

Law Centre submission to the Advisory Committee to the Framework Convention for the Protection of National Minorities

The Law Centre was grateful for the opportunity to address the Advisory Committee to the Framework Convention for the Protection of National Minorities (FCNM) on 4 April 2022 in Belfast. This written submission expands on and supplements our contribution to that meeting.

About Law Centre NI

1. Law Centre NI (LCNI) works to promote social justice in Northern Ireland, using the law as a tool for social change. We provide specialist legal services to advice organisations and disadvantaged individuals in Northern Ireland. We provide legal advice, casework, training and policy services in the areas of immigration, employment and social security law. We have a particular focus on strategic litigation that brings about broader social change.
2. Our Migration Justice Project adopts a blend of legal, policy and community engagement tools to ensure that migrants secure durable immigration solutions and to address barriers and challenges associated with precarious immigration status. LCNI seeks to influence immigration policy at a regional and UK level and our advocacy is directly informed by our legal experience. We are members of the NI Strategic Migration Partnership, the Department of Justice's NGO Engagement Group on Human Trafficking, the Anti Trafficking Monitoring Group and the Refugee & Asylum Forum. We also work with sister organisations in the Republic of Ireland to convene the North-South Immigration Forum.
3. In this short submission, we wish to draw the Advisory Committee's attention to particular issues affecting migrant communities in NI that are applicable to the rights enshrined in the Framework Convention. We invite the Committee to adopt a number of recommendations.

Asylum seekers

a) Use of contingency accommodation

4. There has been a significant increase in the number of asylum seekers arriving in Northern Ireland since January 2021.¹ The increase is evident in these Home Office statistics:²

¹ This increase may potentially be attributed to the fact that the UK is no longer part of the Common European Asylum System and thus the Dublin Regulation framework no longer applies.

² Home Office, '[Immigration Statistics](#) year ending December 2021: asylum and resettlement' 24 February 2022.

Date	Number of asylum seekers in receipt of asylum support in Northern Ireland
31 Dec 2018	904
31 Dec 2019	960
31 Dec 2020	940
31 Dec 2021	1437

5. Prior to summer 2021, asylum seekers in Northern Ireland were primarily accommodated in 'Dispersal Accommodation' in apartments and houses throughout the city of Belfast. Asylum seekers were part of local communities, their children attended local schools, etc. However, in June 2021, the Home Office introduced a model of 'contingency accommodation'.³ This model is now the norm for newly arrived asylum seekers who live in 14 hotels, 10 of which are located in Belfast and four outside of the city.⁴
6. The asylum hotels provide full board accommodation. Three meals a day are provided at set times and all food is to be consumed in the dining area. Residents do not have access to kitchens and so cannot cook their own food. Each resident receives an initial allowance of £8.24 per week although there are often delays in residents receiving this money. There are also delays in residents being transferred to the higher asylum support rate (known as s.95 NASS support, which is £40.85 per week).
7. As of March 2022, we understand that there were almost 1,200 asylum seekers living in contingency accommodation. This includes 130 school-age children. Asylum seekers spend an average of 3 months in contingency accommodation, however single adults tend to experience much lengthier stays. Some families also experience lengthy stays. For example, at a public event in April 2022, an asylum seeker reported that his wife and young children have spent 7 months in the hotel. He explained that this children are being treated for vitamin deficiency, which he attributes to the hotel food.⁵
8. Asylum seeker children who live in the hotels are not enrolled in schools for mainstream education. Only after they are moved into Dispersal Accommodation, and have a permanent address and postcode, do children commence education on a full-time basis. While the children are in the hotels, they can participate in part-time educational 'welcome club' programmes. These are offered by the EANI Intercultural Welfare service and we understand that there is a waiting list. Some civil society organisations provide educational, cultural and social activities in the hotels.
9. Families with children are accommodated in two hotels in Belfast city centre and are prioritised for Dispersal Accommodation. Larger families are split up into a number of rooms. Other than the dining area, there is limited provision within the hotels for residents to gather and socialise: the large function rooms have been turned into additional dormitory accommodation as have some of the former office spaces. The

³ Information obtained [by PPR through a Freedom of Information request](#) shows that just 14 asylum seekers were accommodated in hotels in June 2021.

⁴ Information correct as of April 2022.

⁵ Event organised by Practice and Participation of Rights (PPR), which took place in Belfast on 26 April 2022.

family hotels are located in Belfast City Centre. There is no outdoor space for the children to play and no public park or play area in the vicinities and so children play in the hotel corridors.

10. Four hotels are located outside of Belfast. The adult residents in those hotels report particular frustrations in not being able to access refugee support services that tend to be located in Belfast (the residents' weekly allowance is £8.24; a return train ticket from the farthest hotel to the city centre is £9.30).⁶
11. Entry in and out of the hotels is monitored and residents are asked to sign in and out. This is purportedly a Covid-19 measure. Residents are not permitted guests.
12. The Law Centre is very concerned about access to health services in the asylum hotels. The process is that initial health appointments are offered to all newly arrived asylum seekers by the NI New Entrants Service, however, we understand that that there are very significant delays. The Law Centre is particularly concerned that post-partum mothers are returned to the hotels after giving birth.
13. The Home Office has informed NI asylum stakeholders that the contingency accommodation is a temporary arrangement and that a process is underway to procure additional Dispersal Accommodation in Belfast and surrounding towns. However, the Law Centre is concerned that the use of hotels for accommodation would appear to align with the UK government's policy of moving towards a model of 'reception centres'. A public consultation issued in 2021 proposed:

To help speed up processing of claims and the removal of people who do not have a legitimate need to claim asylum in the UK, we plan to introduce new asylum reception centres to provide basic accommodation and process claims.⁷

The UK government's response to the consultation made no further reference to reception centres and so it is unclear whether the government intends to pursue this institutional accommodation model.⁸

14. The Home Office's own evidence on refugee integration highlights the importance of contact between the refugee and host communities.⁹ Policies of exclusion permit misinformation, fear and hate to take hold. A policy whereby asylum seekers are housed separately from everyone else in society will clearly run counter to the Northern Ireland Executive Office's Racial Equality Strategy commitment to inclusion and the T:BUC commitment to shared spaces and embracing diversity.¹⁰

⁶ Adult return ticket Bangor – Belfast is £9.30

⁷ HM Government, '[New Plan for Immigration: policy statement](#)' March 2021, page 19.

⁸ HM Government, '[New Plan for Immigration: Government response](#)' July 2021.

⁹ Home Office, '[Integrating refugees: What works? What can work? What does not work? A summary of the evidence](#)' (June 2019, second edition)

¹⁰ Office of First Minister and Deputy First Minister, '[Together: Building a United Community Strategy](#)' (2013) paras 4.6 – 4.15.

FCNM Articles	Particular concerns
Article 6 requires Parties to encourage a spirit of tolerance and intercultural dialogue and to take effective measures to promote mutual respect and understanding.	The asylum hotel model effectively segregates asylum seekers from local communities and minimises opportunities for dialogue.
Article 7 enshrines the right to freedom of peaceful assembly, freedom of association, freedom of expression and freedom of thought, conscience and religion.	The restrictions on movement in the asylum hotels mean that residents cannot assemble freely. There is limited provision for religious worship.
Article 12 requires Parties to promote equal opportunities for access to education.	School age children resident in the asylum hotels are not enrolled in mainstream education.

- The Law Centre invites the Advisory Committee to recommend that the use of hotel accommodation ceases; that UK abandons plans to introduce reception / institutional centres for some categories of asylum seekers; and that **all** asylum seekers are instead accommodated in local communities.

b) Right to work for asylum seekers

- In general, asylum seekers are not permitted to work while they wait for their asylum claim to be determined. Working without permission is a criminal offence.¹¹ If their asylum application is still pending after 12 months, they are eligible to apply for permission to work, however, this is restricted to professions outlined in the Shortage Occupation List. Although in theory, asylum seekers can work, in practice we have only twice come across asylum seekers in paid employment.
- Preventing asylum seekers from work has many negative effects including destitution, which is prevalent across the asylum process. Destitution can affect physical health and mental health (with anxiety, depression and post traumatic stress being the most commonly cited conditions¹²) and places an unbearable stress on relationships between family and friends as 'good will' support cannot always be sustained. Destitution can make asylum seekers particularly vulnerable to exploitation¹³ and can negatively impact on community cohesion and social exclusion.¹⁴ Destitution also puts pressure on local emergency services, as well as on the voluntary and community sector. Destitution has a particularly grave impact on children in NI. Families in NI struggle to buy healthy food, nappies, medication,

¹¹ Immigration Act 1971, Immigration Act 2016.

¹² Blackmore R, Boyle JA, Fazel M, Ranasinha S, Gray KM, Fitzgerald G, et al. (2020) The prevalence of mental illness in refugees and asylum seekers: A systematic review and meta-analysis.

¹³ Hannah Lewis et al, 'Precarious Lives: Forced Labour, Exploitation and Asylum' (Bristol University Press: 2014).

¹⁴ Suzanne Fitzpatrick et al. 'Destitution in the UK' (Joseph Rowntree Foundation, 2018).

clothing, books, etc.¹⁵ It is particularly difficult for families to meet the costs associated with caring for children with disabilities or health conditions. Destitution impacts significantly on children’s education, their ability to integrate and dampens their aspirations in life.

17. The policy also results in asylum seekers’ skills and confidence being eroded. Long periods of economic inactivity make it extremely difficult for persons to secure work once they have obtained refugee status. In recent weeks, the government’s policy on prohibiting asylum seekers from working has come under scrutiny as the Nationality & Borders Bill is passing through parliament. Nonetheless, the UK government has hitherto resisted calls for change.
18. The Lift the Ban campaign makes the rational, moral and financial case for asylum seekers to have the right to work. In addition, it estimates that the UK economy could gain £211.3m per year if the ban was lifted.¹⁶

FCNM Articles	Particular concerns
<p>Article 15 requires Parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.</p>	<p>UK law excludes asylum seekers from participating in economic life.</p>

- The Law Centre invites the Advisory Committee to recommend that the UK lifts the current restrictions on asylum seekers and employment.

Refugee Integration Strategy

19. The Racial Equality Strategy 2015 – 2025 committed to developing a Refugee Integration Strategy. Progress has been slow. In November 2021, the TEO issued a draft NI strategy for public consultation. The draft Strategy is ambitious in scope; with prompt and full implementation it has the potential to effect positive change within and beyond refugee communities. The draft Strategy commits to develop a framework to ensure the lived experiences of refugees is taken into account by supporting structures to facilitate direct engagement. This is welcome although LCNI seeks a commitment to ensure that such structures are appropriately *resourced*.
20. However, the LCNI considers that the proposed arrangements for monitoring and evaluation are weak. In particular, the draft Strategy proposes that the Strategic Planning Group (SPG) will monitor the overall progress of the Strategy’s

¹⁵ See: Law Centre NI response to ‘Home Office consultation on asylum support rates’ (2018) and NICRAS, ‘The effect of destitution on refugees on NI’ (NICRAS, 2016). The NICRAS study is five years old; regrettably there has been very little progress and the issues highlighted by the report still stand.

¹⁶ [Lift The Ban - Common Sense \(refugee-action.org.uk\)](https://refugee-action.org.uk)

implementation. There is no commitment to ensuring that membership of the SPG is extended to persons with lived experience. The human rights principle of ‘effective participation’ requires that persons affected by policies have an opportunity to be involved in the policy process. There should be scope for participation *throughout* the life cycle of the policy; participation should be an iterative process and not limited to a one-off exercise limited to the initial public consultation. The participation of persons with lived experience of the asylum process is critically important.

FCNM Articles	Particular concerns
<p>Article 15 requires Parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.</p>	<p>The proposed Refugee Integration Strategy does not guarantee the effective participation of asylum seekers and refugees within the monitoring process.</p> <p>Article 15 places a positive obligation on Parties to <i>create the conditions</i> necessary for the effective participation. Appropriate resourcing is necessary.</p>

- The Law Centre invites the Advisory Committee to recommend:
 - That the remit of the Strategic Planning Group overseeing the implementation of the Refugee Integration Strategy includes representation from the refugee sector;
 - That direct engagement with asylum seekers and refugees is appropriately resourced.

Travel on the island of Ireland

21. There is no visible border between Northern Ireland and the Republic of Ireland and British and Irish citizens are able to cross the land border freely.¹⁷ Indeed, the The Common Travel Area (CTA)– comprising the United Kingdom, the Crown Dependencies and Ireland – is sometimes referred to as a ‘free movement zone’. This is description is misleading as not everyone can travel freely: visa nationals are not permitted to travel within the CTA.¹⁸ Travelling without permission is an offence and can lead to immigration detention and removal.¹⁹ Clearly, this comes at a high human cost. The maximum penalty for entering the UK without leave is extended in the Nationality & Borders Bill.²⁰

¹⁷ [Section 11\(4\)](#) of the Immigration Act 1971 means that journeys within the [Common Travel Area](#) — both over the land border, and across the Irish Sea from Ireland to Great Britain — are “local” journeys only

¹⁸ [Article 3\(1\)\(b\)](#) of the Immigration (Control of Entry through Republic of Ireland) Order 1972 and [paragraph 15](#) of the UK Immigration Rules confirm that certain people who enter the UK through the Republic of Ireland “do require leave [permission] to enter”, including “persons requiring visas”.

¹⁹ S.24 Immigration Act 1971

²⁰ Clause 39, Nationality & Borders Bill

22. There are no routine borders controls on the land border. Immigration checks occur on an *ad hoc* basis on journeys between NI and GB and between NI and the Republic of Ireland. This has led to racial profiling and discrimination, which affects citizens and migrants alike; in one incident, a Black British citizen was stopped four times on a CTA journey – each time he was the only person subject to an immigration check.²¹ Regrettably, the following recommendation made by the NI Human Rights Commission in 2009 still stands more than a decade on:

*The practice of singling out particular nationalities and people visibly from a minority ethnic background should be ceased immediately.*²²

23. The Law Centre has consistently highlighted that restrictions are felt acutely by refugees.²³ Almost 2,000 Syrian refugees were admitted into NI through the Vulnerable Persons Resettlement Scheme 2015-2020. Families were resettled in towns throughout Northern Ireland including in border areas. Refugees wish to visit the Republic of Ireland for a number of reasons e.g. to meet family (the nature of refugee displacement means that families are separated); to participate in cultural or religious events; for school children to participate in sporting events or other activities. However, crossing the border requires the refugee to apply for both a travel document and an Irish visit visa. In 2008 the UNHCR recommended that mutual visas are expedited for refugees so that they can visit both jurisdictions more easily.²⁴ Unfortunately there has been no progress on this.

24. There are some provisions in place that facilitate movement across the island of Ireland for visa nationals. The [Short Stay Visa Waiver Programme](#) allows nationals of a number of Eastern European, Middle East and Asian countries who have a short-term UK visa to visit the Republic of Ireland with the need for a separate Irish visa. There is also a [British Irish Visa Scheme](#), which is a reciprocal visa arrangement for visitors from China and India using either an Irish or UK visa. These schemes are not accessible for refugees. Further, travel on the island is set to be restricted with the introduction of the Electronic Travel Authorisations (ETA), which will impact non-visa nationals including EU nationals.²⁵

²¹ Lisa O'Carroll, 'Black lawyer accuses Northern Ireland immigration of racial profiling' The Guardian, 11 June 2018.

²² N. Latif and A Martynowicz, 'Our Hidden Borders: the UK Border Agency powers of detention (NIHRC, 2009), see page 81.

²³ See: Law Centre NI, '[British/Irish Parliamentary Assembly Inquiry](#)' response (2015).

²⁴ UKHCR response to Home Office Strengthening the Common Travel Area (October 2008).

Accessible here:

http://www.unhcr.org.uk/fileadmin/user_upload/images/news_images/January_news/Final_Draft_UNHCR_CTA_Comments.pdf

²⁵ See: CAJ, '[Briefing note: Nationality & Border Bill – Electronic Travel Authorisation](#)' December 2021.

FCNM	Particular concerns
<p>Article 17 requires Parties no to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.</p>	<p>Restrictions on travel for visa nationals prevents migrants from enjoying contact with persons in the Republic of Ireland ('across frontiers') with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.</p>

- The Law Centre invites the Advisory Committee to recommend:
 - That the Home Office collects and publishes equality data on the impact of ad hoc immigration checks and immigration enforcement activity that takes place on the Irish land border on protected equality characteristics;
 - That the UK Government works with the Irish Government to agree reciprocal/mutual visa recognition to allow refugees to travel for visit purposes throughout the CTA;
 - That the proposed Electronic Travel Authorisation scheme is not progressed.

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