

Home Affairs Committee

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From the Committee Chair

Kevin Foster MP
Minister for Future Borders and Immigration
Home Office
2 Marsham Street
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SW1P 4DF

3 February 2021

Dear Minister,

On 31 January 2021, the new Hong Kong British National (Overseas) visa opens for applications. This visa, created in response to the imposition of a harsh national security law in Hong Kong, enables holders of BN(O) status and their dependents to apply for the right to remain in the UK for five years, and subsequently to apply for settlement and citizenship.

We recently took evidence (in private) from experts and individuals affected by the new national security law in Hong Kong, and they, like us, welcomed the Government's offer to BN(O) citizens, calling it "incredibly generous". However, there remain some concerns, outlined below, on which we would appreciate some further information.

People at risk of missing out

Those with politically motivated criminal convictions

To be eligible for the visa, applicants must have no serious criminal convictions (more than a 12-month sentence). This has given rise to concerns that individuals may be excluded as a result of convictions arising from participation in pro-democracy protests.

Witnesses said that this fear was exacerbated by the perception of a 'tick box culture' in the Home Office when it came to assessing eligibility: "There is no distinguishing, at least from the policy's perspective, as to how those crimes or charges have arrived".

In November 2020 you told us that "if they were convictions that we were satisfied were effectively political convictions, they would be disregarded".

- What guidance or training has the Home Office provided to caseworkers on handling applications from individuals with politically motivated convictions?

- How would caseworkers determine whether a conviction was politically motivated?
- Has your statement to us that politically motivated convictions will be disregarded been transposed into official guidance?

People between the ages of 18 and 23

Individuals between the ages of 18 and 23 are not eligible for the new visa as they are not eligible for British National (Overseas) status (as they were born after the July 1997 handover) and would not normally be considered as a dependent in the UK's immigration system. This is a concern as young people are more likely to have taken part in pro-democracy demonstrations and thereby be more vulnerable under the new law.

The Government has said that in “compelling and compassionate circumstances” it will “use discretion” to grant visas to dependent children of BN(O) citizens who fall into this category. However, this still excludes young people who are not dependent on BN(O) status-holding family members, people whose parents failed to apply for BN(O) status for them before July 1997, and those whose qualifying family members do not plan to leave Hong Kong (as dependents are required to apply at the same time as status-holding family members).

We have heard that many vulnerable young people, who would not qualify for the BN(O) visa as it stands, have already come to the UK through other routes (for example, short-term visitor visas) or have applied for asylum. However, there is often a reluctance to apply for asylum due to an unfamiliarity with the process, questions over eligibility, and a fear of being stuck in the system unable to work while waiting for a decision.

- What would qualify as “compelling and compassionate circumstances” when considering granting a visa to an individual in this situation?
- Is the Government considering introducing any alternative provisions for vulnerable young people who would otherwise not be eligible for the BN(O) visa?
- What advice or guidance is proactively given to young people who are not eligible for the BN(O) visa with regards to applying for asylum in the UK?
- What advice or guidance has been given to caseworkers handling applications for the BN(O) visa from this cohort and those handling applications for asylum?
- How many young Hongkongers have come to the UK since the imposition of the new security law in Hong Kong (June 2020); how many have applied for asylum; and how many grants of asylum have there been?

Barriers to application

There may be financial barriers for some applicants. While the visa fee is lower than for other similar visas, the cost of the Immigration Health Surcharge (£3,120 for an adult for five years) and indefinite leave to remain (currently £2,389) will cause difficulties for some. Some may be able to afford the upfront costs but may struggle thereafter to support themselves in the UK.

Some eligible people may be unaware of the UK's offer. We have heard that while the scheme has been covered in the pro-democracy media in Hong Kong, other media has suppressed information on the options open to BN(O) status-holders.

There are further concerns that actions taken by the Chinese or Hong Kong Governments could make it difficult for individuals to apply for the new visa or to leave Hong Kong. The Chinese Government has already stated that it will no longer recognise the BN(O) passport as a valid travel document, and witnesses and a recent resolution by the European Parliament highlighted concerns over potential further action. The Foreign Secretary has previously said that there is little the UK could do if Beijing tried to prevent Hong Kong citizens leaving the country.

- Would the Government consider waiving or reducing upfront costs associated with the Immigration Health Surcharge or applications for settlement for people who would be vulnerable or at risk in Hong Kong?
- What is the Government doing to ensure eligible individuals are aware of the new visa route and are able to access it?
- What assessment has the Government made of the impact of the Chinese Government's withdrawal of recognition of the BN(O) passport on BN(O) status-holders' ability to take advantage of the UK's visa offer?

Preparations for arrivals from Hong Kong

Likely number of applicants

The Government's impact assessment for the new visa gave an overall central estimate of between 257,000 and 322,000 applications over five years, with 123,000 to 153,000 in the first year.

Witnesses who gave evidence to us in private felt the Government's estimation for the overall number of arrivals was realistic, but had different views on when individuals would choose to move. Some questioned the Government's assumption that the number of applications would reduce significantly after the first year, with the pandemic and the need to move assets meaning that many will be planning now to leave Hong Kong later. Conversely, research by Hongkongers in Britain found that, based on a survey of 300 people, 71% of future applicants planned to apply during 2021 against a Government expectation of 38%. Witnesses added that recent events in Hong Kong, including a large number of arrests at the start of January, may push more people to decide to leave Hong Kong or to do so sooner than planned.

- Have recent developments, including the Chinese Government's announcement that BN(O) passports will not be recognised as travel documents, affected Government estimates of likely total numbers of applications or of the number of applications expected in the first year compared to later years?

Preparations by Government and local authorities

Given the potential arrival into the UK of large numbers of Hongkongers, witnesses voiced concerns to us as to whether either central Government or local authorities were sufficiently prepared.

We were told that there need to be “concrete actions and evidence” of adequate preparations for future need and demand in areas such as housing, education and social services, as “there is the potential, if it is not well implemented and co-ordinated, particularly across Government Departments in Whitehall and between Whitehall and local government, for things to go wrong”.

Witnesses advocated for a resettlement board, as was established by the UK Government in the 1970s to support Ugandan Asians, or the creation of an integration fund, which could be used by local government and civil society charities.

- What preparations are in place, at a local and national level, for the potential arrival into the UK this year of more than 100,000 individuals from Hong Kong?
- What advice has been given to local authorities as to the likely impact on their services and communities of arrivals from Hong Kong?
- Have local authorities or other agencies alerted the Government to areas where further guidance or support is needed?
- Which towns or cities, or particular areas of the UK, does the Government expect arrivals from Hong Kong to gravitate towards?
- What consideration has the Government given to a resettlement board, to coordinate arrangements for incoming Hongkongers, or to an integration fund, to support local authorities and organisations working to help settle arrivals in the UK?

Integration

Research conducted by Hongkongers in Britain found that the main concerns of those considering moving to the UK were difficulties in finding jobs and accommodation, the cost of living, and integrating into UK society.

One witness told us:

there is no cohesive or co-ordinated effort with charities or NGOs to help BN(O) citizens to assimilate and integrate into UK society. We actually have not seen any policy in that regard. Once they have arrived, they are pretty much on their own.

Witnesses advocated for Government support for arrivals from Hong Kong through job-matching schemes, temporary or subsidised housing, and integration programmes, as while many who move to the UK from Hong Kong will speak English and have a familiarity with western or European life, others will not. They may also, due to the current political tensions, be unable to access support from the Chinese embassy or communities in the UK.

Supporting integration will need to include increasing awareness amongst local authorities, employers and other agencies of BN(O) status and grants of leave outside the rules (LOTR). We heard concerns that employers unfamiliar with LOTR arrangements, and particularly the amended guidance for BN(O) citizens, may refrain from offering employment for fear of employing someone illegally.

- What measures does the Government have in place, or plan to have in place, to assist arrivals from Hong Kong to settle and integrate in the UK?

I would be grateful for your response by 19 February.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Yvette Cooper', written in a cursive style.

Yvette Cooper MP