/313099/immigration-q1-2014snr.pdf)

<sup>10</sup> UNHCR, ‘Detention Guidelines’ (2012) <http://www.refworld.org/pdfid/503489533b8.pdf>

- Countering anti immigration rhetoric. Whereas immigration is often portrayed as a ‘problem’ at Westminster, which is reflected in ever restrictive policies and a hostile media, Scotland and Wales have taken a much more open and supportive approach to immigration and asylum. For example, the Scottish Government stated in 2013: *As we have made clear in our vision for an independent Scotland, we want to establish a progressive nation, which provides a place of safety and fair, sensible and humane policies on immigration and asylum.*<sup>11</sup> We would like Northern Ireland to articulate a similar positive and constructive view. This Strategy would be an ideal place for such a statement.
- Identifying the social and financial impact of restrictive policies in a regional context e.g. recognising that restrictive policies may give rise to exploitation in the labour market which results in enforcement costs for DEL; whereas restrictions on access to health and social care result in increased emergency interventions. These costs come out of Northern Ireland budgets.

Regardless of whether such a forum is established, there are some immediate things that OFMDFM can do. These could be included in the Strategy’s Action Plan:

- Extending and implementing the Emergency Fund. We were pleased that OFMDFM gave a commitment in February 2014 to extending the Emergency/Crisis Fund<sup>12</sup> and we understand that there is ministerial approval for this. However, we are concerned of lack of progress. There is an urgent need to implement this fund that will provide vital relief for destitute migrants over the colder months.
- Prioritising the Refugee Integration Strategy. Although there are examples of good practice in assisting refugees transition from asylum seeking status in Northern Ireland, the lack of strategic direction means that there is no co-ordinated approach at present. We would ask OFMDFM to implement the proposal for a Refugee Integration Strategy developed by the Northern Ireland Strategic Migration Partnership.<sup>13</sup> As such, the Law Centre endorses the short

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<sup>11</sup> Minister for External Affairs and International Development Humza Yousaf MSP in Scottish Government / COSLA / Scottish Refugee Council, *New Scots: Integration Refugees in Scotland’s Communities 2014-2017*

<sup>12</sup>See media coverage e.g. BBC Northern Ireland news, ‘NI Crisis Fund for migrants, refugees and asylum seekers to be set up’ (14 February 2014)

<sup>13</sup> We note that Home Office research underscores the importance of a cross departmental approach to meet the support needs of newly recognised refugees. If needs (e.g. health, language skills, employment) are met, then integration and employment occurs faster. See UK Border Agency Research Papers 36 and 37 on Refugee Integration in the UK, July 2010

submission submitted by the Refugee and Asylum Forum on this discrete issue.

- Strengthening oversight mechanisms of immigration detention in Northern Ireland. Following two inspections of Larne House Short-term Holding Facility, there are a number of recommendations outstanding by the HM Inspector of Prisons.<sup>14</sup> Furthermore, the NIHRC has outlined concerns about immigration detention in Northern Ireland with the UN Committee against Torture specifically in relation to inspection and oversight arrangements.<sup>15</sup> As justice is a devolved issue, we believe that the use of immigration detention in Northern Ireland – whether in police custody or in Larne House – should be afforded NI Assembly scrutiny. OFMDFM could help ensure that the HMP existing recommendations are implemented and that strengthened oversight mechanisms of immigration detention are put into place.
- Help develop an evidence base for regional immigration priorities e.g. by exploring the business case for changes to the Tier 2 Points Based System to reflect regional skills shortages.<sup>16</sup>
- Monitor the impact of the Immigration Act 2014 as and when its provisions are implemented in Northern Ireland (2014 – 2015).

### Specific programmes of work for vulnerable groups

We recognise that there are some discrete categories of migrants who face acute challenges on a number of fronts. In these instances, we think it is appropriate for OFMDFM to devise targeted programmes to address the problems. Accordingly, we would support the publication of a Refugee Integration Strategy as well as work programmes focussed on Irish Travellers and Roma. These need not be lengthy documents: indeed the emphasis should be on action plans and delivery mechanisms and monitoring.

### Legislative reform

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<sup>14</sup> HM Chief Inspector of Prisons (2014), Report on a Unannounced Inspection of the Short-Term Holding Facility at Larne House, London:

<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/short-term-holding-facility-reports/2013-larne-house-sthf.pdf>

<sup>15</sup> Page 11 – 13 <http://www.nihrc.org/uploads/documents/advice-to-government/2013/NIHRC%20Submission%20to%20Committee%20Against%20Torture%202013.pdf>

<sup>16</sup> See NICEM recommendation 23 and Equality Commission submission

## Law Centre response to Racial Equality Strategy



We strongly believe that the reform of the Race Relations (Northern Ireland) Order 1997 is a priority and agree with the Equality Commission's proposals with this regard.<sup>17</sup>

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<sup>17</sup> Equality Commission (2014) para 2 – 2.13  
[http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/RacialEquality\\_Policy\\_Position2014.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/RacialEquality_Policy_Position2014.pdf)