No Recourse North East Partnership

Reforming Asylum Support

A Home Office Consultation

Submission by the **No Recourse North East (NRNE)** Partnership

June 2026

Who we are and why our voice matters.

No Recourse North East (NRNE) is a partnership of over 30 organisations working across North East Scotland. Our members include local authority staff, charities, and members of the public. We are all united in supporting individuals and families with No Recourse to Public Funds (NRPF). A population which includes people seeking asylum. We provide signposting and advice to migrants facing destitution and share best practices with the services set up to support them through training and second-tier advice. Some of these people will face the prospect of exhausting their appeal rights and may be subject to the reduced package of support proposed in this consultation.

We take pride in playing a part in helping some of the most vulnerable feel welcomed and supported. The North East, the region we represent, hosts almost 1,000 people seeking asylum, but lacks the ecosystem of support found in comparable areas across the rest of the UK. Our region is one of many that can be classified as a 'legal aid desert'. This reality forces anyone seeking regulated immigration advice to often unaffordable, multi-hour journeys to Scotland's central belt. Despite our efforts, the region lacks the capacity to provide the level of support we deem dignifying for those fleeing persecution. Given this, the support provided by local authorities and the Home Office is invaluable even if largely inadequate.

We also acknowledge that, as a Scottish organisation, the sections of the consultation that seek input on issues focused on the ability for English local authorities to provide support to people 'without immigration status' are not directly relevant to us. However, we consider that a withdrawal of support there may set a precedent in Scotland, and we will respond to this section of the consultation accordingly.

We view the number of questions and their wording as potential barriers to a meaningful response. The consultation uses specific, technical language that is mainly aimed at operationalising the system as opposed to scrutinising it. The online form itself limits the opportunities for respondents to make principled objections. Take, for example, question 9 from part 1, which asks 'Do you agree with the proposed length of the grace period being set at 90 days for families with children in their household?' and offers a yes-or-no option with space to specify the answer. A resounding no from respondents can be used by the Home Office as fuel for a 'concession' in the form of extending the grace period, even though the nature of the objection provided is not focused on the length but to

the existence of section 95a support in the first place, which is wrongly assumed as a non-issue in the wording. Part Two of the consultation, focusing on the use of force against children, is worse. The questions are framed to elicit agreement with the use of force against children. The danger that the Home Office launders any response to questions like 8 and 10 in part 2 in a way that allows them to implement their proposals, even with 'guardrails', is substantial and leads us to believe that the most appropriate way to respond is on our own terms.

Executive Summary

The No Recourse North East (NRNE) Partnership submits this response to the Home Office consultation on reforming asylum support for people who are appeals rights exhausted and enforcing family returns. We reject the core proposals. We argue that using destitution as an enforcement mechanism, removing statutory rights of appeal, shifting responsibility onto local authorities without additional funding, and authorising the use of physical force against children are counterproductive, incompatible with established human rights law, and likely to cause serious harm.

The consultation proposes that withdrawing support will incentivise compliance with removal. We note that the Government's own evaluation of the Section 9 pilot found that this approach did not significantly influence behaviour in favour of cooperation, increased absconding rates, and placed significant demands on local authority resources. We conclude that repeating this approach risks breaching Article 3 ECHR.

We object to the removal of the statutory right of appeal against the refusal of section 95A support. This removes independent oversight of decisions that determine whether a person has food, shelter, and basic subsistence. Given well-documented poor Home Office decision-making and severe structural barriers to legal advice in North East Scotland, we consider this unjustifiable.

We find that the proposed changes to local authority support are driven by immigration enforcement rather than welfare. Local authorities are already operating at or above capacity, with no additional funding proposed. We warn that preventing local authorities from acting on children in need will fracture trust between migrant families and social care.

We reject the proposal to authorise physical force against children. This represents a profound departure from established principles of child welfare and children's rights, including those set out

in the UNCRC and GIRFEC. The best interests of the child cannot be a primary consideration if the state is permitted to handcuff a child to put them on a deportation flight.

Finally, we note that the consultation was launched without the publication of an Equality Impact Assessment or a Children's Rights Impact Assessment. We consider this omission to undermine the entire consultation process. We urge the Home Office to withdraw these proposals.

General Competency

We will directly answer the first six questions posed in part 1 and the first seven questions posed in part 2 of the consultation document to ensure that the Home Office understands our competency.

Our answers are bolded

P1, Q1: How would you rate your understanding of the UK's immigration system?

- **We understand most of it**

P1, Q2: Are you aware that families remain in the UK without any lawful immigration status?

- **Yes, fully aware**

P1, Q3: Are you aware of the support offered to families without lawful status to depart voluntarily?

- **Yes, fully aware**

P1, Q4: How would you rate your understanding of the current policy regarding support provided by the Home Office to failed asylum-seeker families that have children under 18 years of age?

- **We understand most of it**

P1, Q5: How would you rate your understanding of the current policy regarding support provided by local authorities in England to: a) failed asylum-seeker families that have children under 18 years of age, and

- **We understand most of it**

b) adult care leavers who are failed asylum-seekers?

- **We understand most of it**

P1, Q6: Have you or your organisation been involved in providing advice or support to failed asylum-seeking families or adult care leavers?

- **No**

P2, Q1: Are you responding as an individual or on behalf of an organisation?

- **Organisation**

  b) Please provide your name or the name of the organisation

  - **No Recourse North East Partnership**

P2, Q2: Prior to reading this consultation document, how would you rate your understanding of the Family Returns Process?

- **We understand most of it**

P2, Q3: Prior to reading this consultation document, how would you rate your understanding of the Section 55 Dury of the Borders, Citizenship and Immigration Act 2009

- **We understand most of it**

P2, Q4: Prior to reading this consultation document, were you aware that families remain in the UK without any legal right to do so?

- **Yes**

P2, Q5: Prior to reading this consultation document, were you aware of the financial support offered to families without any legal right to remain to depart voluntarily

- **Yes, fully aware**

P2, Q6: Prior to reading this consultation document, how would you rate your understanding of the current policy regarding physical handling of children during family returns?

- **We understand most of it**

P2, Q7: Have you or your organisation been involved in an enforced return of a family in any capacity where a child(ren) was non-compliant (e.g. refused to move or board transport)?

- **No**

Our Response

As highlighted earlier, we have not prepared a response that directly addresses the questions posed in the consultation document. Instead, we have focused on key themes. We reference the questions posed in the document that may be relevant under each of our themes.

The five key themes we address are:

1. Using Destitution as an Enforcement Mechanism
2. The “Genuine Obstacle” Definition and Removal of Appeal Rights
3. The Role of Local Authorities and Their Lack of Capacity
4. The Use of Physical Force
5. The Absence of Impact Assessments

Using Destitution as an Enforcement Mechanism

Relevant Questions: 7 (p1), 8 (p1), 9 (p1) and 14 (p1)

The consultation proposes fundamental changes to Asylum Support for people seeking asylum (originally only families) without immigration status, operating under the logic that withdrawing financial and accommodation support will incentivise compliance with removal. The document states, "The reforms under Schedule 11 to the 2016 Act are intended to ensure that support from the Home Office is only made available to failed asylum-seekers who are destitute and genuinely unable to leave the UK" (p.17). The consultation further argues that "the current support framework has allowed families with no lawful basis to remain in the UK with continued access to publicly funded support, sometimes indefinitely. ‘This has contributed to a system where the expectation to depart is often undermined’ (p.12). The mechanisms proposed as remedies to these 'problems' involve ending automatic Section 95 support for families after a 90-day grace period, replacing the existing Section 4 support with a new, more restrictive section 95A regime, and making all post-refusal support conditional on demonstrating a "genuine obstacle" to departure. The underlying assumption is that destitution will drive compliance, and that people who have exhausted their appeal rights will return to their country of origin, the same country they have left seeking safety from persecution.

The Government has attempted this approach before and published its failure in 2007. The Section 9 pilot ran from December 2004 to December 2005, covering 116 family units across London, Leeds, and Manchester, with a matched control group of another 116 families.[1] In its evaluation of the pilot, they found that "in the form piloted section 9 did not significantly influence behaviour in favour of cooperating with removal."[2] In the 'cohort group', which was subject to support withdrawal and the focus of the pilot, only one family (1% of the cohort) was 'successfully removed'. In the control group, where support was maintained, nine families (8% of the control group) were 'successfully removed'.[3] The pilot did not increase voluntary returns either: only five families (4% of the cohort) left under the Voluntary Assisted Returns and Reintegration Programme (VARRP) compared to two families (2% of the control group). The report suggested that these increases "do not represent statistically significant changes."[4] Most concerningly, the measures piloted appear to have driven families underground at an alarming rate. Of the cohort families who should have been in contact with immigration authorities, 39% were no longer in contact, compared to only 21% in the control group.[5] The report explicitly notes that "evidence suggests that a significant number of families may have absconded from their accommodation because of concerns about the section 9 process."[6] Feedback from stakeholders involved in the pilot confirmed the failures identified in the data. Local authorities reported difficulty reconciling child welfare principles with section 9, and the pilot placed "significant demands upon local authority resources."[7] The Government's own conclusion was that "the section 9 provision should not be seen as a universal tool to encourage departure in every case" and that it should not be used "on a blanket basis."[8] This pilot provides clear evidence that using destitution as an enforcement mechanism did not lead to compliance but rather represented a step

---

[1] Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
[2] Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
[3] Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
[4] Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
[5] Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
[6]Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
[7]Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
[8]Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj

in the wrong direction. It likely pushed families to abscond, imposed costs on local authorities, and failed to improve removal rates.

As Keir Starmer, who now leads the government looking to push through these changes argued in 2015, when these proposals were last before Parliament over a decade ago, "On the withdrawal of support from certain categories, I will not rehearse the powerful argument showing that all the evidence says that this will not achieve the desired objective and, in all likelihood, will push people into destitution and exploitation."[9]

A second concern is the assumption that people without immigration status, particularly families, can simply leave the UK if they choose to do so. It is well documented that refused individuals and families' face insurmountable barriers, which often include multiple of the following: inability to obtain travel documents from uncooperative embassies, ongoing medical needs that cannot be safely transferred within 90 days, and genuine fear of persecution upon return.[10] The consultation itself includes in its proposed definition of a "genuine obstacle" situations where an individual is "unable to obtain a travel document to facilitate departure from the UK despite having taken all reasonable steps to do so" (p.21), but fails to propose any steps that may address the situation. However, the consultation simultaneously proposes that the following factors do not automatically amount to a genuine obstacle (p.21) "The fact that the individual may be receiving ongoing medical treatment in the UK; The unavailability, or possible unavailability, of medical treatment in the country to which the person is to return; The undesirability or inadvisability of leaving the UK for medical reasons." The relegation of medical concerns as not a "genuine obstacle" is alarming and deeply concerning given the prevalence of serious health conditions among refugee populations. Research by Patanè and colleagues concluded that the available evidence clearly shows a "markedly high prevalence of mental disorders among refugees. Our results underline the devastating effects of war and violence, and the necessity to provide mental health intervention to address mental disorders among refugees".[11] Individuals and particularly families with children receiving ongoing treatment cannot safely transfer their care within 90 days, and the proposal to disregard the unavailability of

---

[9] House of Commons Public Bill Committee. (2015). *Immigration Bill Debate*, 10 November 2015, column 456. Available at: https://hansard.parliament.uk/Commons/2015-11-10/debates/ec68949e-09b3-4a35-8c1a-457aae9e3fbd/ImmigrationBill

[10] NACCOM. (2025). *Our response to the Government's proposed use of 'return hubs'*. 14 May 2025. Available at: https://naccom.org.uk/our-response-the-governments-proposed-use-of-returns-hubs/

[11] Patanè, M. et al. (2022). 'Prevalence of mental disorders in refugees and asylum seekers: A systematic review and meta-analysis', Global Mental Health, 9, pp. 250–263. doi:10.1017/gmh.2022.29.

medical treatment tells families that they must choose between destitution and returning to a country where they or their child has no reasonable prospect of accessing necessary healthcare. We speak in more detail about genuine obstacles later.

We believe the most predictable consequence is that people will not leave the UK but will instead "disappear" from the system and into danger's lap. Researching in 2023, The No Accommodation Network (NACCOM) found that the experience of people seeking asylum who lost their immigration status was characterised by rough sleeping, sofa surfing with no legal right to work, exploitation in informal labour markets, and destitution so severe that they cannot access legal advice.[12] Such a situation is likely to run into trouble when held against the state's positive obligations under Article 4 ECHR (prohibition of slavery and forced labour), which includes protection from trafficking. As confirmed in Rantsev v Cyprus and Russia [2010] ECHR 22.[13] The consultation itself provides evidence that families already abscond at significant rates, stating that "since 2016, over half of enforced returns which fail at the point of or after arrest are due to the family absconding" (p.13). If families are already absconding, under a system where support is maintained, removing support is likely only to accelerate this, as evidenced by the previous section 9 pilot discussed at length earlier. Individuals and families are likely to become undocumented and unaccounted for, facing extreme risk of exploitation. The IPPR report on the 10-year route to settlement documents how restrictive immigration rules have already pushed thousands of families into precarious status, creating a growing population with no access to work, no access to healthcare beyond emergency treatment, and no realistic prospect of regularisation.[14] This outcome would constitute a breach of Article 3 of the European Convention on Human Rights. In R (Limbuela) v Secretary of State for the Home Department [2005] UKHL 66, the House of Lords held that deliberately leaving asylum seekers destitute can constitute inhuman or degrading treatment contrary to Article 3.[15]

---

[12] NACCOM. (2023). *Refused? Experiences following a negative asylum decision*. NACCOM: The No Accommodation Network. Available at: https://naccom.org.uk/wp-content/uploads/2023/07/EMBARGOED-17.7.23-NACCOM-Refused-Experiences-following-a-negative-asylum-decision-FINAL.pdf

[13] European Court of Human Rights (2010) Rantsev v. Cyprus and Russia, Application no. 25965/04. Available at: https://www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/_irb/2010/rantsev_v._cyprus_and_russia.html

[14]13 Institute for Public Policy Research (IPPR). (2023). The 10-year route to settlement: A pathway to precarity. Available at: https://ippr-org.files.svdcdn.com/production/Downloads/10-year-route-march23.pdf?dm=1702046353

[15] House of Lords (2005) Regina v. Secretary of State for the Home Department (Appellant) ex parte Adam (FC) (Respondent); Regina v. Secretary of State for the Home Department (Appellant) ex parte Limbuela (FC)

The “Genuine Obstacle” Definition and Removal of Appeal Rights

Relevant Questions: 10 (p1), 11 (p1), 12 (p1), 15 (p1), 16 (p1) and 17 (p1)

The consultation proposes that section 95A support will be available only to failed asylum-seekers who can demonstrate a "genuine obstacle" to leaving the UK, as defined by the Secretary of State. Under the proposed regulations, a genuine obstacle would exist only where an individual is unable to obtain a travel document despite taking all reasonable steps, unable to leave because no viable route of return is available, or for some other reason that the Secretary of State considers exceptional (p.21).

The consultation document seems to be at odds with itself when it comes to medical conditions as a "genuine obstacle". As discussed earlier, it states on page 21, in paragraph 21 that "the fact that the individual may be receiving ongoing medical treatment in the UK" does not automatically amount to a genuine obstacle, but just sentences on paragraph 20 before reads that being "unable to leave the UK by reason of a physical impediment to travel or for some other medical reason" can be a genuine obstacle. An individual could receive ongoing medical treatment for a serious condition, for example, weekly dialysis or chemotherapy and be unable to travel. Paragraph 20 suggests this could qualify as a medical reason supporting a genuine obstacle, but 21 suggests that receiving treatment alone is not enough. This, in its current drafting, appears nightmarish for Home Office decision-makers and anyone seeking consistent decision-making.

The consultation states that "unlike section 4 support, there will be no statutory right of appeal against a decision to refuse section 95A support (or to stop support for transitional cases)" (p.18). This means that an individual or family refused support will have no independent mechanism to challenge that decision, with judicial review as the only remedy. This is an expensive, slow, and inaccessible process for most facing destitution and represents a major departure from existing asylum support safeguards, which include appeal and challenge mechanisms, because support decisions determine whether a person has food, shelter, and basic subsistence. Removing the statutory right of appeal is objectionable on three levels. First, it removes independent oversight of decisions that directly affect children's immediate welfare. Second, it increases the risk that

---

(Respondent); Regina v. Secretary of State for the Home Department (Appellant) ex parte Tesema (FC) (Respondent) (Conjoined Appeals) [2005] UKHL 66. Available at: https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd051103/adam-1.htm

erroneous or restrictive interpretations of "genuine obstacle" will lead to wrongful refusals. Third, it does so in a system where access to legal advice is already severely constrained.[16]

The proposal to define "genuine obstacle" by a fixed list determined by the Secretary of State is incompatible with established human rights law. The courts have consistently held that human rights assessments must be made on a case-by-case, multifactorial basis and cannot be reduced to a closed list of criteria. In R (NS) v First-tier Tribunal (Asylum Support) and the Secretary of State for the Home Department [2009] EWHC 3819, at paragraph 14, the judge found that there were a "variety of factual circumstances" in which support would need to be provided to avoid a breach of human rights, and that a rigid approach would be unlawful.[17] More recently, in R (Secretary of State for the Home Department) v First-tier Tribunal (Social Entitlement Chamber) [2021] EWHC 1690 (Admin), the judge stated: "It is not necessary, and would not be wise, to attempt to define here the precise boundaries of the category of destitute failed asylum-seekers whose ECHR rights require the provision of accommodation under reg. 3(2)(e). All that is necessary for present purposes is to say that a multifactorial assessment would be required in each individual case."[18]

The removal of the statutory right of appeal is particularly concerning, given the well-documented poor quality of Home Office decision-making. The National Audit Office's (NAO) analysis of the asylum system found that decision quality is inconsistent, with a significant proportion of initial decisions being overturned on appeal.[19] The Home Office's own evaluation of Artificial Intelligence (AI) trials in the asylum decision-making process acknowledged that decision quality remains a persistent challenge, with errors occurring at multiple stages of the process. The solution to this is not hallucinatory chatbots (that is a discussion for a separate, much needed consultation).[20] Research by Freedom from Torture, found in their "Lessons Not Learned", documented numerous

---

[16] Wilding, J. (2025). No Access to Justice 2: Mapping the UK's continuing immigration and asylum legal advice crisis. Justice Together. Available at: https://justice-together.org.uk/wp-content/uploads/2025/06/No-Access-to-Justice-Report-2025.pdf

[17] Asylum Support Appeals Project (ASAP). (2025). *Section 4 and Human Rights*. Available at: https://www.asaproject.org/resources/library/section-4-and-human-rights

[18] R (Secretary of State for the Home Department) v First-tier Tribunal (Social Entitlement Chamber) [2021] EWHC 1690 (Admin) (21 June 2021), paragraph 137. Available at: https://www.bailii.org/ew/cases/EWHC/Admin/2021/1690.html

[19] National Audit Office (2025). An analysis of the asylum system. (HC 1517, 2024-26). Available at: https://www.nao.org.uk/reports/an-analysis-of-the-asylum-system/

[20] Home Office. (2025). Evaluation of AI trials in the asylum decision-making process. Available at: https://www.gov.uk/government/publications/evaluation-of-ai-trials-in-the-asylum-decision-making-process/evaluation-of-ai-trials-in-the-asylum-decision-making-process

cases where Home Office decisions failed to properly consider evidence of torture and trauma, leading to wrongful refusals that were only corrected on appeal.[21] Knowledge of the Home Office's improper performance is widespread. The Guardian reported in December 2024 that the Home Office admitted that only half of UK asylum decisions meet its own quality standards.[22] If an institution makes the majority of its initial decisions incorrectly, even in a separate context where appeals remain available, it is hard to argue that the same institution should have the power to make related decisions with even fewer checks and balances.

The removal of appeal rights is even more indefensible given the severe structural barriers to legal advice and representation that already exist. The Scottish Parliament's 2025 legal aid inquiry received evidence from multiple organisations, including us, documenting that legal aid rates have not kept pace with inflation, that specialist immigration legal aid providers have closed across Scotland due to underfunding, and that many refused asylum seekers already have no access to legal representation at any stage of their case.[23] Most importantly, and as highlighted by the partnership in that recent inquiry, there are no legal aid immigration solicitors in the North East of Scotland. This forces individuals and families to rely on advice from already overburdened solicitors working in Scotland's central belt. In some cases that members of the partnership have supported, individuals and families have been forced to wait months to find a solicitor with capacity and willingness to take on legal aid cases. As the consultation itself acknowledges, the Home Office may provide interim support to people seeking asylum awaiting a decision on their application for section 95A support (p. 18). There is no equivalent provision for those challenging a refusal. A family that is hypothetically wrongly refused support will have no income, no accommodation, and no realistic prospect of accessing judicial review. They would therefore be left destitute, lacking any real prospect of legal remedy. The consultation's narrow exceptions for late applications do not include "no access to legal advice".

---

[21] Freedom from Torture. (2019). Lessons Not Learned: The failures of Home Office decision-making in asylum claims involving torture. Available at: https://www.freedomfromtorture.org/sites/default/files/2019-09/FFT_LessonsNotLearned_Report_A4_FINAL_LOWRES_1.pdf

[22] The Guardian. (2024). Home Office says only half of UK asylum decisions meet its quality standards. Available at: https://www.theguardian.com/uk-news/2024/dec/08/home-office-says-only-half-of-uk-asylum-decisions-meet-its-quality-standards

[23] Scottish Parliament. (2025). [Grampian Regional Equality Council (GREC) and No Recourse North East (NRNE) Partnership] submission to the Legal Aid Inquiry. Session 6. Available at: https://yourviews.parliament.scot/session-6/legal-aid-inquiry/consultation/view_respondent?uuId=963247153

The Role of Local Authorities and Their Lack of Capacity

Relevant Questions: 13 (p1), 18 (p1) and 19 (p1)

The consultation proposes that Schedule 12 to the Immigration Act 2016 will replace local authorities' existing duties to destitute families under the Children Act 1989 with a narrower framework set by the Secretary of State, applicable only in England. As mentioned earlier, despite this proposal focusing exclusively on the powers of English local authorities, we feel it necessary to reject these proposals and write as if they were considered in Scotland and the powers were written into Scotland's equivalent law, the Children (Scotland) Act 1995.

Under the proposed regulations, local authorities in England will be able to provide accommodation and subsistence support to families without status only where one of five conditions is met, including Condition E, which requires that "the provision of support is necessary to safeguard and promote the welfare of a dependent child" (p.23).

However, in determining whether Condition E is satisfied, the consultation proposes that local authorities "must take into account: the fact that there is no general obligation on a local authority to provide accommodation for individuals without immigration status who intentionally make themselves destitute by refusing to leave the UK when there is no obstacle to their departure" (p.23). Up until this point, the proposals read much like existing legislation, with the considerations asked of local authorities similar to those expected of social work departments when dealing with a family or individual in an excluded group, as defined by Schedule 3 of the Nationality, Immigration and Asylum Act 2002. Hereafter, we seem to see some divergence. These proposals instruct local authorities that they must "must not take into account: whether a child would be in need in the country they are returning to, if a family has no genuine obstacle to leaving the UK; the receipt of ongoing medical treatment in the UK; the unavailability, or possible unavailability, of medical treatment in the country to which the person is required to return; and, the undesirability or inadvisability of leaving the UK for medical reasons" (p.23-24). In contrast, social workers dealing with excluded groups are currently encouraged to consider health-induced difficulties to travel as a practical obstacle to return; this likely encompasses the 'receipt of ongoing medical treatment in the UK' established in the document as not a ‘genuine obstacle’ and obtain a "fit to fly" opinion from their

individual or family's GP and/or specialist doctor.[24] Such proposals restrict the already thin support for individuals and families whose appeals rights have been exhausted.

These proposed changes are immigration enforcement-led rather than welfare-led. Preventing local authorities from acting on genuine "child in need" concerns will not reduce demand for support.

The proposals attempt to shift responsibility for people seeking asylum who have been refused and are facing destitution solely onto local authorities. Local authorities are already operating at or above capacity with no additional funding proposed. The University of Oxford's Centre on Migration, Policy and Society (COMPAS) 2025 report, "Understanding Migrant Destitution in Scotland," documents that destitution amongst migrants is already widespread across Scotland, with local authorities struggling to meet existing duties to people with NRPF.[25] Our own research from 2026 shows that the number of destitute households with NRPF presenting to Scottish local authorities who use the NRPF connect platform has increased year on year, a growing population that social work teams have not been budgeted for.[26] The scale of this increase is stark: total reported Scottish NRPF expenditure jumped from approximately £500,000 in 2023/24 to over £1.5 million in 2024/25, a tripling in a single year.[27] This spending has been absorbed almost entirely by rising property-related costs, not by expanded social work as communicated by the decoupling between property and staffing expenditure. the Convention of Scottish Local Authorities (COSLA) survey of local authority NRPF support confirms our findings. Their data shows that councils are already operating at the limits of their capacity, with many reporting well-founded fears that they are unable to meet statutory duties without additional funding from the Scottish and UK Governments - legal and staff costs for this work have increased >500% since the decade began.[28] In fact, saying that these costs have "not been budgeted for" fails to scratch the surface. COSLA has repeated this point, making it clear in

---

[24] NRPF Network (2021) When and how to undertake a human rights assessment. Available at: https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/when-and-how-to-undertake-a-human-rights-assessment-all-content/#421-medical-health-needs

[25] COMPAS, University of Oxford. (2025). Understanding Migrant Destitution in Scotland. Available at: https://www.compas.ox.ac.uk/wp-content/uploads/2025-Understanding-Migrant-Destitution-in-Scotland.pdf

[26] No Recourse North East. (2026). Half a Decade of Data: NRPF Connect in Scotland. Available at: https://nrnepartnership.org/2026/02/25/nrpf-connect-half-a-decade-of-scottish-data/

[27] No Recourse North East. (2026). Half a Decade of Data: NRPF Connect in Scotland. Available at: https://nrnepartnership.org/2026/02/25/nrpf-connect-half-a-decade-of-scottish-data/

[28] COSLA (Convention of Scottish Local Authorities). (2026). COSLA Survey of Local Authority NRPF Support. Available at: https://migrationscotland.org.uk/policyarea/policy-context/cosla-survey-of-local-authority-nrpf-support/

their manifesto and pre-budget lobbying, calculating that Scottish local authorities require over £750 million in additional investment "to protect and strengthen social care".[29] There is no indication in the consultation document that the Home Office has conducted any assessment to quantify the costs that will be transferred from central government to local authorities, nor is there any proposal to provide additional funding to councils to meet these new duties.[30]

The current system of needs and human rights assessments can confuse social workers who are not immigration professionals. Social workers are not expected, and are unlikely to have, the knowledge and understanding of the immigration system that these proposals impose, placing a greater burden on them as professionals. This would not only increase the financial strain on local authority staff but also increase stress and, in all likelihood, raise the risk of poor decision-making.

The proposed changes are fundamentally immigration enforcement-led rather than welfare-led. This contradicts established principles of child welfare practice, which require that decisions affecting children be made based on the child's best interests and individual needs, not immigration status or perceived parental non-compliance. The Scottish Government's statutory guidance on the United Nations Convention on the Rights of the Child (UNCRC) Incorporation (Scotland) Act 2024 makes clear that children's rights must be considered in all decisions affecting them, including those relating to immigration and support.[31] Similarly, Scotland's 'Getting it right for every child' (GIRFEC) framework places the wellbeing of the child at the centre of all decisions, requiring a holistic, child-centred approach that cannot be reduced to a checklist of immigration criteria.[32] The proposal to limit local authorities from considering whether a child would be in need in the country of return, or whether medical treatment is available there, directly contradicts these principles. A child's need for safety, healthcare, and stability does not disappear simply because their parent has been refused asylum or because the Home Office has determined that there is no "genuine obstacle" to departure.

---

[29] COSLA (Convention of Scottish Local Authorities). (2026). Scottish Budget Delivers Cut to Social Care, Warns COSLA Available at: https://www.cosla.gov.uk/news/2026/january/scottish-budget-delivers-cut-to-social-care,-warns-cosla2

[30] COSLA. (2026). What does the 2026/27 Budget mean for Councils?. Available at: https://www.cosla.gov.uk/__data/assets/pdf_file/0028/69580/FINAL-2026-27-What-does-the-Budget-mean-for-Councils.pdf

[31] United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (asp 1). Available at: https://www.legislation.gov.uk/asp/2024/1/contents

[32] Scottish Government (2025). Getting it right for every child (GIRFEC). Available at: https://www.gov.scot/policies/girfec/

By instructing local authorities to disregard these factors, the consultation is effectively requiring social workers to ignore their professional judgment and statutory duties in favour of Home Office immigration objectives.

Using welfare services as a tool of immigration enforcement will fracture the already fragile trust between migrant families and social care. Research published in the National Library of Medicine, with participants living across Europe, demonstrates that migrant communities already face significant barriers to accessing mental health and social care services due to fear of immigration enforcement, lack of trust in institutions, and concerns that seeking help will lead to detention or deportation.[33] The UK's ever-increasing package of policies known as the hostile environment has eroded trust in public institutions among migrant communities. This distrust is exacerbated when those institutions are perceived as having enforcement functions rather than welfare functions, with hospitals proving to be a site of great stress for people seeking asylum.[34]

The Use of Physical Force

Relevant Questions: 8 (p2), 9 (p2), 10 (p2), 11 (p2), 12 (p2), 13 (p2), 14 (p2), 15 (p2), 16 (p2), 17 (p2), 18 (p2) and 19 (p2)

The consultation proposes changing the Use of Force policy to permit Immigration Officers and Detainee Custody Officers to, "as a last resort, use necessary, reasonable and proportionate physical interventions to overcome an accompanied child's (i.e. a person under the age of 18 within a family group) non-compliance to effect a removal, either as a result of their own actions or those of an accompanying adult" (p.29). The proposed continuum of interventions includes handholding, gentle guidance, assisted movement (lifting or carrying), and ultimately handcuffs, which is "subject to continuous review." (p.29). The consultation explicitly states that "pain-inducing techniques, pressure-point techniques and techniques that might compromise breathing or circulation (including positions that elevate asphyxia risk) would be prohibited" (p.29). The Government argues that these changes are necessary because "it is unfair that families... can frustrate a legitimate

[33] National Library of Medicine. (2025). Inequality, Trust and Fear: Migrant Healthcare During the COVID-19 Pandemic and Beyond. Available at: https://pmc.ncbi.nlm.nih.gov/articles/PMC12317667/
[34] Equality and Human Rights Commission. (2018). The lived experiences of access to healthcare for people seeking and refused asylum (Research Report No. 122). Equality and Human Rights Commission. Available at: https://www.equalityhumanrights.com/sites/default/files/research-report-122-people-seeking-asylum-access-to-healthcare-lived-experiences.pdf

enforced return" and that "the physical handling of a child as a last resort to overcome non-compliance is an unfortunate but necessary and justified intervention" (p.28). This proposal represents a shift in the legal and ethical framework governing the state's treatment of children. It would authorise the use of physical force against children not to prevent harm to the child or others, but to compel compliance with an immigration decision. This is a profound departure from established principles of child welfare and children's rights, including the UNCRC and GIRFEC legal frameworks introduced earlier. The best interests of the child cannot be a primary consideration if the state is permitted to handcuff a child to put them on a deportation flight. The proposal must be rejected in full.

The evidence on the impact of physical restraint on children is clear and alarming. A review published by the Centre for Mental Health found that physical restraint of children is associated with significant psychological harm, including increased symptoms of post-traumatic stress disorder (PTSD), anxiety, and depression and that alternative approaches are less likely to cause or exacerbate childhood trauma or distress.[35] The children who would be subject to these interventions are not ordinary children; they are children who have often fled war, persecution, violence, and trauma. Many will already be suffering from PTSD, anxiety, depression, and other trauma-related conditions. The use of physical force by uniformed strangers in a high-stress enforcement context will re-traumatise these children, with potentially lifelong consequences for their mental health.

The likely consequences of restraint by unfamiliar adults in high-stress situations are well documented. The Catalyst Group, a family of organisations offering clinical, therapeutic and community-based support for autistic people, people with a learning disability and/or mental health needs, notes that physical restraint can be a trigger for PTSD, particularly when the individual being restrained has previously experienced violence, abuse, or persecution.[36] Research published in the National Library of Medicine confirms that individuals with a history of trauma are at significantly higher risk of re-traumatisation during physical interventions, and that the use of restraint can

---

[35] *Centre for Mental Health. (2020). School seclusion, restraint and exclusion can increase trauma in children with mental health difficulties, says Centre for Mental Health evidence review. Available at: https://www.centreformentalhealth.org.uk/news/item/school-seclusion-restraint-and-exclusion-can-increase-trauma-children-mental-health-difficulties-says-centre-mental-health-evidence-review/*

[36] Catalyst Care Group. Physical Restraints and Post-Traumatic Stress Disorder (PTSD). Catalyst Group Blog. Available at: https://catalystgrp.co.uk/blog/physical-restraints-and-post-traumatic-stress-disorder-ptsd/

exacerbate existing mental health conditions and create new trauma symptoms.[37] A child who has fled persecution, who may have witnessed violence or experienced abuse, who is already separated from their home and community, and who is now being physically handled by uniformed strangers in an unfamiliar environment, is at extreme risk of severe psychological harm. The consultation's proposed safeguards are unlikely to mitigate this risk. A child in a state of distress and fear cannot process verbal explanations from an officer who may not speak their language. A 'dynamic risk assessment' conducted in a chaotic enforcement context cannot adequately assess the child's trauma history or mental state. The consultation states that officers are encouraged to use translators where needed. However, the Home Office's history of engaging with language specialists is poor; with the UN's March 2026 audit poking holes in their supposedly effective use of these professionals.[38]

These proposals must also be considered against the backdrop of Home Office officials' existing failures to follow current use-of-force policy and safeguarding requirements. A Guardian investigation in 2019 found that nearly all Home Office misconduct inquiries related to immigration, with 96.4% of allegations investigated by the Home Office's professional standards unit relating to borders, immigration and citizenship.[39] The shadow home secretary at the time, Diane Abbott, stated that the figures showed the Home Office's immigration and nationality department was "not fit for purpose."[40] A major report published by the Humans for Rights Network in December 2025 documented "endemic violence against asylum seekers by French police at the UK-France border," including the use of tear gas, rubber bullets, and physical assaults, sometimes involving children.[41] The report concluded that "the random use of violence to intimidate and destabilise people is clear"

---

[37] Chieze, M. et al. (2019). Effects of seclusion and restraint in adult psychiatry: a systematic review. Frontiers in Psychiatry, 10, p.491. doi:10.3389/fpsyt.2019.00491

[38] UNHCR (2026). Asylum interviews in the UK: audit findings and recommendations. UNHCR UK. Available at: https://www.unhcr.org/uk/publications/asylum-interviews-uk-audit-findings-and-recommendations

[39] The Guardian. (2019). Nearly all Home Office misconduct inquiries relate to immigration. Available at: https://www.theguardian.com/politics/2019/oct/04/nearly-all-home-office-misconduct-inquiries-relate-to-immigration

[40] The Guardian. (2019). Nearly all Home Office misconduct inquiries relate to immigration. Available at: https://www.theguardian.com/politics/2019/oct/04/nearly-all-home-office-misconduct-inquiries-relate-to-immigration

[41] Humans for Rights Network (2025). 'You can't stay but you can't go': state violence at the UK-France border. Available at: https://static1.squarespace.com/static/5a69d94949fc2bad10754433/t/692f1b0f7ef338123aa38752/1764694799800/HfRN+-+Final+Report.pdf

and that it "goes unchallenged by the authorities of either government despite their extensive knowledge ... this represents a tacit approval of these human rights abuses."[42] While this report concerns French police, it is directly relevant to the consultation's proposals because it demonstrates the predictable consequences of authorising the use of force against people seeking asylum, including children, in border enforcement contexts. The UK government's recent agreement with France, and the subsequent £662 million investment clearly show that these actions by the French police are not a major concern.[43] Should the UK authorise its own officers to use physical force against children for immigration purposes, it will follow the same path.

The Absence of Impact Assessments

Relevant Questions: 26 (p1), 27 (p1), 20 (p2) and 21 (p2)

The consultation was launched without the publication of an Equality Impact Assessment (EIA) or a Children's Rights Impact Assessment (CRIA). This is a deeply concerning procedural failure that undermines the entire consultation process. It is impossible to meaningfully scrutinise proposals that would fundamentally alter the support framework for destitute families, authorise the physical restraint of children, and shift high costs onto local authorities, without the data and analysis that these impact assessments should provide. The absence of these documents prevents respondents from understanding the likely effects of the proposals on groups with protected characteristics, including women, children, and people with disabilities and health conditions. It also prevents an assessment of whether the proposals comply with Scotland's duties under the UNCRC and the Equality Act 2010.

---

[42]Humans for Rights Network (2025). 'You can't stay but you can't go': state violence at the UK-France border. Available at: https://static1.squarespace.com/static/5a69d94949fc2bad10754433/t/692f1b0f7ef338123aa38752/1764694799800/HfRN+-+Final+Report.pdf

[43] BBC News (2026). UK and France strike new £662m small boats deal. 22 April 2026. Available at: https://www.bbc.co.uk/news/articles/cz0ev7enk2lo

Reference List

1. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
2. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
3. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
4. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
5. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
6. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
7. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
8. Border & Immigration Agency. (2007). Family Asylum Policy: The Section 9 Implementation Project. Available at: https://www.scribd.com/document/1422291/UK-Home-Office-section9implementationproj
9. House of Commons Public Bill Committee. (2015). Immigration Bill Debate, 10 November 2015, column 456. Available at: https://hansard.parliament.uk/Commons/2015-11-10/debates/ec68949e-09b3-4a35-8c1a-457aae9e3fbd/ImmigrationBill
10. NACCOM. (2025). Our response to the Government's proposed use of 'return hubs'. 14 May 2025. Available at: https://naccom.org.uk/our-response-the-governments-proposed-use-of-returns-hubs/

11. Patanè, M. et al. (2022). 'Prevalence of mental disorders in refugees and asylum seekers: A systematic review and meta-analysis', Global Mental Health, 9, pp. 250–263. doi:10.1017/gmh.2022.29.
12. NACCOM. (2023). Refused? Experiences following a negative asylum decision. NACCOM: The No Accommodation Network. Available at: https://naccom.org.uk/wp-content/uploads/2023/07/EMBARGOED-17.7.23-NACCOM-Refused-Experiences-following-a-negative-asylum-decision-FINAL.pdf
13. European Court of Human Rights (2010) Rantsev v. Cyprus and Russia, Application no. 25965/04. Available at: https://www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/_irb/2010/rantsev_v._cyprus_and_russia.html
14. Institute for Public Policy Research (IPPR). (2023). The 10-year route to settlement: A pathway to precarity. Available at: https://ippr-org.files.svdcdn.com/production/Downloads/10-year-route-march23.pdf?dm=1702046353
15. House of Lords (2005) Regina v. Secretary of State for the Home Department (Appellant) ex parte Adam (FC) (Respondent); Regina v. Secretary of State for the Home Department (Appellant) ex parte Limbuela (FC) (Respondent); Regina v. Secretary of State for the Home Department (Appellant) ex parte Tesema (FC) (Respondent) (Conjoined Appeals) [2005] UKHL 66. Available at: https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd051103/adam-1.htm
16. Wilding, J. (2025). No Access to Justice 2: Mapping the UK's continuing immigration and asylum legal advice crisis. Justice Together. Available at: https://justice-together.org.uk/wp-content/uploads/2025/06/No-Access-to-Justice-Report-2025.pdf
17. Asylum Support Appeals Project (ASAP). (2025). Section 4 and Human Rights. Available at: https://www.asaproject.org/resources/library/section-4-and-human-rights
18. R (Secretary of State for the Home Department) v First-tier Tribunal (Social Entitlement Chamber) [2021] EWHC 1690 (Admin) (21 June 2021), paragraph 137. Available at: https://www.bailii.org/ew/cases/EWHC/Admin/2021/1690.html
19. National Audit Office (2025). An analysis of the asylum system. (HC 1517, 2024-26). Available at: https://www.nao.org.uk/reports/an-analysis-of-the-asylum-system/
20. Home Office. (2025). Evaluation of AI trials in the asylum decision-making process. Available at: https://www.gov.uk/government/publications/evaluation-of-ai-trials-in-the-

asylum-decision-making-process/evaluation-of-ai-trials-in-the-asylum-decision-making-process

21. Freedom from Torture. (2019). Lessons Not Learned: The failures of Home Office decision-making in asylum claims involving torture. Available at: https://www.freedomfromtorture.org/sites/default/files/2019-09/FFT_LessonsNotLearned_Report_A4_FINAL_LOWRES_1.pdf
22. The Guardian. (2024). Home Office says only half of UK asylum decisions meet its quality standards. Available at: https://www.theguardian.com/uk-news/2024/dec/08/home-office-says-only-half-of-uk-asylum-decisions-meet-its-quality-standards
23. Scottish Parliament. (2025). [Grampian Regional Equality Council (GREC) and No Recourse North East (NRNE) Partnership] submission to the Legal Aid Inquiry. Session 6. Available at: https://yourviews.parliament.scot/session-6/legal-aid-inquiry/consultation/view_respondent?uuId=963247153
24. NRPF Network (2021) When and how to undertake a human rights assessment. Available at: https://guidance.nrpfnetwork.org.uk/reader/human-rights-assessment/when-and-how-to-undertake-a-human-rights-assessment-all-content/#421-medical-health-needs
25. COMPAS, University of Oxford. (2025). Understanding Migrant Destitution in Scotland. Available at: https://www.compas.ox.ac.uk/wp-content/uploads/2025-Understanding-Migrant-Destitution-in-Scotland.pdf
26. No Recourse North East. (2026). Half a Decade of Data: NRPF Connect in Scotland. Available at: https://nrnepartnership.org/2026/02/25/nrpf-connect-half-a-decade-of-scottish-data/
27. No Recourse North East. (2026). Half a Decade of Data: NRPF Connect in Scotland. Available at: https://nrnepartnership.org/2026/02/25/nrpf-connect-half-a-decade-of-scottish-data/
28. COSLA (Convention of Scottish Local Authorities). (2026). COSLA Survey of Local Authority NRPF Support. Available at: https://migrationscotland.org.uk/policyarea/policy-context/cosla-survey-of-local-authority-nrpf-support/
29. COSLA (Convention of Scottish Local Authorities). (2026). Scottish Budget Delivers Cut to Social Care, Warns COSLA Available at: https://www.cosla.gov.uk/news/2026/january/scottish-budget-delivers-cut-to-social-care,-warns-cosla2

30. COSLA. (2026). What does the 2026/27 Budget mean for Councils? Available at: https://www.cosla.gov.uk/__data/assets/pdf_file/0028/69580/FINAL-2026-27-What-does-the-Budget-mean-for-Councils.pdf
31. United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (asp 1). Available at: https://www.legislation.gov.uk/asp/2024/1/contents
32. Scottish Government (2025). Getting it right for every child (GIRFEC). Available at: https://www.gov.scot/policies/girfec/
33. National Library of Medicine. (2025). Inequality, Trust and Fear: Migrant Healthcare During the COVID-19 Pandemic and Beyond. Available at: https://pmc.ncbi.nlm.nih.gov/articles/PMC12317667/
34. Equality and Human Rights Commission. (2018). The lived experiences of access to healthcare for people seeking and refused asylum (Research Report No. 122). Equality and Human Rights Commission. Available at: https://www.equalityhumanrights.com/sites/default/files/research-report-122-people-seeking-asylum-access-to-healthcare-lived-experiences.pdf
35. Centre for Mental Health. (2020). School seclusion, restraint and exclusion can increase trauma in children with mental health difficulties, says Centre for Mental Health evidence review. Available at: https://www.centreformentalhealth.org.uk/news/item/school-seclusion-restraint-and-exclusion-can-increase-trauma-children-mental-health-difficulties-says-centre-mental-health-evidence-review/
36. Catalyst Care Group. Physical Restraints and Post-Traumatic Stress Disorder (PTSD). Catalyst Group Blog. Available at: https://catalystgrp.co.uk/blog/physical-restraints-and-post-traumatic-stress-disorder-ptsd/
37. Chieze, M. et al. (2019). Effects of seclusion and restraint in adult psychiatry: a systematic review. Frontiers in Psychiatry, 10, p.491. doi:10.3389/fpsyt.2019.00491
38. UNHCR (2026). Asylum interviews in the UK: audit findings and recommendations. UNHCR UK. Available at: https://www.unhcr.org/uk/publications/asylum-interviews-uk-audit-findings-and-recommendations
39. The Guardian. (2019). Nearly all Home Office misconduct inquiries relate to immigration. Available at: https://www.theguardian.com/politics/2019/oct/04/nearly-all-home-office-misconduct-inquiries-relate-to-immigration

40. The Guardian. (2019). Nearly all Home Office misconduct inquiries relate to immigration. Available at: https://www.theguardian.com/politics/2019/oct/04/nearly-all-home-office-misconduct-inquiries-relate-to-immigration
41. Humans for Rights Network (2025). 'You can't stay but you can't go': state violence at the UK-France border. Available at: https://static1.squarespace.com/static/5a69d94949fc2bad10754433/t/692f1b0f7ef338123aa38752/1764694799800/HfRN+-+Final+Report.pdf
42. Humans for Rights Network (2025). 'You can't stay but you can't go': state violence at the UK-France border. Available at: https://static1.squarespace.com/static/5a69d94949fc2bad10754433/t/692f1b0f7ef338123aa38752/1764694799800/HfRN+-+Final+Report.pdf
43. BBC News (2026). UK and France strike new £662m small boats deal. 22 April 2026. Available at: https://www.bbc.co.uk/news/articles/cz0ev7enk2lo