Hong Kong British National (Overseas) visa

May 2021

In June 2020, in response to new laws affecting citizens of Hong Kong the UK government announced its intention to provide a route for Hong Kong citizens with British National (Overseas) status to come to the UK and live and work. The Home Office has subsequently create a new visa route to facilitate this.

This briefing aims to explain the policy background, the new visa route and its potential impact on local authorities.

In summary

- Many Hong Kong residents possess a type of British Nationality Status known as British National (Overseas).The British government is openly welcoming any people with BN(O) status who may no longer wish to remain in Hong Kong as a result of changes to their rights in China, to come to the UK.

- From 31 January 2021, people with BN(O) status can apply for a Hong Kong British National (Overseas) visa to come and live and work in the UK for an initial period of 30 months. This can be extended and there is a clear route to Settlement and British Citizenship.
- With as many 5.4 million people potentially eligible for the visa, the highest possible forecasts suggest up to 322,000 people could arrive in the UK over the next 5 years. This would mean a number of potential impacts on local communities. Local authorities may wish to consider the risk of destitution, impact on services like housing and schools and the need for resources to provide integration support to this cohort.
- Some government funding is available to local authorities and voluntary and community sector organisations to provide integration support through the Hong Kong UK Welcome Programme.

Overview of policy background

1. For 99 years Hong Kong was a British colony and dependent territory before returning to Chinese sovereignty on the 1 July 1997. The Sino-British Joint Declaration is the legally binding agreement which stipulates the sovereign and administrative arrangement of Hong Kong after 1 July 1997 and implements a ’one country, 2 systems’ policy.

2. Prior to ‘handover’ in 1997, the UK government introduced a new type of British nationality status for Hong Kong residents known as British National (Overseas) (BN(O)). Residents of Hong Kong had to voluntarily register for people with BN(O) status before handover was completed in July 1997. Home Office estimates that there are approximately 350,000 holders of BN(O) passports but there are as many as 2.9m people with BN(O) status.

3. Since the creation of BN(O) status, status holders have been subject to immigration control but are able to enter the UK for up to 6 months without a visa, have the right to vote, hold public office and can acquire British Citizenship through registration, rather than naturalisation.

4. Following the introduction of the Hong Kong national security law by the Chinese government, the British government raised concerns that this new legislation infringes on the rights of the people of Hong Kong under the Hong Kong Basic Law and is in breach of International Law – the Sino-British Joint Declaration.

5. In June 2020, in an article from Boris Johnson PM, the UK government signalled its intention to offer a direct route for people with BN(O) status in Hong Kong to live and settle in the UK, should they feel that they are no longer able to live in Hong Kong as a result of the national security law impacting their individual freedoms.

6. In July 2020, the Home Secretary published a policy statement outlining a new visa route for people with BN(O)

status from Hong Kong to apply to come and live in the UK, with a route to settlement. Further guidance on this new visa was published in October 2020 outlining the conditions and requirements of this new visa route.

7. The government estimates that up to 5.4 million people could be eligible to apply through the scheme either as a BN(O) status holder, dependent or household member. Its forecasts suggest that between 123,000 to 153,700 may arrive in the UK in the first year, and 258,000 to 322,400 over 5 years.

Hong Kong British National (Overseas) Visa requirements and details

8. The Hong Kong British National (Overseas) Visa opened on 31 January 2021. People with BN(O) status can apply for a visa to enter the UK for a period of 30 months, with the option to extend this for a further 30 months or 5 years.

9. To be eligible, applicants must have BN(O) status. There are two routes within the visa, enabling applicants to bring with them any dependent family members, providing they meet the criteria for eligible dependents. This includes a route for applicants, their partners and dependent children under 18 years of age, and a route for adult children and their partners and children under 18 years of age, providing all applicants form part of the same household.

10. Visa fees are £180 to apply to stay for 30 months or £250 to apply to stay for 5 years. Additional costs include the Immigration Health Surcharge, which is currently £1,560 for a 30 month visa, and maintenance requirements evidencing the applicant's ability to support themselves financially.

11. The visa contains a route to Settlement or Indefinite Leave to Remain (ILR) as applicants are eligible to apply for ILR after 5 years. After 1 year of possessing ILR, visa holders can register as a British Citizen.

12. The Hong Kong British National (Overseas) Visa allow people with BN(O) status to live, work and study in the UK. Applications can be made from outside the UK but also within the UK for people with BN(O) status already residing here.

13. The BN(O) Visa does not require a job offer, however applicants must be able to demonstrate that they have enough funds to support themselves independently in the UK for at least 6 months. Notably, there is also a no recourse to public funds (NRPF) condition attached to the visa. However, recent changes to the Immigration Rules which came into effect in April 2021 mean that the 6 months 'maintenance requirement' will not apply to applicants already resident in the UK for more than 12 months and that visa holders will be able to apply to remove the NRPF condition from their leave should they become destitute or be at 'imminent risk of destitution'.

14. There is no English Language requirement. There is a requirement to have undertaken a Tuberculosis test. This can be

done at designated test sites prior to coming to the UK but can also be done in the UK for those applying from within the country.

Impact on local authorities and communities

15. The arrival of a new cohort of migrants may have a range of impacts, some of which can be managed well with preparation and resources. Although we don't know how many people with BN(O) status will seek to utilise this route, there are some possible scenarios that can be used by public services to prepare in the event that sudden political or social upheaval or decline in Hong Kong leads to a situation where significant numbers rapidly seek to utilise their rights to come to the UK. Migration Yorkshire is working with local resilience forums to coordinate planning and preparation for our region in case this becomes a reality. We don't know where exactly these new arrivals will settle but we can expect differential settlement and it's reasonable to anticipate new arrivals will make for communities with significant settled communities from Hong Kong. Hong Kong was the 11th top country of birth for Yorkshire and Humber residents in the 2011 census, with notable numbers in Leeds, Sheffield, Bradford and York. As we know that this cohort are coming from a wealthy and developed city, it is therefore possible that some people with BN(O) status who arrive through this visa may be highly skilled and educated and some may already have a high level of English - all of which would bring great benefits to

receiving communities and enable integration. Nonetheless, there are some other impacts we've identified that local authorities may wish to consider.

16. One concern local authorities are likely to have is the risk of destitution and how that impacts services from the middle of 2021 due to the potential duties local authorities may have to support individuals and families.

- With applicants not required to have a job offer or English language requirements, but only finances to support themselves for 6 months, there is the risk that some may struggle to find employment and thus risk facing destitution. The current economic crisis and high levels of unemployment in the UK brings additional uncertainty over the ability to secure employment opportunities. Another concern is where migrants are in a precarious financial situation, there is an increased risk of exploitation and modern slavery.
- As visa holders will have a no recourse to public funds condition, they will not initially be eligible to claim welfare benefits or access local authority housing and homelessness assistance. Although visa holders can now apply to remove the NRPF condition where they are experiencing or are at risk of destitution, such an application requires access to OISC-regulated legal advice and does not come under the scope of legal aid. Therefore, the ability to access support may be hindered by geographical and economic factors. Individuals will still face

destitution while awaiting a decision from the Home Office on this application. However, newly announced funding for local authorities and the VCSE sector is partly aimed at providing destitution support to fill the gap between applying for the NRPF condition to be lifted and receiving a decision (see para.20).

- Local authorities may find themselves having to respond to migrant homelessness through the discretionary provision of homelessness services, which remains unfunded due to the NRPF status, or where statutory duties under the Care Act 2014 or Children Act 1989 are identified.

17. Another potential impact on local authorities is on the housing market and schools. In some areas of the country, should they receive notable migration into a particular area as a result of arrivals of people with BN(O) status, this will inevitably have an effect on the availability of housing. Whilst people with BN(O) status without recourse to public funds generally won't be entitled to local authority housing, the potential pressure on the private sector could have an indirect impact on demand by other residents for social housing from local authorities. Similarly, the availability of school places may be impacted by increased arrivals in particular areas and schools' ability to communicate with pupils from Hong Kong and their parents.

18. Where new migrants settle into new areas, this will have an impact on local communities and local authorities will be mindful of community cohesion, particularly if new arrivals like people with BN(O) status settle in areas already under stress. Perceived

competition for resources such as employment opportunities, access to housing and other services can lead to hostility and social segregation. There may be additional factors to consider too such as relations with well-established Chinese communities and whether or not this will be a source of support or tension for these new arrivals. Other possible risks to cohesion include hostility targeted at Chinese communities as a result of COVID-19, or whether local communities will embrace new arrivals so soon after the UK fully left the EU. However, there will inevitably be a number of benefits to local communities as a result of this cohort. The arrival of new migrants with the right to work who may be able to fill skill gaps, develop local businesses or improve the performances of local schools are just some of many examples of where migration can have a positive impact on local communities. It's also possible that this group of new arrivals could benefit universities suffering from fewer international students arriving since COVID-19, thus benefiting the local economy.

19. There is a theoretical possibility that asylum claims from people with BN(O) status could increase should some arrivals feel that they are at risk of persecution in their country of origin and seek to secure protection status in the UK. This could have an indirect impact on local authorities, for example, increased asylum rates leading to increased need for procurement of asylum accommodation or pressure on the local legal and voluntary sector to provide advice and services.

Latest developments

20. In April 2021, the Ministry of Housing Communities and Local Government announced that over £43m funding would be available in 2021/22 to support new arrivals through the Hong Kong UK Welcome Programme. This includes:

- Over £30m for local authorities to support with destitution (up to £2,720 per household) including housing costs and translation, plus access to ESOL provision (up to £800 per head) – note that BN(O) status holders can only access ESOL courses funded through the Adult Education Budget when they have lived in the UK for 3 years. Funding will be retrospective and quarterly, based on per capita costs to allow for planning based on support per individual rather than predicted settlement patterns. Eligibility criteria for local authorities will be announced shortly, and some reporting will be required.
- Funds available to the voluntary and community sector to support with areas like employment access.
- Provision for 12 Hong Kong Welcome hubs across the UK coordinated by Strategic Migration Partnerships. Their remit includes to share resources (e.g. translated welcome packs, helplines and websites), triage requests for support, assist with joint commissioning between areas, tackle hate crime with partners, and ensure bespoke VCSE (voluntary, community and social enterprise) sector support to new arrivals settling in and accessing services.

- A national grant scheme for employment, mental health and wellbeing VCSE projects, and work with local communities to build community cohesion; this will include school resources.

Although available funds are limited, it is hoped this new fund will help local authorities and community organisations respond to the needs of this new group of arrivals ensuring a smooth and successful integration process that results in benefits to the individuals and the receiving communities by maximising the potential of the group as well as preventing crises. New arrivals will have needs such as language, study, adaptation to a new community, societal norms etc. The availability of ESOL programmes and schemes supporting groups into employment will be key to ensuring new arrivals have all the tools to settle in their new communities. Learning from well-funded integration programmes like refugee resettlement and the Afghan interpreters' scheme may be of relevance when planning and delivering services through this new programme. Details of how to access funding are not yet available.

21. Government is conducting small scale research with people using the BN(O) route to better understand their decision making and needs.

22. Local Resilience Forums in England have been working with MHCLG's Resilience and Recovery Directorate (RED) regarding local contingency plans relating to new BN(O) arrivals.

Key information

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About this briefing

This briefing was prepared by Stefan Robert and last updated in May 2021.

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