

The Nationality and Borders Bill: Implications for Children, Anti-Trafficking Measures and Devolution

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Summary

The Nationality and Borders Bill will have **far reaching implications for the children of refugees and asylum seekers, as well as unaccompanied asylum-seeking children (UASCs)**. The Bill creates a two-tier immigration system that will **put vulnerable and traumatised children in harm's way** by sending a horse and cart through children's rights and legal protections. It runs contrary to important obligations under international law, tramples on domestic laws and **encroaches on devolved issues in Northern Ireland**.

Vulnerable children and young people will be placed at particular **risk of trafficking and re-trafficking**. The Bill will **undermine hard fought legislative progress** around tackling trafficking in recent years.

Key Points

The Nationality and Borders Bill:

- Waters down existing **child protection** and **safeguarding** duties for vulnerable children.
- Heightens the risk of **trafficking** and re-trafficking for children.
- Encroaches on transferred matters under the **devolution** settlement.

Recommendations

The Children's Law Centre (CLC) believes that the principle behind the Bill is inherently flawed from the outset and that the Bill should be voted against in its entirety. However, this brief seeks to outline particularly worrying aspects of the Bill in relation to children and propose some key recommendations to mitigate against those concerns. CLC also raised significant concerns about the consultation process for the Bill.

1. The Bill must be amended to ensure it remains compatible with **international obligations** and **UK domestic commitments**.
2. The Bill must contain a clear and express **exemption for children in relation to Clause 10** of the Bill. Child refugees cannot be treated as criminals.
3. **Clause 58 must be opposed**, including the creation of a National Age Assessment Board (NAAB). Children must not be wrongly treated as adults.
4. **Clauses 46-48 and 50-53 must be opposed** to ensure no regressive changes are made to the National Referral Mechanism (NRM), the burden of proof or automatic protection for child victims.
5. Work must be conducted to **scope out the legal competence of the Bill**, including the identification of encroachments on devolved matters, including any **mitigations** required in this jurisdiction to protect vulnerable children.

Further Information

Safe and Legal Routes

The continued assertion of the “illegal refugee” contradicts long-standing commitments in the 1951 Refugee Convention. It also ignores the reality faced by refugees, fleeing war and persecution. UASCs in particular have no safe or legal route to family reunification and are forced to enter by other means.

Age Assessments

Where the primary duty of age assessments, currently carried out by social services, is to protect children, the NAAB will focus on immigration control. The NAAB will dramatically increase the risk of vulnerable and traumatised children being held in detention centres, instead of getting the support they need for social services. The NAAB also opens the door to dubious age assessment methods that are entirely opposed by medical professionals and the UN High Commissioner for Refugees.

The Identification of Victims of Trafficking

The ECPAT briefing on the second reading of the Bill states that “identifying, protecting and supporting child victims of trafficking is **not an immigration matter but a child protection matter**”. The Bill seeks to significantly shift away from this principle and will result in more children being placed at risk of harm from trafficking and re-trafficking. The Independent Anti-Slavery Commissioner holds concerns that the Bill will “**make the identification of victims of modern slavery harder** and will create additional vulnerabilities”.

The ECPAT briefing can be found [here](#). The Independent Anti-Slavery Commissioner’s response can be found [here](#). CLC analysis of the ‘New Plan for Immigration’, including CLC’s response to the consultation document can be found [here](#).

About the Authors of this Briefing

This briefing was compiled by specialist immigration solicitors within the CLC. The CLC immigration solicitors provide advice in relation to looked after children who are in the care of social services and whose immigration status is insecure. They also advise and represent the vast majority of UASCs in Northern Ireland, working with the Health and Social Care Board, all five Health and Social Care Trusts in Northern Ireland and Barnardo’s Independent Guardian Service. CLC holds extensive experience representing UASCs who have been subject to the asylum application, NRM and other immigration application processes.

Contacts

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Encroachments on Devolution

Key Legislation and Statutory Rules:

The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

Article 18 of The Children (Northern Ireland) Order 1995.

Section 75 of the Northern Ireland Act 1998.

Anti-Trafficking Pushed Backwards:

The identification and protection of victims and prevention of trafficking are duties that fall to the PSNI, the PPS, HSCTs, the Independent Guardian Service, the NI Court Service.

Withdrawal of Asylum Support:

The Department for Health has a duty under NI law to provide financial assistance to destitute families.

Age Assessment of Children:

Social workers in this jurisdiction conduct age assessments in accordance with the international and domestic legal framework.