26 August 2026

Immigration and Asylum Bill 2026: What it means for Scotland's devolved services, and what we are asking MSPs to do

Summary

The UK Immigration and Asylum Bill, introduced in the House of Commons on 30 June 2026, proposes to change the UK's immigration, asylum and modern slavery law[1]. Scotland and the UK need an asylum system that is well managed, compassionate and fair, and that people can have confidence in. Several of the Bill's provisions would, in our view, undermine those aims. We are particularly concerned by proposals to charge refugees for the support they received while their claim was being decided, and by the proposal to move first instance immigration appeals away from legally qualified judges.

Immigration is reserved to Westminster[2], but several of its measures affect refugees and people seeking asylum directly and reach into services and duties that sit with the Scottish Government and local authorities. Refugee integration has long enjoyed broad consensus support across political parties in Scotland, and we are asking MSPs to use the Parliament's voice, and Scotland's own laws, to protect people seeking safety from the wider harms of this Bill. This briefing sets out those effects and what we are asking MSPs to do about them.

Key impacts on refugees and devolved services in Scotland

A new appeals body without judicial guarantees: The Bill replaces the First-tier Tribunal's immigration and asylum jurisdiction with a new Independent Immigration Appeals Authority (IIAA)[3]. Most adjudicators would not need to be legally qualified, with only senior adjudicators needing around two years, and even that assessed by the Chief Executive rather than through judicial appointment.[4] The Bill also closes off judicial review of how the new body manages cases, leaving the body's own internal review and an onward appeal to the Upper Tribunal on a point of law as the only routes to challenge a decision.[5]

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[1] Immigration and Asylum Bill 2026.
[2] Schedule 5, Scotland Act 1998
[3] Clause 1, Immigration and Asylum Bill 2026
[4] Clause 2, Immigration and Asylum Bill 2026
[5] Clause 6, Immigration and Asylum Bill 2026

Many people appealing asylum and human rights decisions in Scotland rely on civil legal aid administered by the Scottish Legal Aid Board. Slower or less consistent first-instance decisions will likely show up later as pressure on legal aid and on the organisations that support appellants. **MSPs should ask the Scottish Government what engagement it has had on how the new body's procedures will affect access to justice and legal aid demand in Scotland, and if the Scottish Government has considered the potential impact on the ongoing legal aid reform.**

A stricter test for family life: The Bill redefines family life for the purposes of Article 8 of the European Convention on Human Rights to partners, and parents of children under 18. It excludes real-world family relationships, including elder dependent relatives. The government has justified the change on the grounds that these cases pose a risk to the integrity of the immigration system, a striking claim given the very limited number of cases involved. The bill also states that the court or tribunal should give no weight to a family life formed while someone did not have leave to remain in the UK, and little weight if a person's immigration status is "precarious". That word carries more than it appears to. In law, it covers anyone short of indefinite leave to remain.[6]

A single protection status: The Bill gives the power to the Secretary of State to replace refugee status and humanitarian protection with a single 'protection status'.[7] The Government describes this as part of a shift away from an assumption of permanent protection towards a temporary model of protection.[8] This approach is inconsistent with the principles of the New Scots Refugee Integration Strategy, which is built on integration from day one of arrival. Instead, it places refugee families in a perpetual state of limbo. **MSPs should ask the Scottish Government to confirm whether it will maintain the commitments in the New Scots trategy regardless of how the Government defines protection status.**

A charge for asylum support: The Bill would allow the UK Government to require refugees to repay asylum support received while their asylum claim was being decided,[9] which is reportedly around £10,000.[10] The Bill does include a destitution safeguard, but it is a narrow one: it only stops a charge from pushing someone below the statutory destitution line, it does not prevent serious hardship above that line. This risks pushing people back into serious hardship, which can have a ripple effect on Scottish local authorities by increasing the demand for homelessness support, social work and children's services. Safety should not be for sale. **MSPs should ask the Scottish Government what assessment it has made, and what it plans to do to protect the services and people affected.**

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[6] Rhuppiah v Secretary of State (Supreme Court, 2018). Available at: Rhuppiah (Appellant) v Secretary of State for the Home Department (Respondent) - UK Supreme Court

[7] Clause 21, Immigration and Asylum Bill 2026
[8] Paragraph 42, Explanatory Notes, Immigration and Asylum Bill 2026
[9] Clause 23, Immigration and Asylum Bill 2026

[10] Office, H. (2026) *Asylum seekers will pay towards costs of accommodation*, *GOV.UK*. Available at: https://www.gov.uk/government/news/asylum-seekers-will-pay-towards-costs-of-accommodation (Accessed: 12 August 2026).

Support for trafficking survivors: Support for survivors of trafficking in Scotland is tied to decisions taken under the UK's National Referral Mechanism, the system through which people are formally identified as victims. The bill changes how those decisions end support; a negative decision now closes a survivor's protected recovery period on the day it is made. For a survivor, that can mean losing safe accommodation, protection, emotional and practical support, risking destitution at their most vulnerable. But the 2015 Act also gives the Scottish Ministers a discretion to provide support outside that mandatory period, including after a negative decision.

The Bill also requires any delay in a survivor coming forward to be treated as damaging their credibility by default. This obscures the reality that trauma, ongoing control by traffickers, and fear of authorities commonly make early disclosure difficult, and it widens the grounds on which someone can be disqualified from the process altogether.[11] This comes at a time when Scotland's own support arrangements are already under strain and under review: a 2025 legal challenge found survivors' support was being cut sharply after 90 days, and the Scottish Government consulted on earlier this year to develop new support guidance.[12] **MSPs should seek assurance that survivors in Scotland will not lose support as an unintended consequence of changes made by the UK Government and should press the Scottish Government to use its existing powers to prevent that from happening.**

What we ask MSPs to do:

- Ask the Scottish Government what assessment it has made of the Bill and what it plans to do to protect the services and people affected.
- Ask the Scottish Government what engagement it has had on how the new UK appeals body's procedures will affect access to justice and legal aid demand in Scotland, and if it has considered the potential impact on the ongoing legal aid reform.
- Ask the Scottish Government to confirm whether it will maintain the commitments in the New Scots Strategy regardless of how the UK Government defines protection status.
- Seek assurance that trafficking survivors in Scotland will not lose support as an unintended consequence of changes made by the UK Government and whether the Scottish Government will use existing powers under Human Trafficking and Exploitation (Scotland) Act 2015 to prevent that from happening.
- Ask the Scottish Government to publish a plan setting out how it will protect devolved services, and the people who rely on them, from the effects of the Bill, and to reaffirm the values and commitments of the New Scots Refugee Integration Strategy.

[11]Clauses 36 and 38, Immigration and Asylum Bill 2026, amending Part 5 of the Nationality and Borders Act 2022.
[12]Just Right Scotland, legal challenge on human trafficking support, 2025; Scottish Government, 'Adult victims of human trafficking and exploitation: guidance on support' (consultation, closed 30 June 2026).