

Summary

- The Illegal Migration Bill has **serious implications for asylum-seeking, refugee and migrant children's safety and protection**. Barnardo's is concerned that, as currently drafted, the Bill may deny children the chance to put forward their case for asylum, as well as **limit the protections they are afforded through the National Referral Mechanism**¹ if they are identified as victims of trafficking.
- Barnardo's has a long history of supporting children who need us most, including those who seek sanctuary in the UK and have suffered trauma, exploitation, and trafficking. We are deeply concerned that the Illegal Migration Bill could deny these children the help and protection they need.
- Barnardo's wrote to the Home Secretary and Minister of State for Immigration, alongside other children's charities, outlining our concerns². We are still awaiting a response. Barnardo's is a member of the Refugee and Migrant Children's Consortium and supports its briefing on this Bill which can be found here:
<https://refugeechildrensconsortium.org.uk/briefings-on-the-illegal-migration-bill/>

Key concerns with the Illegal Migration Bill

1. Disqualifying child victims of modern slavery from support

Case study: *Kabir* is a child from Sudan who travelled to the UK last year. He was referred to Barnardo's services as a victim of trafficking. Upon arrival, Kabir was age assessed as an adult and was placed in hotel accommodation along with adults. When Kabir was able to verify that he was under 18 years old by contacting his uncle back home and obtaining his birth certificate, he was moved into local authority care. A Barnardo's worker that was supporting Kabir asked him about his experience when he arrived to the UK. He said: **"I was placed in a police station straight away here in the UK, I felt like I did something wrong, I don't want other children to feel that way. I did not know that coming over to the UK in a boat was illegal, I just wanted a safe haven."***

*Pseudonym

Barnardo's is a First Responder for the National Referral Mechanism and has a duty to ensure that all children we work with who are suspected of being trafficked under Section 52 of the Modern Slavery Act 2015 are referred to the Single Competent Authority in the Home Office. Barnardo's Services work with the Home Office and the local authorities involved with the child's care to provide appropriate safeguarding.

The Bill would disqualify victims of trafficking and modern slavery from protections under the National Referral Mechanism who arrived in the UK through 'irregular' means on or after 7 March 2023. This includes child victims of trafficking whose family members meet these conditions. Children's claims will also be made inadmissible once they turn 18, even if they have previously been identified as a victim of trafficking.

¹ The National Referral Mechanism (NRM) is a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support. <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales>

² <https://www.barnardos.org.uk/news/uks-largest-childrens-charities-urge-home-secretary-rethink-illegal-migration-bill>

Under the new Bill, the UK would deny sanctuary to thousands of child refugees including those in the same position as Sir Mo Farah³.

Barnardo's runs specific services that support trafficked children, including:

1. The Home Office-funded Independent Child Trafficking Guardianship Service⁴ (ICTG), which supports children to cope with the practical and emotional trauma of being trafficked and helps them to understand and navigate social care services, criminal justice and immigration. Between 2021 and 2022 we supported over 1400 children from more than 40 countries such as Vietnam, Albania, Sudan, Afghanistan and Eritrea.
2. The Independent Guardian Service in Northern Ireland⁵, which, as of January 2023, has provided guardians for over 230 children who are unaccompanied or separated from a legal guardian and who are at risk of human trafficking.

We are gravely concerned about the implications of the Bill for child victims of trafficking and modern slavery. Our practitioners are already reporting examples of children feeling unwelcome or facing hostility from members of the public. We are concerned this Bill could be used by exploiters as another way of keeping young people in their control, for example by threatening children with deportation if they were to leave the perpetrator and seek help.

Case study: *Barnardo's ICTG service received a referral for Abdi* after he had been reported as missing. Abdi fled the war in Syria and arrived in the UK in January 2022 a few months before his 18th birthday. Abdi was accommodated by a local authority in England where he was supported to access the opticians, dentist, and medical appointments; he was enrolled in college and was attending regularly. Abdi went missing in May a few months after arriving in his placement, he took a bag and clothing with him when he left. Abdi was reported missing the same day and enquiries were made to locate him. At the strategy meeting held after he went missing it was highlighted that shortly before he went missing Abdi had shared his anxieties with his placement worker about news reports that the Home Office would be sending those seeking asylum in the UK to Rwanda and that he could potentially be deported.*

*Pseudonym

2. The Bill's assessment of 'Safe Countries'

Under the Illegal Migration Bill, asylum seekers who arrive in the UK through 'irregular means' on or after 7 March 2023, would be removed to their home country if that country is listed as 'safe'. The list of safe countries would consist of the 27 EU countries plus Albania, Iceland, Norway, Liechtenstein and Switzerland. We are concerned about the list of countries the UK government has deemed as 'safe'. For example, Albania has been listed as a safe country within the Bill, and yet Home Office guidance states:

*'Albania is a source country for the trafficking of women, men and children to other European countries, including the UK, although domestic trafficking is becoming an increasingly significant phenomenon. Most victims of trafficking are women and girls, the majority of whom are trafficked for sexual exploitation.'*⁶

Our services regularly support Albanian children who have often been exploited and trafficked in their home country. Our practitioners working with trafficked Albanian children have noted that they share how frightened they are by the possibility of being deported back to Albania and mention media reports which inaccurately label them as economic migrants.

Under the new Bill, asylum seekers from countries other than those listed above, would not be removed to their home country, but could be removed to certain 'third countries', where

³ <https://www.bbc.co.uk/news/uk-62123886>

⁴ <https://www.barnardos.org.uk/what-we-do/protecting-children/trafficked-children>

⁵ <https://www.barnardos.org.uk/what-we-do/services/independent-guardian-service>

⁶ [Country Policy and Information Note - Albania: Human trafficking \(publishing.service.gov.uk\)](#)

they are not a citizen. There is a separate list of third countries considered safe within the Bill, including Rwanda. We are worried the new Bill proposes sending LGBTQ+ children who have fled life-threatening situations to countries where LGBTQ+ people are not able to safely be open about their sexual orientation or gender identity, for example Nigeria or Rwanda. A report published by the Home Office on 9 May 2022 said that there is a 'lack of reporting of crime' against LGBTQ+ people in Rwanda,⁷ which is the result of 'stigma and fear of harassment' resulting in 'limited information on how police respond to and protect' the community. Home Office guidance on Nigeria states that LGBTI persons 'are frequently victims of physical violence and psychological abuse, extortion and discrimination in different aspects of daily life'.⁸

A study by UNICEF found that there was an abundance of evidence that demonstrates that having a disability in Rwanda compounds the risks children and young people face of becoming victims of violence.⁹ Within our ICTG Service, 20% of child referrals are reported as having a disability, and over the course of our support, we see undiagnosed disability and neurodiversity as a factor for children which has contributed to their vulnerability for exploitation. **Under this Bill, a neurodivergent trafficked child could come to the UK, be identified as a victim of trafficking, only to be sent to a country when they turn 18 that puts them at a significant risk of violence.**

3. Powers to accommodate children in unsafe accommodation

We continue to be concerned about separated children seeking asylum being accommodated in hotels. The UK Government repeatedly said this would only be a temporary measure, and although it is welcome that the numbers have reduced recently, this new Bill would in effect legitimise this practice by giving the Home Office powers to accommodate children. This is despite deeply worrying child protection reports¹⁰ of children going missing from these hotels.

A Barnardo's practitioner said: *"We're seeing many children arriving in the UK who have experienced trauma both before and throughout their journey. Many are then placed in hotels where they are at risk of harm. Children can go missing from hotels and are trafficked around the UK, exposing them to multiple forms of abuse and exploitation along the way. By the time they are found, they have experienced fresh trauma due to the situations and abuse they have faced since arriving in the UK."*

We would instead urge the government to promptly transfer children out of temporary accommodation and into the care of local authorities.

We are concerned that, by giving the Home Office power to accommodate children, this will risk creating a **two-tier system** for children in the care of the state: children entering the UK through 'irregular' routes, including those who are trafficked, could be treated differently from other looked after children, potentially missing out on the protections in the Children Act 1989, under which local authorities must promote and safeguard the welfare of children in need in their area. This duty should apply to all children, irrespective of nationality.

4. Detention and removal of children

The Illegal Migration Bill places a duty on the Home Secretary to remove adults, which will also include children in families, if they arrived through the UK through 'irregular means' on or after 7 March 2023.

⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1073958/RWA_CPIN_Review_of_asylum_processing_-_assessment.pdf

⁸ [Country policy and information note: sexual orientation and gender identity or expression, Nigeria, February 2022 \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

⁹ [VACY-with-Disabilities-in-Institutional-Settings-in-Rwanda.pdf \(unicef.org\)](#)

¹⁰ [Channel migrants: 116 children missing from UK hotels - BBC News](#)

This Bill also gives the Secretary of State power to remove unaccompanied children when they reach the age of 18. This Bill could see a child arriving alone in the UK at 10 years old fleeing war and persecution, being allowed to integrate into UK society, develop friendships and attend school, only to then be forcibly removed from the UK as soon as they turn 18. We believe that children who grow up and are educated in the UK are part of our society. It is unfair, traumatising and an inefficient use of taxpayers' investment to 'return' children to a country they haven't known in years, when they see the UK as their home.

The Immigration Act 2014 banned the detention of unaccompanied children for more than a 24-hour period and placed restrictions on where a child could be detained, i.e. at short-term holding facility for immigration purposes or 'in pre-departure accommodation'. This new Bill will abolish those necessary protections afforded to children and instead allow for the routine detention of unaccompanied children beyond the 24-hour time limit and detention anywhere the Secretary of State considers appropriate. Allowing children to be detained for prolonged periods of time is unacceptable and poses serious risks to their health, safety and protection.

We are particularly concerned about the age assessment process for children and the risk that they are mistakenly assessed as adults, meaning they would be detained and removed from the UK under the provisions set out in the Bill. **These failings pose a major child protection risk** that we urge the government to address them immediately.

Our services regularly support children who have been wrongly detained as adults, something that the Bill would exacerbate by removing a child's ability to challenge the assessment. Initial age assessments by border officials consist of a very rough assessment based on physical appearance and demeanour, which is very imprecise. A Refugee Council report in 2022 found that in the cases of 233 children they supported last year, 94% were wrongly assessed by the Home Office to be adults and housed with other adults.¹¹ Currently, individuals who are initially assessed to be adults by border officials may still approach a local authority for a more substantive 'Merton-compliant' age assessment, but the implications of the current proposals mean that genuine children that are incorrectly assessed as adults at the border will be immediately placed in detention or a removal facility with no further recourse to having their age assessed or appeals before being removed.

5. Devolved issues

The impact of the Bill is UK-wide, with specific impacts on devolved administrations. The Bill contains two enabling powers¹² through which the UK Government will be able to amend, disapply, repeal or revoke statutory provisions which are devolved to Northern Ireland, Scotland and Wales. As such, we have serious concerns that the Bill encroaches on devolved powers and competencies to protect and support children and does not recognise each nation's distinct needs. For example, the new powers provide for separated or trafficked children supported by Barnardo's NI through the Independent Guardian Service to be removed from Northern Ireland, and for the responsibility of their care to be transferred to the Home Office. The legal and policy framework in Northern Ireland relating to child protection recognises the role of a number of bodies, including the Independent Guardians. Clause 19 could bypass these protections and accountability structures which the Northern Ireland Assembly has put in place to protect and safeguard children. Any changes brought in from Westminster must recognise the need to respect existing protections and safeguards. The same concerns will apply to the Scottish Guardianship Service.

¹¹ <https://www.refugeecouncil.org.uk/latest/news/hundreds-of-refugee-children-are-being-mistakenly-judged-as-adults-and-at-risk-of-abuse-and-neglect-due-to-hasty-and-woeful-home-office-decision-making-refugee-council-repo/>
¹² [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1140974/Delegated Power s Memorandum Commons Introduction FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1140974/Delegated_Power_s_Memorandum_Commons_Introduction_FINAL.pdf)

Suggested questions:

1. Could a disabled or LGBTQ+ asylum seeking child, who arrives 'irregularly' in the UK, risk being sent to a country such as Rwanda when they turn 18, which would, by UK government's own country-specific guidance, put them at significant risk of discrimination and violence?
2. Why does the Bill list Albania as a safe country, when Home Office guidance clearly states that women and children are at high risk of trafficking and exploitation in Albania?
3. Will the Home Office respect the legislation established by devolved legislatures to protect and support separated or trafficked children or does it intend to override the legislative competences of Northern Ireland, Scotland and Wales?
4. Why was the decision taken to give the Home Office the power to accommodate children, when there are currently hundreds of children missing from Home Office accommodation?
5. Will an unaccompanied child who has arrived in the UK 'irregularly', be eligible to be placed into specialist foster care or for adoption?
6. The Government is proposing a new quota for refugees taken in through 'legal routes' – if another war happened, like Ukraine, after the quota is in place, would we be able to live up to our obligations to children fleeing war and seeking sanctuary?

About Barnardo's

Barnardo's is the UK's largest national children's charity. In 2021/22, we reached 357,276 children, young people, parents and carers through our 794 services and partnerships across the UK. Our goal is to achieve better outcomes for more children. To achieve this, we work with partners to build stronger families, safer childhoods and positive futures. **For more information contact Meta Randles, Senior Policy Adviser for Refugee and Migrant Children, on 07858376339 or meta.randles@barnardos.org.uk**