

## **Supplementary written evidence submitted by Witness F (VIS0003)**

[Note: This evidence has been redacted by the Committee. \*\*\* represents redacted text.]

### Options for 18–23-year-olds

#### **Background**

In response to the introduction of the National Security Law in Hong Kong, [\*\*\*].

[\*\*\*] the announcement by the British Government that it would create a new visa scheme for Hong Kongers and their dependents who hold British National Overseas passports to live and work in the UK, following the law's introduction in July.

[\*\*\*].

#### **UK BNO Scheme: the details**

In January 2021, the scheme will be open to BNOs and their immediate family members, even if those immediate family members are not BNO status holders themselves. "Immediate family members" are defined as "spouse or partner and children aged under 18".

Applicants do not need to have a current BNO passport, but they must have registered for BNO status between 1987 and 1997 (registration for BNO status ended on 01.07.1997).

In "compelling and compassionate circumstances", the Home Office may consider dependents of BNO status holders who are over aged 18, observing that these dependents may not have BNO status purely due to being "born after 1997 (so are not [BNO status holders]) and are over 18".

There will be discretion to grant a visa to dependents of BNO status holders who were born after 1997 and are now over 18, but who are still dependants of a BNO status holder parent. This discretion will ordinarily be limited to those born after 1997, but who remain dependants of a BNO status holder parent and are applying with their parents as a family unit.

Other cases of "high dependency" adult dependants of BNO status holders may also apply under a discretion, but this will be considered on a case-by-case basis. This would mean that the BNO status holders who are looking after elderly non-BNO status parents may be able to apply for their parents under a discretion under this scheme.

#### **The Home Office has set out the following conditions and entitlement of the BNO scheme:**

##### **Entitlement**

- leave to remain in the UK for a period of five years. This will consist of an initial period of 30 months' leave, renewable by a second charged application for a further 30 months. Alternatively, applicants will be able to apply for 5 years' leave from the outset, upon payment of a higher fee and the Immigration Health Surcharge for the duration. Applying for 5 years' leave is likely to be more cost effective overall;
- the ability to apply for settlement (indefinite leave to remain) in the UK after five years' leave under existing rules, and to apply for UK citizenship after 12 months settlement under existing rules and application processes;
- the right to work in the UK in almost any capacity as an employed or self-employed person, consistent with UK employment laws and subject to having the appropriate skills and qualifications;

- access to education including:
- schooling for under 18 child dependants;
- education and training for young people aged 16-19;
- the ability to apply for higher education courses;
- and access to healthcare free at the point of use on the same terms as British residents, contingent on payment of the Immigration Health Surcharge.

### Conditions

- no recourse to public funds;
- be ordinarily resident in Hong Kong, which includes those currently in the UK but who are ordinarily resident in Hong Kong;
- be able to demonstrate their ability to accommodate and support themselves in the UK for at least six months;
- demonstrate a commitment to learn English in the UK where appropriate – on entry, there will be no English language requirement but applicants will require a good knowledge of the English language if they choose later to make an application for settled status (indefinite leave to remain) after five years;
- hold a current tuberculosis test certificate from a clinic approved by the Home Office;
- pay a fee for the visa and the Immigration Health Surcharge both payable in full at the point of the visa application;
- and have no serious criminal convictions, have not otherwise engaged in behaviour which the UK Government deems not conducive to the public good, and not be subject to other general grounds for refusal set out in the Immigration Rules.<sup>1</sup>

### The gaps in the policy

Only Hong Kongers born before the handover in 1997 were entitled to apply for BNO status. The youngest BNOs are 23 and only dependents under the age of 18 will be able to move to the UK with their parents who are BNOs.

In 'compelling and compassionate circumstances' under the UK's scheme dependents over the age of 18 may be able to move to the UK with their family if they are BNOs. However, this discretion will be decided on a case by case basis by the UK Home Office and based on the family applying as a unit.

A sizeable portion of the protestors in Hong Kong are university and school students ranging between 18-23. Many are born after 1997, and therefore are not entitled to BNO status and would most likely not be covered by the UK Government's scheme.

Additionally, many activists' families are split on their role within the pro-democracy movement. In these cases, it is highly unlikely that they will be able to take up the Government's exemption for dependents if they apply for the new BNO scheme alongside their family.

### Recommendations

#### 1. Australia's Graduate Visa

**The UK Government could follow the example of Australia and offer a five-year graduate visa to Hong Kongers who come to study in the UK, which would allow them to work and qualify for residency once they graduate from university.**

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<sup>1</sup> [\*\*\*]

In response to calls for Australia to join an international lifeboat scheme, on 9<sup>th</sup> July the Australian Government announced a five-year graduate visa for Hong Kongers studying in the country as a pathway to eventual citizenship.

The Australian Government's scheme applies not only to those Hong Kongers who are currently studying in the country, but also to future students. As part of the scheme the Australian Government will be reopening its visa application centre in Hong Kong, to encourage Hong Kongers to take up this offer to study and work as a pathway to citizenship in Australia.

The scheme includes:

- Temporary graduate and skilled workers will be offered an additional five years of work rights in Australia on top of the time they've already been in Australia, with a pathway to permanent residency at the end of that period.
- Current and Future students will be eligible for a five-year graduate visa from the conclusion of their studies, with a pathway to permanent residency at the end of that period.
- Future Hong Kong applicants for temporary skilled visas will be provided with a five-year visa, based on meeting the updated skills lists and Labour Market Testing requirements.
- Existing arrangement will continue to apply for those applicants who study and work in regional areas to help address skills shortages in those areas, with pathways to permanent residency after 3 years.<sup>2</sup>

The Australian Government has estimated that the scheme will benefit almost 10,000 existing temporary skilled, temporary graduate and student visa holders in Australia who will be eligible for these special arrangements, with a further 2,500 outside Australia and 1,250 applications on hand.<sup>3</sup>

## 2. Canada's 'Young Talents' Work Visa

**The UK might consider a scheme for young Hong Kongers similar to the Canadian Government's 'Young Talents Scheme' offering a three-year work visa to Hong Kong graduates and their dependents.**

On the 12th November, the Canadian Immigration Minister Marco Mendicino announced the creation of lifeboat scheme for Hong Kongers after intense calls from Hong Kong groups for the Government to implement a similar scheme to the UK or Australia.

The Canadian Government's announcement on lifeboat was split into three distinctive components:

1. Young talents: A new youth work visa scheme targeted at Hong Kong graduates and their dependents, which would allow a pathway to Canadian citizenship.
2. Asylum: Changes to Canada's asylum rules for Hong Kongers, including waiving the usual one-year period for failed asylum claimants and ensuring Hong Kongers won't be disqualified from making a claim by virtue of a charge under the National Security Law.
3. Family reunification: The announcement of additional resources to process to speed up processing of permanent residence applications, including for family sponsorship.<sup>4</sup>

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<sup>2</sup> [\*\*\*]

<sup>3</sup> <https://www.pm.gov.au/media/hong-kong>

<sup>4</sup> <https://www.canada.ca/en/immigration-refugees-citizenship/news/2020/11/measures-to-support-hong-kong-residents-including-youth-to-come-to-canada.html>

The most substantive part of the Canadian Government's announcement regards the creation of a new three-year work visa scheme that would allow Hong Kongers to work in Canada as a pathway to citizenship.

Considering the Hong Kong Government's records of Hong Kongers aged between 21-28 with post-secondary education, at least 200,000 Hong Kongers could potentially be eligible to move to Canada to take up the scheme<sup>5</sup>.

#### **4. Reforming the Youth Mobility Visa**

**The UK might consider reforming and extending the current Youth Mobility Visa which is available to Hong Kongers aged 18-30, allowing them a more direct pathway to permanent residency in the UK.**

The Home Office has previously stated that "those not eligible for the Visa can still apply under existing immigration routes to live, work or study in the UK. In addition, Hong Kong nationals aged between 18 and 30 are eligible to apply to the existing Youth Mobility Scheme, with 1000 places currently available each year."<sup>6</sup>

It is erroneous to equate the Youth Mobility Scheme with a specific pathway for 18–23-year-old Hong Kong pro-democracy activists:

- First, the scheme does not currently offer a pathway towards permanent residency and only allows Hong Kongers to work in the UK for up to two years. This would leave Hong Kongers with a difficult choice of returning to Hong Kong after the scheme ends to the prospect of possible arrest under the National Security Law or alternatively entering into the UK asylum system.
- Second, there is a cap on places, tightly limiting the number of Hong Kongers who can take up the scheme.
- Third, it is a bilateral agreement directly with the Hong Kong Government rather than an independent scheme.<sup>7</sup>

The Home Office could reform the scheme by extending the length of time Hong Kongers can work in the UK to allow them to claim residency, removing the cap, and reviewing its bilateral arrangement with the Hong Kong Government.

#### **5. The resurrection of some form of BNO visa selection scheme for 18-23 year olds**

**The UK could resurrect the British Nationality Selection Scheme which was previously introduced in 1990 and gear it to covering the most vulnerable 18–23-year-old Hong Kongers**

Following the Tiananmen Square Massacre, the UK Government created the British Nationality Selection Scheme which granted to a select group of 50,000 Hong Kongers and their families' British citizenship without having to fulfil the ordinary requirements, under the British Nationality (Hong Kong) Act 1990.<sup>8</sup>

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<sup>5</sup> <https://www.statistics.gov.hk/pub/B11201042016XXXXB0100.pdf>

<sup>6</sup> Letter from the Home Secretary to Sarah Champion MP on 28 October 2020

<sup>7</sup> <https://www.gov.uk/youth-mobility>

<sup>8</sup> <https://www.legislation.gov.uk/ukpga/1990/34/contents>

The Hong Kongers in question, were recommended by the Governor of Hong Kong and then registered by the Home Secretary. After the handover in 1997, no person could be registered under the act.

The Home Office could consider introducing a similar scheme, this time targeted specifically at young Hong Kongers who do not qualify for BNO status. The scheme could operate as a lottery with a select number of places, or alternatively, the Home Secretary could introduce specific criteria to qualify for the scheme including:

- protest leaders;
- those who have helped organise protests;
- first-aid responders who have offered medical treatment to protestors;
- journalists who have covered the protests and been targeted;
- those who have offered pro-bono legal services to represent protestors who have been arrested;
- and those who have been arrested, detained, or convicted for their participation in protests.<sup>9</sup>

### Where Hong Kongers may look to settle and for what reasons

Through [\*\*\*] regular engagement with the BNO community, we have found an increasing interest from BNOs to move to metropolitan areas. Manchester, in particular, is regularly cited as a city of great interest to BNOs.

The factors informing this interest in metropolitan areas, appears to be a desire to be with pre-existing Hong Kong communities, access to schooling, areas with job opportunities and affordable housing. Many BNOs we have spoken to, have stated that they are simply priced out of the London housing markets.

BNOs are also sensitive to the recent immigration debate in the UK around Brexit, and recognise that much of it was fuelled by mass immigration into areas that had previously had little to no historic immigration into the area. This may factor in their preference to move to ethnically diverse areas.

### Preparations by the Home Office and local authorities with regards to integration and settlement in the UK

We recognise that the success of the scheme will be largely down to how it works in practice. In our engagement with regional mayors and combined authorities we were struck by the general lack of knowledge about the BNO scheme.

Many of them reported huge strain on pre-existing budgets as a result of COVID, and advised us to speak directly to the Home Office over the need for a specific integration fund for BNOs, if the reported numbers likely to take up the scheme are accurate.

Similarly, one of the BNO groups we work closely with shared with us specific cases of schools and local authorities offering BNO parents the wrong information or failing to notify them that they could place their children on a waiting list.

It is clear that there does need to be greater communication between the Home Office and the Department for Education about the BNO scheme and also with local authorities and schools, particularly around the right of BNO families to access school places.

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<sup>9</sup> This is the current criteria being considered in the US Congress for a specific lifeboat scheme for Hong Kong protestors through the Hong Kong People's Freedom and Choice Act: <https://www.congress.gov/bill/116th-congress/house-bill/8428>

More broadly, the Government could do more to raise public awareness about the scheme. The British public has rightly had a lot to think about regarding Brexit and tackling COVID, but if up to a million Hong Kongers come to the UK under this scheme it will have a profound impact on the UK and mark of the largest changes in the makeup of British society in a generation. The best way to ensure that the scheme is a success and that there isn't a backlash as there was with mass migration from Eastern Europe, is to ensure Hong Kongers integrate but that does require a level of public awareness and support.

The UK can learn from the recent experience of Germany, which took in over a million Syrians and has successfully integrated them into German society. Many commentators at the time stated this was impossible.

January 2021