



## **Mayor and Cabinet**

### **Hong Kong British Nationals (Overseas) Visa Programme**

**Date:** 09 June 2021

**Key decision:** No

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Director of Public Services

### **Outline and recommendations**

The purpose of this report is to summarise the government Hong Kong British Nationals (Overseas) Visa Programme. In particular the report:

- Presents the background and context to the Hong Kong British Nationals (Overseas) Visa Programme; and
- Summarises wider work being undertaken by the Council to support migrants.

Mayor and Cabinet is invited to:

- Note the contents of this report.

## Timeline of engagement and decision-making

Not applicable.

## Summary

1. This report introduces the government's Hong Kong British Nationals Overseas [HKBN(O)] Visa Programme.

## Recommendation

2. Mayor and Cabinet is recommended to note the contents of this report.

## Policy context

3. Promoting social, economic and environmental wellbeing, sits at the heart of the Council's public welfare role. The performance of this function is framed within the Council's Corporate Strategy 2018-22 and given specific expression through the seven Corporate Strategy priorities as follows:
  - Open Lewisham – Lewisham is a welcoming place of safety for all where we celebrate the diversity that strengthens us.
  - Tackling the housing crisis - everyone has a decent home that is secure and affordable.
  - Giving children and young people the best start in life - every child has access to an outstanding and inspiring education, and is given the support they need to keep them safe, well and able to achieve their full potential.
  - Building an inclusive local economy - everyone can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
  - Delivering and defending: health, social care and support - ensuring everyone receives the health, mental health, social care and support services they need.
  - Making Lewisham greener - everyone enjoys our green spaces, and benefits from a healthy environment as we work to protect and improve our local environment.
  - Building safer communities- every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.

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4. Support for the HKBN(O) programme contributes to the Corporate Strategy by: '*promoting the borough of Lewisham as a welcome place of safety where we celebrate the diversity that strengthens us*'.

## **Background**

5. In July 2020 the Ministry for Housing Communities and Local Government wrote to local authorities to set out the Government's work to open a Hong Kong British National (Overseas) visa for British National Overseas BN(O) citizens and their close family members from 31st January 2021. According to the government, the above arrangement are intended to create a bespoke immigration route for British National (Overseas) citizens and their dependants.
6. The HKBN(O) visa will give BN(O) citizens the choice to apply for up to five years' leave to remain with the right to work or study. There will be no skills, language, minimum income requirements or cap on numbers. BN(O) citizens do not need to have a job before coming to the UK and they can look for work once here. They may also bring their immediate dependants, including non-BN(O) citizens.
7. After the five year period, they have the choice to apply for settled status and after a further 12 months, they will be able to apply for citizenship. To be eligible for the visa route, BN(O) citizens will need to meet strict criminality checks, pay a visa fee upon application and the Immigration Health Surcharge and demonstrate that they can support themselves while living in the UK. They will not be able to receive public funds such as social welfare benefits.

## **Funding for the HKBN(O) arrivals to the UK**

8. Earlier this month, the Government announced a £43m package of funding for local authorities and other entities to help arrivals from Hong Kong, to settle into the United Kingdom. Recognising the specific and unique challenges that migrants and new communities face when arriving in a new country, the announcement of the funding is to be welcomed. Also to be welcomed is the Government's recognition of unique and valued contribution that migrants can make, something that Lewisham has long recognised. The government is providing funding in two streams:
  - Funding for Strategic Migration Partnerships to set up UK Hong Kong Welcome Hubs.
  - Funding for local authorities for English classes and destitution support.
9. Funding is for the financial year 2021/22 and plans for future years will be kept under review.
  - a. Hong Kong Welcome Hubs
10. The government are providing £5.1m to set up 12 Welcome Hubs, with an additional £300,000 to tackle potential hate crime. Funding is weighted according to the number of arrivals anticipated in each given area. Further details of this

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funding are yet to be provided, but the anticipation is that there will be a degree of flexibility for the SMPs to operate as they see fit.

11. The UK Welcome hubs will provide a range of support, based on need and the expected number of arrivals in each area, this may include:

- Developing and translating local welcome packs and creating helplines or websites to signpost BN(O) status holders to key local information/services.
- Commissioning and co-ordinating support services for BN(O) status holders either through the local authorities, VCSE or volunteering – such as befriending.
- Triaging BN(O) status holders for additional support i.e. with English Language or for those at risk of destitution.
- Working closely with local police forces and BN(O) community groups and the VCSE to tackle hate crime.

b. ESOL funding

12. Funding of up to £800 per head to support access to English language classes for BN(O) status holders will be made available.

13. Adult Learning Lewisham (ALL) already operate a range of ESOL classes on behalf of the Council. Given that funding is retrospective, and demand is uncertain, there are risks that unnecessary costs would be incurred if we were to provide additional/bespoke classes for HKBN(O)s.

14. HKBN(O)s in Lewisham will be eligible to apply for ALL courses in the same way as any other resident. However, they may be required to pay for them. As they are NRPF they would not be in receipt of any qualifying benefits for free or reduced rates. They may potentially qualify for a reduced rate if they are on a low income.

c. Destitution support

15. HKBN(O)s are entitled to work and study in the UK upon arrival, but cannot access public funds including benefits, tax credits and housing assistance. However, they can apply for the NRPF restriction to be removed if they become, or are about to become, destitute or a child is at risk due to a low income.

16. The Council's NRPF team are familiar with the process of applying to remove these conditions, however they may incur costs in supporting people while they go through this process. For HKBN(O)s they can retrospectively apply for up £2,720 to cover these costs but as details of the application process are yet to be released it is unclear exactly what costs will be reimbursed.

## Projected number of arrivals

17. According to modelling undertaken by the Ministry of Housing, Communities and Local Government (MHCLG), Lewisham ranks 13<sup>th</sup> nationally and 5<sup>th</sup> in London with respect to the percentage of HKBN(O) citizens expected to arrive in the borough (1.6%). However, what this means in terms of actual numbers varies depending on the figures that are relied upon.

18. At the lower end, MHCLG project that nationally, numbers could be as low as 4,300 in the first year and 9,000 over five years. However at the higher end, the

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government are projecting that the figures could be 500,000 in the first year and 1,000,000 over five years. In its advice, the government suggests that either scenario is unlikely. Instead, the working assumption is that the first year of the visa 123,000 – 153,700 BN(O) citizens could move to the UK, rising to between 258,000 and 322,400 over the five years

19. Based on 2011 Census data, Lewisham's Chinese population was 6,174 or 2.2% of the borough's overall population. About one in three residents of Chinese heritage in Lewisham, reside in Evelyn (1,074) or New Cross (775), with Lewisham Central (618), Telegraph Hill (510) and Brockley (484) home to smaller concentrations of Chinese residents. By contrast, fewer Chinese residents live in the south of the borough. Lewisham's Electoral Roll reveals that some 40 Lewisham residents are from Hong Kong.

## **Access to services**

20. The government has made clear that HKBN(O) visa applicants will not have recourse to public funds. However, there is an expectation that HKBN(O) visa applicants will have rights and access to other services. Set out under the sub headings below, are services that local authorities are expected to provide and specifically action that the Council needs to take in anticipation.

### **a. School places**

21. The dependent children of HKBN(O)s choosing to settle in the UK have a right to attend school in the UK. Local Authorities hold the statutory duty to provide sufficient school places. As part of fulfilling that duty, Local Authorities are expected to review the potential demand for school places from arrivals under the new visa regime and plan accordingly. From a Lewisham perspective, colleagues are currently looking at the likely implications on school place projections in the borough, based on the scenarios put forward by the government, which suggest that Lewisham can expect to welcome 1.6% of HKBNO arrivals to the UK. According to the Spring Schools Census 2020, there are 563 pupils of Chinese ethnicity on Lewisham's School Roll (1.4% of the total number of pupils attending Lewisham schools).

### **b. Early years education childcare places**

22. Local authorities have the statutory duty to provide sufficient free early education childcare places. As part of fulfilling that duty, the Council would be expected to continue to keep under review the potential demand for entitlements places from arrivals under the new visa. The eligibility criteria for 2 year-olds and 30 hours free childcare will continue to apply, including for this group.

### **c. Adult Social Care**

23. There are currently around 230 people known to Adult Social Care who are considered to have a similar profile to BN(O) citizens in that, where they have shared the information, they either have Chinese nationality, Chinese ethnicity or a primary language suggesting Chinese heritage and no opposing information recorded on their nationality/ ethnicity. Of these, the service assess that 17 per year (averaged over the last 5 years) and currently provide a service for 13

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individuals. After 5 years HKBN(O) will be eligible for adult social care services if they secure Settled Status and at such time, the Council can expect that there will be cost implications for those who access services.

#### d. General Practitioner (GP) registrations

24. In addition to services highlighted above, new arrivals to the borough will also require registration with local GPs.

### **Lewisham's wider commitment to supporting migrant communities**

25. At the time of the 2011 Census, some 46 per cent of Lewisham's general population was of Black or Minority Ethnic Heritage. Residents from over 70 nationalities across five continents, make their home in Lewisham and over 170 languages are spoken in the borough. It is expected the detailed results of the 2021 Census will further underline the rich and diverse cultural tapestry that is Lewisham.

26. One of the core commitments in the Council's Corporate Strategy, is to be recognised as a Borough of Sanctuary. In May 2021 this ambition was realised when the City of Sanctuary movement conferred Sanctuary Borough status on Lewisham.

27. Over the years, Lewisham has been a strong advocate for the UK Refugee Resettlement Programme. As part of this, working in partnership with the government, the Council has resettled some 33 families (16 of which have been housed since 2019). Following a pause, due to the Covid-19 pandemic, Lewisham is once again receiving refugee families into the borough, through the programme, with several more families arriving since February 2021.

28. Since the announcement of the Government's European Union Settled Status scheme, more than 48,000 EU nationals, resident in the borough, have applied for Settled Status with more than 44,000 granted either Settled Status or pre-Settled Status. This number is expected to increase further before the end of June 2021 which is the deadline for receipt of EUSS scheme applications.

29. In the context of the above, the the Council's Cabinet Member for Democracy, Refugees and Accountability wrote to the Secretary of State for Housing, Communities and Local Government on 27 May 2021 offerring the Council's co-operation in facilitating the effective implementation of the HKBN(O) programme – including as and where appropriate, participating in any trailblazer initiatives.

### **Financial implications**

30. There are no direct financial implications arising from this report. Additional government funding of £43m overall has been announced to help Hong Kong British Nationals Overseas status holders access housing, work and educational support however the details of the funding share for Lewisham (if any) is not yet known. There could be an impact on council budgets if the numbers of Hong Kong British Nationals Overseas status holders settling in Lewisham were high and if this led to a demand on services that was not offset by the government funding

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however this is not yet forecast but should this arise then this would need to be picked up in a further report to Mayor and Cabinet.

## Legal implications

31. The Equality Act 2010 (Specific Duties) Regulations 2011 obliges ‘public authorities’ “...to prepare and publish [at intervals of no more than 4 years] one or more objectives it thinks it should achieve to do any of the things mentioned in paragraphs (a) to (c) of subsection (1) of section 149 of the ...” Equality Act 2010, known as the ‘public sector equality duty’.
32. Section 149 (1) provides, “A public authority must, in the exercise of its functions, have due regard to the need to – (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”
33. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty) as set out within paragraph 28.2 above. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
34. The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
35. The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:  
<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

## Equality implications

36. The Council’s support for the HKBN(O) visa programme contributes to the Council’s broader Single Equality Framework objectives to:
  - To ensure equal opportunities for marginalised and seldom heard communities.
  - To reduce the number of vulnerable people in the borough by tackling socio-economic inequality.
  - To ensure that services are designed and delivered to meet the needs of

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Lewisham's diverse population.

- To increase the number of people we support to become active citizens.

## **Climate change and environmental implications**

37. There are no specific climate change implications arising from this report.

## **Crime and disorder implications**

38. The numbers likely to use the new visa route remains unknown, thus measuring impact on Crime and Disorder is a challenge. Whilst £5.1m has been identified to establish 12 Welcome Hubs, £300,000 in additional funds has been identified to tackle hate crime; the Government recognising that migration can lead to an increase in such crimes. No definitive detail has been shared in terms of criteria for use, only a mention of weighting dependant on arrivals anticipated in each given area. The Welcome Hubs will be spread across the UK, thus dependant on numbers in Lewisham, access to the Hubs may be problematic for some.
39. To ensure that any prejudice or discrimination is managed swiftly, a new third party hate crime reporting service will be established for this community; and with all hate crime the Home Office and its partners will take necessary action against those who commit such crimes, in order to protect individuals.
40. As previously noted, BN (O) status holders will not ordinarily have recourse to public funds. This condition can lead to those affected becoming vulnerable with the possibility of becoming exploited, or leading to the committal of offences, however recent changes to the immigration rules note that those with the BN (O) status will be able to have their NRPF condition lifted if destitution is identified, where there is risk of imminent destitution, risk to the welfare of a child or if the applicant is experiencing exceptional financial hardship. It must be noted that the process to lift this condition is not yet clear and this condition is not afforded to all migrants, which in turn could be a challenge to manage due to perceived fairness.
41. Existing provisions in the Immigration Rules will apply in relation to criminality and other adverse behaviour, therefore it is not anticipated that the BN (O) status will impact any differently than any other visa route.
42. The authority will need to ensure that community cohesion features in any integration plan, the Home Office providing significant guidance to support this.

## **Health and wellbeing implications**

43. This report notes that HKBN(O) applying under the visa programme will be required to pay the Health Surcharge. This report also highlights the fact that whilst

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HKBN(O) arrivals will have No Recourse to Public Funds, they will require registration with local GPs.

## Background papers

44. The following background documents have shaped and informed the development of this report:

- Guidance British National Overseas in Hong Kong
- Welcome: a guide for Hong Kong British Nationals (overseas) Visa holders in the UK

## Glossary

Term	Definition
Hong Kong British Nationals (Overseas) visa programme	A new visa route for Hong Kong British National (Overseas) passport holders [HKBN(O)s], who will live in the UK. The programme opened on 31 January 2021.
No Recourse to Public Funds	This is a condition applied to those entering the UK on a temporary basis which prevents them from being able to access certain benefits and entitlements that are accessible to citizens and other categories of resident.
Health Surcharge	The Immigration Health Surcharge is a fee levied on those applying for a visa to enter the UK. Once this is paid, students will be entitled to use the National Health Service.
Visa	A visa is a conditional authorisation granted by a country to a foreigner, allowing them to enter, remain within, or to leave that country. Visas may include limits on the duration of the foreigner's stay, areas within the country they may enter, the dates they may enter, the number of permitted visits or an individual's right to work in the country in question.
ESOL	ESOL is English to Speakers of Other Languages. Students who did not learn English as their native tongue and/or continue to use other than English as a dominant language would be considered an English language learner.

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## **Report author and contact**

45. If there are any queries about this report then please contact Paul Aladenika (Head of Policy and Strategy) on x47148 or email [paul.aladenika@lewisham.gov.uk](mailto:paul.aladenika@lewisham.gov.uk)

## **Comments for and on behalf of the Executive Director for Corporate Resources**

46. No additional comments.

47. Financial implications for this report were provided by Peter Allery, Group Finance Manager. Email: [peter.allery@lewisham.gov.uk](mailto:peter.allery@lewisham.gov.uk).

## **Comments for and on behalf of the Director of Law, Governance and HR**

48. No additional comments.

49. Legal implications for this report were provided by Petra Der Man, Principal Lawyer and Deputy Monitoring Officer. Email: [Petra.DerMan@lewisham.gov.uk](mailto:Petra.DerMan@lewisham.gov.uk). Telephone: 0208 314 6440.

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