

# **Legal Aid, Sentencing and Punishment of Offenders Bill**

## **Memorandum submitted by the South East Strategic Partnership for Migration Submitted on 1<sup>st</sup> August 2011**

### **1. About the South East Strategic Partnership for Migration (SESPM)**

- 1.1 SESPM was established in 2000 and is one of 12 such partnerships covering the UK; it provides a resource which enables an independent and neutral consultative function between the South East (covering Kent, Sussex, Surrey, Hampshire, Isle of Wight, Buckinghamshire, Berkshire, Oxfordshire and Milton Keynes) the Home Office and Government.
- 1.2 The Executive Board comprises of senior representatives from local authorities, public, private and voluntary sectors.
- 1.3 Our key functions include monitoring trends, addressing challenges, maximising opportunities and inputting into policy formation.

### **2. Purpose of this Memorandum – A focus on immigration at the local level and likely displacement of costs to local authorities.**

2.1 SESPM has collected a range of views from across the South East and in particular identified a number of key concerns that are likely to negatively impact on local authorities in relation to how legal aid changes will affect immigration cases in future..

2.2 There are also a number of concerns that have been received from voluntary sector and interest groups across the South East which are reflected in other Memoranda posted on this bill and for ease of reference are summarised in section 4 of this paper. Many of the concerns of local authorities are also shared by voluntary and community sector contributors.

2.3 For the above reason the main purpose of this submission is therefore to draw attention to the likely impact on local authorities and public services in section 3 below.

2.4 SESPM recognises the rationale behind the proposals and the need to review legal aid in the light of the economic climate. However it is concerned about the likely displacement of costs with local authorities' incurring additional costs (see section 3 below). This is a significant issue and needs to be taken into account as the impact could actually result in a greater cost to the public purse in some cases.

### **3. Likely Impacts on Local Authorities and Public Services**

3.1 SESPM received responses from a number of local authorities and public services from across the SE covering District, Borough, Unitary, City and County Councils, namely Oxfordshire County Council, Kent County Council, Surrey County Council, East Sussex County Council, Portsmouth City Council, Brighton and Hove City Council, Southampton City Council, Milton Keynes Council, Slough Borough Council, Rushmoor Borough Council, Arun District Council, East Sussex Healthcare

NHS Trust. Responses range from local authority practitioner leads to senior management.

3.2 Responses were broadly consensual in identifying the following as areas of concern, likely to result in a further strain on local resources. People who have not regularised their immigration status are among the most financially excluded and are therefore highly likely to present for local authority support, placing the burden of support and demand on the resources of those authorities.

3.3 The likely impacts are summarised as follows:

- I. A rise in the number of households from abroad with unresolved immigration situations and therefore no right to work and No Recourse to Public Funds (NRPF) presenting to the local authority for accommodation and support.
- II. For those families and vulnerable adults who are supported by local authorities, delays and additional expense might arise as the inability to access independent legal advice makes it more difficult to achieve resolution on their immigration cases and their discharge from local authority care.
- III. Increased pressures on social workers and legal departments in local authorities to unpick the complex immigration cases of households for which they have accepted a duty - leading, ultimately, to questions about the need to purchase immigration legal advice in order to resolve these situations.
- IV. Complex legal and financial dilemmas will arise for local authorities as they consider whether to provide advice in order to resolve NRPF cases that may otherwise remain in limbo.
- V. Unaccompanied Asylum Seeking Children (UASCs) and care leavers making applications for further leave on Article 8 grounds will be excluded from assistance under Legal Aid. The Local Authorities' obligations to these children may therefore have to expand to include picking up responsibility for ensuring legal advice and representation.
- VI. There will be a safeguarding impact, especially for UASCs, as the proposed changes would make both children and adults increasingly vulnerable, requiring an inter-agency response which could have been prevented. This would increase costs to provider organisations.
- VII. Without access to specialist advisors, those with insecure immigration status may be less likely to approach the authorities for support. The inability of families to submit Article 8 applications may result in Human Rights Act assessments which conclude that families have no grounds for support and are offered assistance in returning to their countries of origin instead.
- VIII. There are likely to be additional pressures on poorer migrant communities to accommodate and support people with outstanding immigration

applications (particularly with shared country of origin) for longer periods, including asylum seekers who experience problems and delays in receiving support. It is demonstrated that this often leads to overcrowded and potentially dangerous living conditions, including the spread of notifiable communicable diseases such as TB.

- IX. The removal of refugee family reunion from the scope of legal aid may reduce the capacity of refugees to integrate and those who are deprived of family reunion are likely to be disadvantaged, with knock-on consequences for their capacity to deal with the effect of other issues, including other non-immigration related problems they may face. It may also encourage the illegal entry of family members resulting in similar problems as set out in the point above.
- X. There may be a negative impact, in terms of activity in the informal economy and areas of crime such as trafficking, related to people being unable to regularise their immigration status.
- XI. Advice for asylum support matters will be limited to cases involving accommodation, meaning that people who require subsistence only support will not be able to access advice.

- 3.4 In the light of the above there is also a strong likelihood of hidden pressures connected with the broader BME and migrant communities with factors such as:
- I. Overcrowding and increased poverty as those who are destitute and/or have an unresolved immigration situation have to be supported by other community members, themselves on low incomes and in insecure housing.
  - II. Families who feel they have to remain hidden from the authorities.
  - III. More complex needs assessments recognising the additional pressures on some migrant populations and also in commissioning services for them.
  - IV. A great deal of trust and confidence will need to be built up by local authorities amongst their local migrant populations in order to discover the true extent of the problems facing the community - especially if they involve community members whose legal status in the UK is unclear.

#### **4. Voluntary and Community Sector Responses from the South East**

4.1 Responses were received from Brighton Housing Trust, The Links Project (Hastings), Shepway CAB, Milton Keynes CAB, Reading Refugee Support Group, Money Advice and Community Support (Brighton), Lewes Group in Support of Refugees and Asylum Seekers, Hastings Intercultural Organisation.

4.2 The impacts in 3.3 and 3.4 above were shared by the VCS respondents who, in addition, cited the following:

- I. Individuals living in the UK with immigration controls very often face a huge variety of challenges in their day to day lives due to the complexity of the circumstances that they are living in. These include the effects of poverty and living an unsettled way of life, the risk of exploitation, and the risk of

becoming involved in illegal activities. This can then lead to ill health and health inequalities, reduced life chances, isolation and community tensions.

- II. The experiences prior to being in the UK, lack of experience of UK cultures and bureaucracies and also having to navigate a complex legal system in the UK also have a huge impact
- III. These risks mean that it is vitally important to have access to good, appropriate legal advice when needed and provided in the areas that individuals subject to immigration controls live. The proposed changes to Legal Aid will undoubtedly reduce the already inadequate supply of accredited legal representation and place further strains on front line advice and support services that can provide early help and interventions, often stopping issues reaching crisis point.
- IV. The current proposed changes will further exacerbate the lack of legal advice provision for asylum seekers. For example in East Sussex there is only one specialist provider (i.e. Brighton Housing Trust Immigration Legal Services and the Citizens Advice Bureaux) able to offer level 1 immigration advice.
- V. Vulnerability to becoming victims of fraudulent representation and loan sharking. The fraudulent advocates routinely charge £500 for ‘opening’ a file and will guarantee their clients a positive outcome in their cases. Further fees then follow but without any assistance being given other help. It is important to note that regulatory bodies such as the Law Society and Legal Service Commissions would take up to 3 years to intervene in cases of false or fraudulent representation.
- VI. Exploitation and coercion: for example in Hastings and St Leonards there is already some evidence of exploitation of people subject to immigration control by their partners or in businesses. Limited access to representation due to legal aid change is likely to increase distress, homelessness, domestic violence and violation of human rights.
- VII. Family reunion is a complex process and those on indefinite leave to remain will cease to be eligible for Legal Aid impacting on cohesion and equalities.
- VIII. Complex Immigration cases requiring independent expert witness advice and opinion will not be eligible, leading to a likely increasing number of illegalities. It is also likely that there will be an increase in demand for the local MP’s intervention
- IX. The proposed changes would leave people more at risk of, and vulnerable to, criminal activities, including prostitution which would have health risks for individuals. Not having access to legal advice will be a miscarriage of their human rights

