

Rt. Hon Priti Patel
Secretary of State for the Home Department
Home Office
2 Marsham Street
London
SW1P 4DF

30 April 2021

Dear Home Secretary,

We are writing to register our concern at the manner in which this consultation process has been carried out. We welcome the government's stated intention to 'engage meaningfully with stakeholders' through a 'comprehensive consultation'. The Government's survey falls far short of meeting that standard.

This letter relates to the manner of the consultation and does not address concerns about the substance of the proposals themselves.

It is inappropriate to design a consultation on what is described as being the 'biggest overhaul of the asylum system in decades' on the basis of bullet point questions that do not admit nuance. The government's proposals contain a number of characteristics that make them unsuitable for this type of question. They are complex and far-reaching, with potentially seismic foreseen and unforeseen consequences, but also vaguely worded to the extent that it is impossible to know what the proposals would look like in practice and what effects they would have. They require careful consideration which is impossible in the bullet-point questions. Yet the 'public core questionnaire' is composed almost entirely of this type of bullet-point question¹, and respondents are advised that it will take '7+ minutes'.

Moreover questions are invariably presented in a leading way, prompting and leading the respondent to answer in favour of the government's proposals. The questions present the government's view or proposal as reasonable, without presenting any opposing views whatsoever. This invites bias into the survey and suggests it is designed as a tool to legitimise the government's policies, rather than a genuine assessment of well-informed public opinion.

The survey also relies on agreement questions that only ask whether the respondent agrees with the government's point of view, without presenting the opposing view. The agreement questions are therefore leading, while being presented as bland and platitudinous statements that nobody reasonable could disagree with. For instance, the survey asks the extent to which we agree with the statement "individuals seeking the protection of the UK Government should always tell the truth." This statement is very difficult to disagree with – you could replace 'individuals seeking the protection of the UK' government with any other group in the UK and it would be difficult to argue that such a group should not tell the truth. We are concerned that agreement

¹ Although there are open questions in every part of the stakeholder questionnaire, the public core questionnaire only contains open questions on two out of eight chapters (and the questions on the Public Sector Equality Duty), whereas the remaining six sections are composed entirely of tick-box questions. Members of the public who do not choose to respond to the 'public technical questionnaire' will therefore only give their opinions through a set of leading, bullet-point answers.



with this statement would be taken to be tacit endorsement of a much more controversial policy proposal – the ‘good faith’ requirement. If the government were genuinely trying to canvass public opinion about what the new immigration system should look like, this would be poor practice. It therefore conveys the impression that the consultation seeks to legitimise the government’s ready-made plans.

We are concerned that the Home Office has Facebook videos released alongside a link to the survey in an attempt to use social media to influence the outcome of the consultation. These videos verge on manipulation, with one particularly inappropriate video drawing a distinction between different types of asylum seeker and reducing a highly complex situation to a battle between good and evil. The video contains inflammatory statements about ‘serious organised criminals’ who ‘cause death and despair’. The accompanying music is emotive and cinematic, building to an epic crescendo – plainly designed to elicit an emotional response in the viewer. The fact that the video contains a link to the survey means that people will complete the questions in a frame of mind that is inimical to careful, considered responses to the questions. This is a highly inappropriate way for the government to encourage participation in a consultation, not least one that could have devastating consequences for some of the most vulnerable people on the planet.

There appears to be no mechanism within the survey for gaining a representative sample in this survey. No demographic questions are asked and despite the highly politicised nature of the questions, there is no question on party affiliation. Without a sampling process there is therefore no guarantee that the survey will yield reliable data. There is a real risk that the survey would disproportionately canvass the views of a particular age group or demographic. This is particularly concerning given reports that Conservative MPs are writing to their constituents to encourage them to complete the survey. There appear to be few safeguards to prevent individuals from completing the survey more than once. We are particularly concerned that the government does not appear to have sought the views of the very people that will be most affected by the proposals – that is – people subject to immigration control. Please inform us what steps the government has taken to ensure that the survey presents a representative sample.

The language used in this consultation is misleading and inflammatory. It is inaccurate and misleading to describe asylum seekers entering via irregular means as ‘illegal’. There is no requirement under the UN Refugee Convention to which the UK is a signatory for asylum seekers to claim asylum in the first ‘safe’ country they reach. They should therefore not be demonised for seeking to enter the UK via irregular means. To repeat this claim is divisive and inflammatory and creates an impression that the presence of asylum seekers in the UK is unlawful when it is not. There are other examples throughout the plan where non-British citizens are characterised as abusing the asylum system or acting dishonestly – despite a lack of evidence to support these assertions. Given the rise in far-right activists and organisations targeting asylum seekers² and their legal representatives³ it is irresponsible for the government to use such inflammatory rhetoric.

Neither the survey nor the consultation questions scrutinise the Home Office’s current approach to the immigration and asylum system. Many people would accept there are problems with the system but the government places all of the blame at the feet of others (both asylum seekers and their representatives)

² Migration and the Far Right, Briefing 3, March 2021 https://cityofsanctuary.org/wp-content/uploads/2021/03/HnHET_Migration-and-the-Far-Right-3_2021-03-v1-1.pdf

³ “Man charged with right-wing terror plot to kill immigration solicitor” BBC news, 23 October 2020 <https://www.bbc.co.uk/news/uk-england-london-54661222#:~:text=A%20man%20has%20been%20charged,of%20killing%20an%20immigration%20solicitor.>



without consideration of improvements that could be made at the Home Office. For instance, the backlog in asylum claims is repeatedly blamed on others who abuse the system. There is no consideration of the impact of the Home Office's own failure to process claims in a timely manner and the frequently poor Home Office initial decision-making⁴ that is later found to be incorrect by the courts - Half of all appeals against immigration decisions were successful in the year leading up to June 2019. There is no consideration of the institutional culture at the Home Office that was heavily criticised in the Windrush Lessons Learned Review, or the Home Office's failure to evaluate the impact of its policies⁵. There is no consideration of the fact that the Home Office is repeatedly found to have broken the law in its operation of the detention system – in the last two years the Home Office has paid out £15.1 million to 584 people that it had detained unlawfully⁶. Frequently it is the Home Office that fails to act in 'good faith'. The Home Office should seek to learn lessons from previous failures and implement the recommendations from countless critical reports by inspectors⁷, parliamentary committees⁸ and those that it has commissioned⁹ to investigate parts of the system.

The amount of time given to respond to the consultation is woefully inadequate. The 6-week deadline – including the Easter holidays – does not provide sufficient time to evaluate the many diverse and far-reaching proposals set out across eight chapters that seek to make changes to every aspect of the existing asylum system. Furthermore respondents are asked to assess the potential disproportionate impacts of all the proposals upon all the individuals protected by the Equalities Act. This is an immense task that requires careful consideration of the many foreseen and unforeseen impacts of the Act. We therefore ask for an extension to the consultation deadline so that we can devote proper consideration to these matters.

We look forward to hearing from you,

Annie Viswanathan, Director, Bail for Immigration Detainees

cc. Tyson.Hepple@homeoffice.gov.uk;

⁴ "More than half of immigration appeals now successful" <https://www.independent.co.uk/news/uk/home-news/immigration-appealshome-office-success-rate-windrush-migrant-crisis-a8957166.html>

⁵ "Home Office "has no idea" of the impact of immigration policies" Public Accounts Committee, <https://committees.parliament.uk/committee/127/public-accounts-committee/news/119248/home-office-has-no-idea-of-the-impact-of-immigration-policies/>

⁶ Home Office annual report and accounts, Page 118 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902593/HO_Annual_Report_and_Accounts_2019-20_FINAL.pdf

⁷ For instance, Independent Chief Inspector of Borders and Immigration, Annual inspection of 'Adults at Risk in Immigration Detention' (2018–19)

<https://www.gov.uk/government/publications/annual-inspection-of-adults-at-risk-in-immigration-detention-2018-19>

⁸ For instance, see Home Affairs Committee report (March 2019)

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2017/immigration-detention-inquiry-17-19/>

JCHR Immigration Detention (Feb 2019) 2017 -19) <https://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/inquiries/parliament-2017/inquiry10/>

Or Public Accounts Committee report, cited earlier <https://committees.parliament.uk/committee/127/public-accounts-committee/news/119248/home-office-has-no-idea-of-the-impact-of-immigration-policies/>

⁹ For instance, see both reports by Stephen Shaw into immigration detention <https://www.gov.uk/government/publications/welfare-in-detention-of-vulnerable-persons-review-progress-report> and Wendy Williams' Windrush Lessons Learned Review

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876336/6.5577_HO_Windrush_Lessons_Learned_Review_LoResFinal.pdf

