

Written evidence submitted by
ASSIST Sheffield and South Yorkshire Refugee Law and Justice

ASSIST Sheffield and South Yorkshire Refugee Law and Justice (SYRLJ) are charities based in Sheffield. ASSIST gives practical support to refused, destitute asylum seekers, and SYRLJ gives legal help to refused asylum seekers to regularise their status in the UK.

ASSIST and SYRLJ welcome the opportunity to contribute to the Committee's inquiry on the principles for building consensus-based policy. Our expertise is in the area of asylum rather than migration and so we are confining our submission to building consensus on asylum policy, though we expect that some of our points would transfer to immigration.

Executive summary

1. We agree with the Committee that consensus needs to be built. It does not arise naturally.
2. In asylum policy, the founding principles already exist in the 1951 Refugee Convention.
3. Work is needed to communicate those principles.
4. Recent government communication strategy on asylum has been damaging and socially divisive, working against the creation of consensus.
5. This has been particularly the case through the policies of the hostile environment and the two-tier asylum system.
6. Hostility is a fundamentally flawed basis for policy unless social division and polarisation is the aim. If consensus is sought, this must be based on principles around which a wide range of people can find common ground.
7. In the case of asylum policy, these principles are currently found in the core of the 1951 Refugee Convention and the scheme of *universal* human rights on which it is based.

Consensual principles of asylum policy

1. We welcome the government's recognition that consensus needs to be 'built'. It does not arise naturally. Building consensus requires identifying the core principles around which consensus will be built; communicating those principles and acting on them. In the case of asylum policy, the key principle of protection from persecution is already in place through the Refugee Convention, and this can and should be taken as the foundation for asylum policy. Since asylum policy is already based on an implicit consensus by virtue of the UK's participation in the Refugee Convention, it is potentially easier to address than immigration. Nevertheless, the current atmosphere in the UK around asylum-seeking is not one of consensus. The principles do not need to be devised or sought out, but they do need to be communicated.

Communication as a tool to build consensus

2. In the area of communication we suggest that the government could make changes that would have a significant impact on building consensus around asylum policy. The government has led public opinion on asylum and can continue to do so.

3. Asylum policy should be based on protection from persecution and respect for universal fundamental human rights. These principles are applicable to all people. There can be few individuals or families in the UK who would not want, for themselves, protection of their human rights and protection from persecution. Government needs to stand by and communicate these principles in order to achieve consensus. We suggest that the communication strategy needs to abandon divisive rhetoric, and promote understanding and local practice which demonstrates to the British population that our rights are safeguarded, not jeopardised, by upholding the rights of others.
4. Local populations need support to adapt to change. The government can and should lead in active work to promote integration and understanding. Resources should be allocated to support that change. This would be a more positive and beneficial use of public resources than, for instance, diverting health care administration into enforcement measures as is entailed in implementing the recent regulations on health charging.

Effect of the hostile environment policy in relation to building consensus

5. Two asylum policies have been particularly divisive. The hostile environment policy, adopted in 2013 by the present Prime Minister when Home Secretary, was purportedly aimed at those with no leave to remain in the UK¹. The second policy, the two-tier asylum system was advocated by the Prime Minister in early 2017. This policy is supported by passive rather than active policy measures. However, the rhetoric, supported by the climate of the hostile environment, legitimises poorer treatment of refugees who apply for asylum in the UK as compared with those who are selected for resettlement.²
6. The hostile environment consists firstly of a language of hostility, and secondly of a series of measures designed to exclude its targets from UK society. These include a prohibition on employment and self-employment, on driving, on holding a driving licence, on opening a UK bank account, renting property, obtaining secondary or community-based health care, on access to social security benefits and to public housing and restrictions on the right to marry.³ The effect is to create destitution, homelessness, despair, mental illness and alienation from UK society.
7. It appears from immigration statistics that the hostile environment policy has had very little effect in driving people out of the UK, nor in deterring people from coming - its stated purpose.
8. We are keenly aware, through our work with refused destitute asylum seekers, of the distress and hardship caused by this policy, but our critique here focuses instead on the principle of the hostile environment policy in relation to building consensus.

¹ <http://www.telegraph.co.uk/news/uknews/immigration/9291483/Theresa-May-interview-Were-going-to-give-illegal-migrants-a-really-hostile-reception.html>;
<http://www.telegraph.co.uk/news/uknews/immigration/9291483/Theresa-May-interview-Were-going-to-give-illegal-migrants-a-really-hostile-reception.html>;

² <http://www.bbc.co.uk/news/uk-politics-39700596>

³ Immigration Acts 2014 and 2016. National Health Service (Charges to Overseas Visitors) Regulations 2015, and National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017

9. The hostile environment policy aims to create an ‘out-group’. This is a flawed choice to create consensus for the reasons set out in the following paragraphs.

Creating an ‘out-group’ does not build consensus in the long term

10. *Some in the population reject the creation of an ‘out-group’, whether on the basis of the dangers revealed by history, or for moral or religious reasons.* In our experience, some British residents feel shame on hearing that there is an explicit policy to create a ‘hostile environment’, and wish to dissociate themselves from it.

11. *The boundaries around an ‘out-group’ tend to spread, creating hostility and suspicion towards those who are at risk of being perceived as part of the ‘out-group’, incorporating others through inevitable system mistakes, and extending disadvantage to members of the intended ‘in-group.’*

The Prime Minister (then Home Secretary)’s express target for the hostile environment was those who have no leave to remain in the UK. However, studies of the euphemistically named *Right to Rent* scheme, one element in the hostile environment, revealed discrimination on multiple fronts. This is a sample of the findings of JCWI’s study:

- 42% of landlords who responded to our survey stated that they were less likely to rent to anyone who does not have a British passport. This rose to almost half (48%) of landlords when they were explicitly asked to consider the new criminal sanction. In addition, eight agents surveyed stated that landlords had expressed an unwillingness to rent to tenants who do not hold a British passport as a direct result of the scheme.
- The ‘white British’ tenant without a passport was 11% more likely to receive a negative response or no response than the ‘white British’ tenant with a passport.
- The discrimination is greater for British BME individuals who cannot show a passport. The BME British tenant without a passport was 26% more likely to receive a negative response or no response than the BME tenant who could provide a British passport.⁴

12. A survey by the Residential Landlords’ Association came to similar conclusions. Their findings included that 44% of landlords were now less likely to consider letting to those without a British passport and 58% of landlords were now less likely to consider letting to those with permission to stay in the UK for a limited time.⁵

13. At the level of public rhetoric, the distinction between those who have leave to remain and those who do not is lost or blurred. It is easily translated as hostility towards anyone who is, or who might be, subject to immigration control.

14. The obligations placed on ordinary working people to administer the hostile environment lead to discrimination in other fields as well as renting accommodation. Volunteers in our organisations have advocated with banks and building societies who are reluctant to open accounts for legitimate residents with leave to remain. On one occasion a High Street bank employee pronounced that they ‘did not recognise’ refugee status!

⁴ *Passport Please*, Joint Council for the Welfare of Immigrants, February 2017

⁵ *Right to Rent Headline Findings: January 2017 Survey*, Residential Landlords Association, June 2017

15. The hostility of the hostile environment spreads from those who are the target, to those who might be thought to be the target, and to those who are asked to administer it. Sanctions for landlords who fail to carry out ‘right to rent’ checks now include prosecution and imprisonment. Inevitably as the sanctions become more severe the willingness of ordinary citizens to engage with any perceived risk is likely to reduce. The Chartered Institute of Housing says that ‘There is no doubt that the introduction of document checks has increased the incentive for landlords to discriminate’.⁶

16. Mistakes and data shortcomings mean that the ‘wrong’ individuals are penalised by hostile environment measures.⁷

16. A recent report of the Independent Chief Inspector of Borders and Immigration found that not providing accommodation for foreign national offenders released from detention, which was attributed to the hostile environment policy, meant that the Home Office was losing track of them.⁸

17. *The maintenance of the boundary of the ‘out-group’ requires hostile activity from the ‘in-group’ which may be or become distasteful to them*

A key example of this is the opposition by health professionals to the requirement to conduct immigration checks before giving treatment. This conflicts with health practitioners’ professional ethics, and compromises the integrity of British workers in their daily lives.⁹

The requirement to undertake immigration control activities has also been objected to by other sections of civil society, for instance the Residential Landlords’ Association opposed the introduction of right to rent checks.¹⁰

Alienation in the ‘in-group’ also may result from the absence of evidence to ‘justify’ hostile measures:

In the absence of even any ‘soft’ indicators of impact on, for example, voluntary returns, the Home Office lays itself open to criticism about the breadth of new legislation and the costs versus benefits. It is also harder for it to answer concerns about the potential damage to communities and to individuals.¹¹

⁶ http://www.cih.org/news-article/display/vpathDCR/templatedata/cih/news-article/data/Tackling_discrimination_in_housing

⁷ Independent Chief Inspector of Borders and Immigration *An inspection of the ‘hostile environment’ measures relating to driving licences and bank accounts January to July 2016*, October 2016

⁸ Independent Chief Inspector of Borders and Immigration *An inspection of the Home Office’s management of non-detained Foreign National Offenders December 2016 – March 2017*, 2 November 2017

⁹ <http://www.independent.co.uk/voices/nhs-immigration-checks-non-urgent-care-day-founding-principle-destroyed-a8015436.html> and <http://www.independent.co.uk/news/uk/home-news/nhs-charging-rules-doctors-nurses-government-id-checks-payments-home-office-hospitals-docs-not-cops-a8014966.html> and https://www.buzzfeed.com/laurasilver/doctors-say-upfront-nhs-charging-puts-them-in-a-really?utm_term=.uaJn3P1oyE#.fmZlxnPpeb and <http://www.telegraph.co.uk/news/uknews/immigration/9291483/Theresa-May-interview-Were-going-to-give-illegal-migrants-a-really-hostile-reception.html>

¹⁰ See discussion in House of Commons briefing paper no. 7025, 1 August 2017, *Right to Rent: private landlords’ duty to carry out immigration status checks*

¹¹ Independent Chief Inspector of Borders and Immigration *An inspection of the ‘hostile environment’ measures relating to driving licences and bank accounts January to July 2016*, October 2016 para 2.24

18. *The members of the out-group are excluded by definition from the creation of the policy and are likely to seek to undermine it.*

People do not readily consent to being treated as an ‘outgroup’. They remain actors in their own lives and will take what measures they can to continue to protect the best option they can secure for themselves. A consensus needs to include the people who are the subject of the policy, as far as possible. Work by Refugee Action¹² showed that when people were treated with respect and understood fully the reasons for the refusal of their asylum claim, they were more willing to accept the outcome. Our observations are that many refused asylum seekers have not had the experience of feeling that their asylum claim has been heard and understood. People endure hardship for many years in order to try to obtain redress and security.

One divisive policy feeds another

19. The two-tier asylum policy stated that the government would welcome those refugees who came on a resettlement programme through for instance UNHCR, but not those who arrived at the UK through their own initiative. It would have been unthinkable only a few years before to say that, although we are signatories to the Refugee Convention, those who come to the UK to claim asylum will not be treated with respect. We do not suggest that all those who seek asylum should rightly be granted it, but access to a proper process for determining whether they qualify or not is fundamental.
20. The announcement of the two-tier policy demonstrates how the climate of hostility, once generated, can be generalised to those who were not its original claimed targets – i.e. hostility is extended to those who seek protection in the UK from persecution. The two-tier policy was criticised by the All Party Parliamentary Group on Refugees for the devastating impact on refugees who were made destitute even after obtaining status in the UK.¹³ In the context of this inquiry, the point is to show that government language, slogans and rhetoric are powerful, and can create a climate in which actions previously unthinkable become thinkable. If the government is now interested to build consensus rather than division, there is an opportunity to create slogans, policies and rhetoric that will gain broad support.
21. We stress that we are not critical of the support given by the resettlement programmes. The issue here is that these positive programmes were used to denigrate refugees who arrived by other routes.
22. We regard it as important to understand why and how divisive policies fail as tools to build consensus, since this partly explains why we see the best option for consensus-based policy as the creation of a positive and uniting rhetoric.

Positive principles for building consensus

23. Our experience is that it is effective to build a culture where all are respected, both host communities and newcomers. We suggest that, in addition to protection from persecution and universal human rights, respect is an important principle for building consensus, and that it is vital that respect for host communities and for newcomers are

¹² *Access to Justice Project: An evaluation of the Access to Justice project and a review of potential next steps for Refugee Action*, June 2013, p. 18 Sue Lukes and Ceri Hutton

¹³ *Refugees Welcome? The Experience of New Refugees in the UK* A report by the All Party Parliamentary Group on Refugees April 2017

both demonstrated and spoken about. In this sense, policies which seek to build respect for refugees should not be separate from those which also build respect for the whole population.

24. We recognise that there are significant challenges in building a consensus around respect, protection and human rights. However, our experience is that many people who initially are suspicious or resentful of people who claim asylum feel more at ease once they are in personal contact with them. We find that respect grows naturally once people are aware of each other's gifts and experiences. We believe that the social cost of not building policy on a positive basis will be great, both in the short and long term, and that we are already seeing this.
25. We are aware that there is currently a discussion as to whether economic immigration policy could be shaped locally. In the case of asylum policy, the international law basis is at the national level, but there may be scope to develop practice at the local level. While specialist services are needed, we suggest that refugee policy has been too separate from other social policies, and that local cohesion, planning and community development strategies should include refugees and asylum seekers. Refugee policy should move away from the linkage with border control, and be integrated with the promotion of safety, human rights and respect for *all* of the population. This is consistent with the purpose of the Refugee Convention protection regime.

6 November 2017