



HOME OFFICE FULL EQUALITY IMPACT ASSESSMENT

Directorate	Policy and Strategy Group
Unit	Immigration Policy
Date	09 September 2010

Name of Policy/Guidance/Operational activity
Permission to work for asylum seekers and failed asylum seekers

What are the aims, objectives & projected outcomes?
<p>The aim of this policy is to introduce new permission to work provisions for asylum seekers and failed asylum seekers who have made asylum-based further submissions, thereby giving effect to the Supreme Court judgment in the case of ZO (Somalia)¹.</p> <p>From 9 September 2010:</p> <ul style="list-style-type: none">• Asylum seekers, whose claims have been outstanding for at least twelve months, where the delay cannot be attributed to the applicant, will only be entitled to apply for permission to work in posts on the list of shortage occupations published by the UK Border Agency.• Failed asylum seekers who have put in further submissions on asylum grounds which have been outstanding for at least twelve months, where the delay cannot be attributed to the applicant, will be entitled to apply for permission to work in posts on the list of shortage occupations published by the UK Border Agency. <p>This policy change will introduce Rules providing for permission to be granted to asylum seekers and failed asylum seekers with outstanding further submissions which raise asylum grounds. It will also place a restriction on the permission to work granted to asylum seekers and failed asylum seekers, such that employment will be restricted to posts on the list of shortage occupations published by the UK Border Agency.</p> <p>This approach is consistent with wider immigration and labour market policies, ensuring that foreign workers are diverted to occupations where a national shortage of skilled labour has been identified and thereby offer the greatest value to the UK. The policy should also help to protect the asylum system by discouraging applications from those without a well-founded fear of persecution</p>

¹ *R (on the application of ZO (Somalia) and others) (Respondents) v Secretary of State for the Home Department (Appellant) [2010] UKSC 36*

who want to come to the UK for economic reasons. Protecting the system from abuse is a key aim of the Government, in line with its commitment to ensuring that those who apply for asylum in the UK have their application considered as quickly as possible.

1 SCOPE OF THE EIA

1.1 Scope of the EIA work

This EIA considers the impact of this policy change on all the main equality strands, and the conclusions of this EIA are reflected in the full Impact Assessment.

The groups able to benefit from this policy are asylum seekers and failed asylum seekers who have put in further submissions which raise asylum grounds.

A number of refugee organisations, legal representatives and practitioners will have an interest in this policy. This change will also impact on other government departments, namely Department for Work and Pensions, HMRC and HM Treasury.

This EIA has been conducted by the Asylum Policy Team, with input from Legal Advisers Branch, Case Resolution Directorate and NAM+ Programme Team.

1.2 Will there be a procurement exercise?

No

2 COLLECTING DATA

2.1 What relevant quantitative and qualitative data do you have?

This may include national research, surveys or reports, or research done by colleagues in similar areas of work. Please list any evidence in the boxes below (complaints, satisfaction surveys, focus groups, questionnaires, meetings, email, research interviews etc) of communities or groups having different needs, experiences or attitudes in relation to this policy/guidance/operational area.

<p>Race</p>	<p>Race or nationality will have no impact on an individual's eligibility for permission to work.</p> <p>Recent Home Office research on the integration of refugees² has indicated that there is variation in employment rates by country of origin amongst refugees, therefore it is reasonable to infer that this will also be the case amongst those benefitting from this policy on permission to work. These differences may be caused by a wide range of social, educational and economic inequalities in different societies around the world. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider inequalities of this nature to be outside the scope of this EIA.</p> <p>Information on the policy change will not be available in different languages on our website. This is in line with our current practice as our website only contains information on permission to work in English.</p> <p>Labour market discrimination in the UK against ethnic minorities may make it harder for applicants from these groups to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>
<p>Disability</p>	<p>Disability will have no impact on an individual's eligibility for permission to work.</p> <p>This policy change will not affect a person's physical ability to submit an application for permission to work.</p> <p>The policy restricts employment to jobs on the list of shortage occupations published by the UK Border Agency. It is likely that persons with certain types of physical disability may be unable to undertake some physical types of employment on the list of shortage occupations. It is considered that there are strong policy reasons for this, namely to ensure that those granted permission to work under this policy will be able to undertake employment, earn income and contribute to the UK economy without displacing British workers.</p> <p>Labour market discrimination in the UK against people with disabilities may make it harder for applicants from these groups to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>

² Home Office Research Report 37: Spotlight on refugee integration: findings from the Survey of New Refugees in the United Kingdom; July 2010

<p>Gender</p>	<p>Gender will have no impact on an individual's eligibility for permission to work.</p> <p>Home Office research on the integration of refugees has indicated that female refugees experience lower employment rates than male refugees. It is reasonable to infer from this that women will also be less likely to benefit from this policy on permission to work. It is possible that women may less frequently hold the necessary qualifications to be qualified to work in jobs on the list of shortage occupations, because in many cultures certain occupations are traditionally considered to be male occupations. This risk is considered acceptable in the wider context of the policy reasons for using the list of shortage occupations, explained above.</p> <p>Labour market discrimination in the UK against women may make it harder for applicants from these groups to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>
<p>Gender Identity</p>	<p>Gender identity will have no impact on an individual's eligibility for permission to work.</p> <p>Labour market discrimination in the UK against transgendered people may make it harder for applicants from these groups to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>
<p>Religion/ belief & non belief</p>	<p>Religion will have no impact on an individual's eligibility for permission to work.</p> <p>Home Office research on the integration of refugees has indicated that there is variation in employment rates by religion amongst refugees; therefore it is reasonable to infer that this will also be the case amongst those benefitting from this policy on permission to work. These differences may be caused by a wide range of social, educational and economic inequalities in different societies around the world. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider inequalities of this nature to be outside the scope of this EIA.</p> <p>Labour market discrimination in the UK against particular religious groups may make it harder for applicants from these groups to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>

<p>Sexual Orientation</p>	<p>Sexual orientation will have no impact on an individual's eligibility for permission to work.</p> <p>Labour market discrimination in the UK against gay, lesbian and bisexual people may make it harder for applicants from these groups to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>
<p>Age</p>	<p>Age will have no impact on an individual's eligibility for permission to work.</p> <p>Labour market discrimination in the UK against particular age groups may make it harder for applicants from these groups to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>
<p>Welfare of Children [UKBA ONLY]</p>	<p>Children will not be specifically affected by this permission to work policy.</p> <p>Labour market discrimination in the UK against those with children may make it harder for applicants from this group to find employment. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>
<p>Socio-economic</p>	<p>Inequalities arising from social class, family background, the country where people were born, income, and other barriers to social mobility may be linked to a potential for labour market discrimination described in the categories above. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider any such discrimination of this nature to be outside the scope of this EIA.</p>
<p>Human Rights</p>	<p>We are confident that the policy complies with the ECHR.</p>

2.2 What are the overall trends/patterns in this data?

In this section we have relied on management information, which cannot be published, and the experience of internal policy, process and operational staff in UKBA. No engagement with external partners was undertaken as this policy change implements the judgment of the Supreme Court.

The majority of individuals currently eligible for permission to work under this policy will be cases managed by the UKBA Case Resolution Directorate.

2.3 Please list the specific equality issues and data gaps that may need to be addressed through consultation and/or further research?

The impacts of this policy will be carefully monitored and reviewed from implementation stage onwards.

3 INVOLVING AND CONSULTING STAKEHOLDERS

In this section, describe the data you have gathered through stakeholder involvement and engagement.

3.1 Internal consultation and involvement: e.g. with Other Government Departments, Staff (including support groups), Agencies & NDPBs

We have contacted DWP, HMRC and HMT to make them aware of this change and to discuss and plan for likely impacts.

Discussions were held between key areas of the business (Asylum Policy Team, Legal Advisers Branch, Case Resolution Directorate, NAM+ Programme Team and the Temporary Migration Policy Team) on how the judgment should be implemented.

Regional Directors, Asylum Leads and Case Owners were notified of the outcome of the case and told how the judgment would be implemented.

Regular advice was sought from Legal Advisers Branch.

Internal consultees identified the following key benefits of the proposed policy:

- Failed asylum seekers who have put forward further submissions which raise asylum grounds (where the further submission has been outstanding for twelve months or more and that delay cannot be attributed to the applicant) will be entitled to apply for permission to work in posts on the list of shortage occupations published by the UK Border Agency.
- The policy will divert those granted permission to work into jobs that cannot be filled by the resident work force.
- The policy will help protect the asylum system from abuse by discouraging those without a well-founded fear of persecutions who want to come to the UK for economic reasons from applying for asylum.

The key adverse impact identified is:

- Asylum seekers who have not received an initial decision on their asylum application within twelve months (and that delay cannot be attributed to the applicant) will now only be entitled to apply for permission to work in posts on the list of shortage occupations published by the UK Border Agency.

3.2 External consultation and involvement: strand specific organisations e.g. charities, local community groups, third sector

We have not consulted with external stakeholders on this specific issue as this policy change will implement the judgment of the Supreme Court.

However, we have regular meetings with key asylum stakeholders, including the National Asylum Stakeholder Forum and sub-groups of this forum, and so are familiar with their views on the issue of permission to work. We have borne these views in mind when developing this policy change.

4 ASSESSING IMPACT

In this section please record your assessment and analysis of the evidence. This is a key element of the EIA process as it explains how you reached your conclusions, decided on priorities, identified actions and any necessary mitigation.

4.1 Assessment of the impact

The policy restricts employment to jobs on the list of shortage occupations published by the UK Border Agency. It is therefore possible that persons with certain types of physical disability may be unable to undertake some physical types of employment on the list of shortage occupations. It is considered that there are strong policy reasons for this, namely to ensure that those granted permission to work under this policy will be able to undertake employment, earn income and contribute to the UK economy without displacing British workers.

Similarly, it is possible that women may be less likely to have the necessary qualifications to undertake some posts on the Shortage Occupation List, which might be considered to be traditionally male professions. The aim of ensuring those granted permission to work do not displace British workers is considered a legitimate reason for tolerating this risk. Further, we consider that any such discrimination to be outside the scope of this EIA.

Lastly, it is possible that social, economic and educational inequalities around the world will mean that some nationalities are more likely than others to have the skills, qualifications and experience necessary to obtain employment when granted permission to work under this policy. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider inequalities of this nature to be outside the scope of this EIA.

5 REPORT, ACTION PLANNING AND SIGN OFF

5.1 EIA Report

The EIA Report is a concise summary of the results of the full EIA. A template is provided at Annex A.

5.2 Sign-off

Date of completion of EIA	31 August 2010
Compiled by	Fiona Couper
SCS sign-off	Emma Churchill
<i>I have read the Equality Impact Assessment and I am satisfied that all available evidence has been accurately assessed for its impact on equality strands. Mitigations, where appropriate, have been identified and actioned accordingly.</i>	
Date of publication of EIA Report	9 September 2010
Review date	August 2011

Annex A - Equality Impact Assessment Report

PERMISSION TO WORK FOR ASYLUM SEEKERS AND FAILED ASYLUM SEEKERS

BACKGROUND

- The Supreme Court found that Article 11 of the EU Reception Conditions Directive (RCD) applies to failed asylum seekers who make further asylum based submissions (where they put forward information which they assert amounts to a fresh claim for consideration), and therefore that these individuals are allowed access to the labour market if a decision has not been taken within one year of them making the further submission and where the delay cannot be attributed to the applicant. It is therefore necessary to implement a policy to give effect to the Supreme Court's judgment.
- This policy change implements the Supreme Court ruling by enabling failed asylum seekers who have put forward further submissions which raise asylum grounds which have been outstanding for a year or more (and the delay cannot be attributed to the applicant) to apply for permission to work. This extends the previous permission to work provisions which only applied to initial asylum applicants whose claim had been outstanding for a minimum of twelve months (and the delay could not be attributed to the applicant).
- This amendment also introduces an additional restriction on the type of employment that can be undertaken by those granted permission to work. Beneficiaries of this policy will only be entitled to undertake employment on the list of shortage occupations published by the United Kingdom Border Agency. This approach is consistent with wider immigration and labour market policies, ensuring that foreign workers are diverted to occupations where a national shortage of skilled labour has been identified and thereby offer the greatest value to the UK. The policy should also protect the asylum system, guarding against abuse so that all cases are processed quickly and fairly so that those with a genuine protection need can integrate quickly.

SCOPING THE EIA

The aim of this EIA is to identify, measure and, if necessary, avoid the impact of any negative consequences of this policy change on equality of opportunity for those affected by the policy. Asylum seekers and failed asylum seekers who have put in further submissions which raise asylum grounds will be affected by this policy change.

A number of refugee organisations, legal representatives and practitioners will have an interest in this policy. This change will also impact on other government departments, namely Department for Work and Pensions, HMRC and HM Treasury.

COLLECTING DATA

This EIA has been conducted using internal consultation, Home Office research which is available on the RDS website³ and management information which cannot be published.

INVOLVING AND CONSULTING STAKEHOLDERS

Discussions were held between key areas of the business (Asylum Policy Team, Legal Advisers Branch, Case Resolution Directorate, NAM+ Programme Team and the Temporary Migration Policy Team) on how the judgment should be implemented.

Regional Directors, Asylum Leads and Case Owners were notified of the outcome of the case and told how the judgment would be implemented.

Regular advice was sought from Legal Advisers Branch.

ASSESSING IMPACT

Benefits and adverse impacts

The key benefits of the proposed policy are:

- Failed asylum seekers who have put forward further submissions which raise asylum grounds (where the further submission has been outstanding for twelve months or more and that delay cannot be attributed to the applicant) will be entitled to apply for permission to work in posts on the list of shortage occupations published by the UK Border Agency.
- The policy will divert those granted permission to work into jobs that cannot be filled by the resident work force.
- The policy will help protect the asylum system from abuse by discouraging those without a well-founded fear of persecutions who want to come to the UK for economic reasons from applying for asylum.

The key adverse impact of the proposed policy is:

- Asylum seekers who have not received an initial decision on their asylum application within twelve months (and that delay cannot be attributed to the applicant) will now only be entitled to apply for permission to work in posts on the list of shortage occupations published by the UK Border Agency.

Assessment of impacts on equality

The policy restricts employment to jobs on the list of shortage occupations published by the UK Border Agency. It is therefore possible that persons

³ <http://rds.homeoffice.gov.uk/rds/index.html>

with certain types of physical disability may be unable to undertake some physical types of employment on the list of shortage occupations published by the UK Border Agency. It is considered that there are strong policy reasons for this, namely to ensure that those granted permission to work under this policy will be able to undertake employment, earn income and contribute to the UK economy without displacing British workers.

Similarly, it is possible that women may be less likely to have the necessary qualifications to undertake some posts on the Shortage Occupation List, which might be considered to be traditionally male professions. The aim of ensuring those granted permission to work do not displace British workers is considered a legitimate reason for tolerating this risk. Further, we consider that any such discrimination to be outside the scope of this EIA.

Lastly, it is possible that social, economic and educational inequalities around the world will mean that some nationalities are more likely than others to have the skills, qualifications and experience necessary to obtain employment when granted permission to work under this policy. We do not consider this policy to be an appropriate tool to mitigate this risk and therefore consider inequalities of this nature to be outside the scope of this EIA.

Monitoring arrangements

For regional cases (non-CRD), the following statistics will be collated centrally on a monthly basis, using Management Information from the Case Information Database:

- The number of permission to work applications received, based on the fact that an asylum application has been outstanding for over 12 months;
- The number of the above applications for permission to work that are granted or refused;
- The number of permission to work applications received based on the fact that further subs have been outstanding for over 12 months; and
- The number of the above applications for permission to work that are granted or refused.

ANNEX B – Action Plan

PERMISSION TO WORK FOR ASYLUM SEEKERS AND FAILED ASYLUM SEEKERS

ACTION / ACTIVITY	OWNER AND INTERESTED STAKEHOLDERS	DEPENDENCIES / RISKS / CONSTRAINTS	COMPLETION DATE	PROGRESS UPDATE
<p><i>This should be a list of recommendations identified in the EIA report.</i></p> <p><i>A short description of the issue being taken forward.</i></p>	<ul style="list-style-type: none"> ○ Unit/Department/organisation ○ Internal & External Stakeholders ○ How will you ensure your stakeholders continue to be involved/ engaged in shaping the development/ delivery of this policy? 	<p><i>There may be other projects/initiatives that will deliver the action so make reference to these.</i></p>	<p><i>The date by which the action is to be completed.</i></p>	<p><i>Progress to date. Any slippages. New stakeholders etc Give RAG rating if appropriate. Details of monitoring and review methods.</i></p>
Data Collection	NAM+/CRD	FSiP project collects data on no. of further subs submitted	From August 2010 onwards	From management information
Monitoring & Review Arrangements	NAM+ Programme, UKBA Regions and CRD		Monthly from August 2010	From management information
Staff communications	NAM+/CRD		August 2010	Through Regional Directors and asylum leads
External comms	NAM+ Programme, CRD and Asylum Policy		From August 2010	To include NASF and SHSH working party meetings
Review of policy and Equality Impact Assessment a year after implementation	NAM+/CRD		August 2011	Through collation of information gathered the above activities

