



Home Office

Cap on safe and legal Routes Government consultation

This consultation begins on 20 October 2023

This consultation ends on 15 December 2023

About this consultation

To: The consultation is aimed at local authorities

Duration: From 20/10/23 to 15/12/23

Enquiries (including requests for the paper in an alternative format) to: Refugee Resettlement and Integration Unit
Email: capconsultation@homeoffice.gov.uk

How to respond: Please send your response by midnight on 15 December 2023 to:
Refugee Resettlement and Integration Unit
Email: capconsultation@homeoffice.gov.uk

Additional ways to respond: Please ensure you submit a response to the inbox above. A series of stakeholder meetings will also be taking place and will be scheduled over the coming weeks.

For further information please use the 'Enquiries' contact details above.'

Response paper: A response to this consultation exercise is expected to be published in Summer 2024

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Foreword

The UK has a proud history of providing protection for those who need it through safe and legal routes. Since 2015, we have offered a safe and legal route to the UK for close to half a million people from all over the world via our global routes and our country-specific routes. This includes around 50,000 who have come to the UK on routes open to people from any country in the world, 25,000 on our country-specific routes for Afghanistan and 20,000 from Syria, over 100,000 Hong Kongers, and close to 200,000 from Ukraine.

The Illegal Migration Act places a duty on the Home Secretary to set a cap on the number of entrants to the UK arriving on safe and legal routes for humanitarian purposes, and for the cap to be defined following consultation.

Today, I am officially launching the consultation on the cap on safe and legal routes which includes UK Resettlement Scheme (UKRS), the Afghan Citizens Resettlement Scheme (ACRS) Pathways 2 and 3 (stage 2), and Community Sponsorship. The consultation is open to local authorities in England, Wales, Scotland and with the Executive Office of Northern Ireland.

The cap seeks to ensure that the UK is able to welcome, accommodate, integrate and support those arriving via these routes. The introduction of the cap on safe and legal routes will allow us to balance our ambition to welcome those in need with the capacity of local authorities in the UK to accommodate and support those arriving on these routes. By determining a clear picture of the capacity - which we can only do with your support - the UK can continue to operate safe and legal routes for protection and ensure these routes form part of a well-managed migration system.

The consultation, which provides the basis by which the Home Office will propose the cap that will be agreed with Parliament, will be open from 20 October 2023 until 15 December 2023. The responses will be reviewed and considered at a national and regional level before a total figure is recommended.



Rt Hon Suella Braverman KC MP

Secretary of State for the Home Department

Executive Summary

The Illegal Migration Act places a duty on the Secretary of State for the Home Department to introduce an annual cap on the number of entrants using safe and legal routes to the UK. The cap provides a considered approach to the way the UK's safe and legal routes will function in the coming years.

The cap will be set on an annual basis, to be determined after consultation with representatives of local authorities. It will be amendable for example in the event of humanitarian crises. An annual limit on the number of entrants will ensure the UK accepts through safe and legal routes no more people than can be accommodated and supported effectively.

The Illegal Migration Act requires that before setting the cap, the Home Secretary must consult:

- in England and Wales and Scotland, such representatives of local authorities as the Secretary of State considers appropriate,
- the Executive Office in Northern Ireland, and
- such other persons or bodies as the Home Secretary considers appropriate.

This consultation delivers on this duty, setting out for consultation the overall capacity of local authorities to house and support individuals coming to the UK through the forthcoming cap on safe and legal routes. We recognise the current pressures faced by local authorities. This cap provides the opportunity to move migration through humanitarian safe and legal routes towards a more sustainable and well-managed system.

The consultation is aimed at local authorities who provide housing or support to resettled individuals in the UK. Local authorities should work with relevant bodies who provide wraparound services in compiling their responses, such as Integrated Care Boards, as well as with Voluntary and Community Sector Organisations, and Community Sponsorship Groups in their areas.

The Illegal Migration Act and Resettlement

Illegal Migration Act

The Illegal Migration Act received Royal Assent on 20 July 2023. The Act changes the law to make it unambiguously clear that, if you enter the UK illegally, you should not be able to remain here. Instead, you will be detained and promptly removed either to your home country or to a safe country where any asylum claim will be considered. You will no longer be able to frustrate removal attempts with late or spurious legal challenges or appeals, and once removed, you will have no right to re-entry, settlement or citizenship.

The Act aims to:

- put a stop to illegal migration into the UK by removing the incentive to make dangerous small boat crossings
- speed up the removal of those with no right to be here - in turn this will free up capacity so that the UK can better support individuals through safe and legal routes
- prevent people who come to the UK through illegal and dangerous journeys from misusing modern slavery safeguards to block their removal
- introduce a cap on the number of people coming to the UK through safe and legal routes each year

Section 60 of this Act places a duty on the government to introduce an annual cap on the number of entrants using safe and legal routes to the UK. The cap will be developed after consultation. It will be amendable in the event of humanitarian crises. It will only apply to future flow and will therefore not apply retrospectively to those already in the UK.

A separate Section (61) places a duty on the Home Secretary to publish, and lay before Parliament, a report on the safe and legal routes by which individuals may enter the UK, and any proposed additional safe and legal routes. This must be done within six months of Royal Assent.

Safe and legal routes

The UK currently operates seven safe and legal routes. These include resettlement schemes such as the UK Resettlement Scheme (UKRS) and Community Sponsorship, as well as bespoke routes for individuals from Afghanistan, Ukraine, Hong Kong and the close family members of refugees.

Under the UK's safe and legal routes, eligible individuals access them through an application or referral process made overseas. This means when they arrive in the UK their status already determined.

UK Resettlement Scheme

The UK Resettlement Scheme (UKRS) is a global scheme (meaning it is open to all nationalities) with a multi-year commitment to resettle vulnerable refugees in need of protection. It prioritises the resettlement of refugees, including children, in regions of conflict and instability. This route is not application-based. Instead, it is accessible to refugees who have been assessed for resettlement by UNHCR.

Community Sponsorship Scheme enables friends and neighbours, charities and faith groups to play a direct role in supporting families resettled to the UK as they restart their lives here. Those identified and brought to the UK through the UK Resettlement Scheme (UKRS) and the Afghan Citizens Resettlement Scheme (ACRS) are eligible to be supported through Community Sponsorship.

The Mandate resettlement scheme resettles refugees recognised by UNHCR as being in need of protection, who have a close family member in the UK who is willing to accommodate them. It is a global scheme and there is currently no annual quota.

The Afghan Citizens Resettlement Scheme (ACRS) commenced on 6 January 2022 and will see up to 20,000 at-risk people affected by the events in Afghanistan resettled to the UK. Under the ACRS, eligible individuals are prioritised for resettlement through one of three referral pathways.

- Under Pathway 1, some of those evacuated under Op PITTING, including British Nationals and their families, Afghans who loyally served the UK, campaigners for human rights were the first to be resettled under the ACRS. Those eligible who were called forward or specifically authorised for evacuation during the evacuation but were not able to board flights may also be resettled through ACRS Pathway 1.
- Under Pathway 2, the United Nations High Commissioner for Refugees (UNHCR) refer refugees who have fled Afghanistan to the UK, based on assessments of protection needs and vulnerabilities.
- Under Stage 1 of Pathway 3, a limited number of places are being offered to eligible at-risk British Council contractors, GardaWorld contractors, and Chevening alumni in Afghanistan or the region. This includes their eligible family members. Beyond this first stage, we will continue to work with international partners and NGOs to welcome wider groups of Afghans at risk.

Those referred by UNHCR to the UK for the UKRS, Community Sponsorship, Mandate Resettlement and under Pathway 2 of the Afghanistan Citizens Resettlement Scheme (ACRS), will be assessed for resettlement by UNHCR using their established process, and in line with their resettlement submission categories, which are based on people's needs and vulnerabilities.

Afghan Relocations and Assistance Policy (ARAP)

The Afghan Relocations and Assistance Policy (ARAP), launched on 1 April 2021, offers relocation to eligible Afghan citizens who worked for or with the UK government in Afghanistan in exposed or meaningful roles. The ARAP recognises the service of eligible Afghan citizens and the risks arising to them and their dependent family members due to their work.

Ukraine Schemes

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Ukraine Family Scheme (UFS) – permits applicants to come to the UK, or extend their existing leave to remain in the UK, using a sponsor who is a family member (using a wide definition of family that includes cousins, aunts, grandparents etc) that is settled in the UK.

Homes for Ukraine Scheme (HFU) - allows Ukrainian nationals and their immediate family members to be sponsored by any eligible UK household which could provide a minimum 6 months' accommodation for the applicants. In August 2022, the Home Office launched the 'Eligible Minors' Extension to HFU - where a parent or legal guardian of a minor (under 18) can identify a UK based sponsor to be approved to host their child in the UK for the period of the visa, without them. The sponsor must commit to accommodating the minor for the full term of their visa or until they are 18 and must be known to the parent or guardian before the war.

Ukraine Extension Scheme (UES) - allows Ukrainians in the UK with lawful status, outside of the HFU and UFS, to extend their leave to remain in the UK. This provides successful applicants with the same length of leave, rights and access to benefits and services as the HFU and UFS.

Applications under the Ukraine schemes are fee free and provide 36 months' permission to remain in the UK. Permission is granted with no restrictions on the right to work, rent and access public funds and services, including healthcare. The Ukraine Schemes are temporary schemes, rather than refugee schemes and they do not lead to permanent settlement.

Hong Kong British Nationals (Overseas)

On 31 January 2021, the UK government launched the Hong Kong British National (Overseas) ((BN(O)) Immigration route in response to China's passing of the National Security Law which significantly impacts the rights and freedoms of the people of Hong Kong. The route allows BN(O) status holders and their eligible family members to apply to come to the UK to live, study and work on a pathway to citizenship.

On 30 November 2022, the BN(O) route was expanded to enable adult children of BN(O) status holders who were born on or after 1 July 1997 to apply to the route independently of their parents. This ensures this cohort, who were not eligible for BN(O) status and who may not have been able to apply to the route previously, can now choose to make the UK their home.

The BN(O) route is not a refugee resettlement route but is a safe and legal route to the UK for those eligible.

Applicants are required to pay a fee and the immigration health surcharge, and those who have been living in the UK for less than 12 months must show they can adequately maintain and accommodate themselves for six months without access to public funds. All applicants are initially granted with a no recourse to public funds (although once on the route, an applicant can apply to lift their no recourse to public funds restriction at any time, if they meet the requirements.

What role do local authorities currently play in resettlement?

Local authorities play a fundamental role in the resettlement of refugees and those in need, enabling them to rebuild their lives in the UK and to thrive. Depending on the scheme, local authorities welcome, receive, accommodate and integrate those arriving on the UK's formal safe and legal routes.

Local authorities are also responsible for ensuring services, such as education, have the capacity to support those arriving in their communities. They also work with local partners to ensure that new arrivals are signposted to other local services such as healthcare, and have a role in supporting community sponsorship.

Cap on Safe and Legal Routes

What is the cap and what will it do?

The cap will provide a considered approach to the way the UK's safe and legal routes will function in the coming years. It will set an annual limit on the number of entrants using safe and legal routes to the UK.

The objective of the cap is to ensure the UK can accommodate and support those arriving through safe and legal routes effectively. The introduction of the cap provides an opportunity for a more sustainable and managed approach to migration through humanitarian safe and legal routes. Recognising the pressures placed on local authority capacity to accommodate and effectively integrate those arriving, the cap will place a realistic annual limit on the number of people who can come to the UK each year through safe and legal routes.

The annual cap will reflect local authority capacity. Local authorities will engage with Community Sponsorship representatives and Third Sector Organisations who provide accommodation in their local areas, and local service providers including Integrated Care Boards. In matters of urgency (such as to allow a national response to an international emergency), the Home Secretary will be able to seek Parliament's approval to change the number without the consultation process. As the cap is annual to reflect the fluctuating nature of capacity, there is scope to change it in future years.

This consultation will run from 20 October 2023 to 15 December 2023. Responses will then be reviewed and further engagement with respondents through a series of regional dialogues to validate responses and determine a capacity estimate. In summer 2024, the government will lay a Statutory Instrument in Parliament to set the cap, including both the number and the routes subject to that cap. We expect the cap will be in operation in 2025.

What funding will be available?

Funding to support the costs of those arriving through safe and legal routes will continue to be provided through the resettlement tariff, which will not be affected by the introduction of the cap.

The resettlement tariff is provided on a per capita basis to local authorities to help the families they have pledged to resettle and support into life in the UK. It is comprised of a core tariff of £20,520 per person, provided over a period of five years for UKRS arrivals and over three years for ACRS and ARAP; as well as additional tariffs in the first year of up to £4,500 per child to cover education costs, and £850 for adults requiring English language support. An additional tariff of £2,600 is made available to local health bodies to cover healthcare costs in the first year.

In line with the statement of outcomes outlined in the relevant published Funding Instruction, local partners are expected to use this tariff funding to support families' immediate integration needs as they settle into their local communities and work towards self-sufficiency. These services include, but are not limited to, provision of:

- affordable and sustainable accommodation, which is furnished appropriately, meets local authority standards, and is available on a family's arrival and/or relocation to the local authority area.
- casework support, focused on advice and support to assist with registering for mainstream benefits and services, and signposting to other agencies where appropriate.
- a tailored integration support plan for each family or individual for the first year after arrival to facilitate their integration and orientation into their new home/area.
- educational places for children of school age.
- English language training for adult refugees, to facilitate their progress towards the level of proficiency needed to function in their everyday life and work towards self-sufficiency.

ESOL Childcare fund is available, to which local authorities, Community Sponsorship groups and regional coordination bodies may submit proposals for delivering measures aimed at enabling resettled refugees, particularly those with childcare and other caring responsibilities, to participate in ESOL training.

For Community Sponsorship, the current funding arrangements will continue to apply. Local authorities and health partners associated with community sponsorship groups can claim up to £4,500 for children aged 5-18 and £2,250 for children aged 3-4 in education funding. Once registered with a GP, an Integrated Care Board in England, Health Boards in Scotland and Wales or the Department of Health in Northern Ireland, they can claim £2,600 per family member from the Home Office. Sponsor groups can also claim £850 ESOL funding for every adult refugee (aged 19 or over) and may also submit proposals to the discrete ESOL Childcare fund.

What routes does the cap include?

The cap includes the following routes:

- a. Afghan Citizens Resettlement Scheme (ACRS) pathways 2 and 3 (stage 2)
- b. UK Resettlement Scheme (UKRS)
- c. Community Sponsorship

It may also include any future schemes introduced by the Home Secretary. Any new route can be developed outside of the cap, based on its individual merits, including emergency pathways. Should a new route be considered suitable for inclusion in the cap, this will be put to Parliament for a decision after a consultation on capacity with local authorities in line with the proposed standard process on determining the cap figure.

Current arrival numbers

Current arrival numbers at a local authority area under current safe and legal routes can be found [here](#).

How does the place-based approach interact with the cap?

Home Office's place-based approach seeks to ensure where it can a fair and equitable distribution of all protection-based immigration demands across the UK in line with demand and accommodation supply.

The cap will work with the place-based approach to ensure demand across asylum and safe and legal routes under the cap are assessed collectively on a regional and national basis. This means that we will where we can balance the burdens placed on any local area to ensure no single local authority is supporting a disproportionate intake, across all protection-based immigration routes, which include asylum seekers, unaccompanied asylum seeking children (through the national Transfer Scheme) and those coming via the UK's safe and legal routes. There is an expectation that all local authorities play their part to support protection based migrants through the place based approach.

The commitments made under the safe and legal routes cap by a local authority, will be considered in the round, as part of a regions total allocation of all protection-based migrants, under a place-based approach. Alongside the commitment made through the cap, each local authority is expected to meet its agreed allocation of asylum seekers and unaccompanied asylum seeking children under the National Transfer Scheme, contributing to the regions total share.

The cap and the place-based approach will give local authority partners more agency in the decision making around the distribution of protection-based immigration, at a local level.

The HO Place Based team will support Migration policy colleagues through engagement with respondents throughout Spring 2024, where we will consider resettlement pledges alongside other anticipated migration pressures in their totality.

The cap will not introduce any changes to the current accommodation matching process based on local authority pledges, notably used by UKRS.

Unaccompanied asylum seeking children

Regardless of any commitment to contribute to safe and legal routes through a cap, local authorities are also required to comply with the National Transfer Scheme. All local authorities and Health and Social Care Trusts in Northern Ireland are subject to a direction under section 72(3) of the 2016 Immigration Act and are under a mandatory duty to comply with the National Transfer Scheme. This is reflected in the judgment of Mr Justice Chamberlain in *ECPAT UK, R (On the Application Of) v Kent County Council & Anor* [2023] EWHC 1953 (Admin) (27 July 2023). The rota weightings of the mandated NTS have been calculated to determine a fair allocation of NTS placements to each region by taking account of asylum and children's services pressures on local authorities.

Consultation on the cap

What is the role of this consultation in setting the cap?

The Illegal Migration Act requires that before setting the cap, the Home Secretary must consult:

- in England and Wales and Scotland, such representatives of local authorities as the Secretary of State considers appropriate,
- the Executive Office in Northern Ireland, and
- such other persons or bodies as the Home Secretary considers appropriate.

This consultation delivers on this duty, and seeks clarity on the overall capacity of providers to house and support those coming through the cap.

It also aims to:

- ensure the capacity constraints of routes which are not included in the cap are reflected in setting the cap figure.
- consider the impact that existing schemes, and any proposed new schemes have on local authority capacity and to reflect this when defining the scope of the cap.

Who are we seeking responses from?

In order to get a sense of the capacity of these key stakeholders in resettlement, we are seeking the views of local authorities in England and equivalents in Devolved Administrations.

Voluntary and Community Sector (VCS) Organisations and Community Sponsorship groups play a key role in resettlement, including providing accommodation to resettled individuals.

VCS organisations can source and manage accommodation which would not ordinarily be available through the Private Rental Sector. These organisations may be small scale and operate across a limited area, they play an important role in resettlement and it is helpful to understand their capacity.

Community Sponsorship Groups can participate in the Community Sponsorship Scheme. This is a way for local communities, civil society organisations, charities, and faith groups to be directly involved in helping refugees settle in the UK. Community sponsors provide emotional and practical support to empower families to rebuild their lives in safety, and to become self-sufficient members of their new community. Being a sponsor also benefits the

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local community through enabling the generosity of local people and creating new bonds between those involved. Sponsor groups are required to provide integration support to the resettled family for one year, and secure suitable and affordable housing for two years.

For this reason, we are asking local authorities to meaningfully engage with VCS organisations and community sponsorship groups in their areas when considering their responses.

Integrated Care Boards play a vital role in providing healthcare services for refugees, who may require additional services. For this reason, we strongly recommend that local authorities engage with Integrated Care Boards when considering their responses, to ensure that the capacity of the local NHS system is taken into account.

This is not a public consultation and, as such, the consultation will only be sent to local authorities (and equivalents), inviting them to respond. Any other responses received (i.e. from organisations which are neither local authorities nor their equivalents in the DAs) will not be considered.

What will follow after this consultation?

Once we receive responses, we will continue engaging with stakeholders to review and consolidate feedback and define the cap. As set out in the Illegal Migration Act, the cap will be presented to Parliament for decision before coming into effect.

A consultation response will be published in Summer 2024. We expect the cap to be introduced in 2025.

In future years, we will continue to assess capacity to deliver routes under the cap.

Questionnaire

Instructions for completing the questionnaire

We understand that current pressures faced by local authorities across asylum and resettlement services, including such aspects as the impact of Afghan bridging accommodation closure, social housing waiting lists and homelessness presentations. You may wish to consider forecast demographic and population changes and consider their projected impact on housing, homelessness, health and care services and other services in your area.

In your responses, please consider the burdens placed on resources by other delivery pressures including delivery of safe and legal routes outside of the cap, such as the Ukraine Schemes, dispersal and illegal migration.

Responses should be a well-considered figure that is deliverable. The expectation is that local authorities are committing to deliver this figure, and will have to adhere to it if called upon and if needed, and is therefore not a commitment that should be taken lightly. As is current practice, delivery of each local authority's commitment will form part of regular operational reporting and monitoring processes.

As part of the ongoing operation of the cap, we are considering the introduction of annual MoUs and will keep this under review.

We recognise that it may be challenging to provide your capacity commitment for 2025. Given this, please use your current capacity as a benchmark, and consider how this capacity may change in the medium-term.

Please provide a numerical figure, in your answers, either as a proportion of your local population, or as an absolute number.

Your response needs to be a politically agreed commitment, so please seek approval for your responses to ensure this represents a clear consensus within your area, and with local partners. In two tier areas please provide an answer which is agreed by both the district and the county.

We are asking local authorities to engage with Strategic Migration Partnerships, community groups, and any VCS organisations that deliver accommodation or refugee resettlement services in their areas.

We would strongly encourage you to consult local VCSE partners based in your areas with knowledge and/or experience of the delivery of safe and legal routes and to include these inputs as part of your responses.

Please note that this consultation is solely considering responses to questions below in relation to capacity regarding the cap on safe and legal routes. Responses related to general migration policies will not be considered.

We would welcome responses to the following questions set out in this consultation paper.

For local authorities and/or Devolved Administrations:

1. What organisations (including VCS organisations, and community sponsorship groups) in your area have you engaged with while compiling your response and have you included the responses received from these organisations in your local authority consolidated response?
2. What is your capacity to house and support those coming through safe and legal routes under the cap in calendar year 2025?
3. What evidence can you provide to support this (for example, number of properties that you have available or can procure)?
4. Of the above number, in 2025, how many of the following groups do you anticipate being able to accommodate, and ensure appropriate support is in place for:
 - a. Complex cases (such as those with specific medical, mobility or special education needs)
 - b. Single people
 - c. Large families (6+)
5. Of the above number, how many of these do you expect to come through the community sponsorship scheme in your area?
6. The Resettlement Tariff and Community Sponsorship Funding provide the local authority with access to central funding for the purpose of supporting refugee integration. What impact has this funding had on your ability to resettle refugees in your area?
7. There is no additional funding being introduced with the cap. How could the funding instructions be changed to maximise the existing funding, enabling innovation and increased delivery of services in your area?
8. What impact do you assess the local provision of public services such as education, social care (adult and children) and healthcare has on your ability to resettle refugees in your area? Why do you assess this to be the case?

Thank you for participating in this consultation.

Contact details and how to respond

Please send your response by midnight on 15 December 2023 to capconsultation@homeoffice.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

Extra copies

Alternative format versions of this publication can be requested from capconsultation@homeoffice.gov.uk

Publication of response

A paper summarising the responses to this consultation will be published in Summer 2024.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the UK General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

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The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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