

# Border Security, Asylum & Immigration Bill – Report Stage

Briefing | 08 May 2025

## Summary

- While Barnardo's welcomes the Government's intention to repeal much of the Illegal Migration Act, we remain concerned about current clauses in the Nationality and Borders Act, and Section 59 in the Illegal Migration Act), that criminalise children and families seeking sanctuary in the UK, significantly blocks claiming asylum for nationals of certain countries, and allow the usage of so called 'scientific methods' in the age assessment process.
- Our proposed amendment will protect parents or legal guardians who travel with their children to the UK irregularly out of necessity to protect them.
- We believe in the right of all children and young people fleeing persecution to claim asylum and therefore call for the repeal of Section 59 of the Illegal Migration Act that currently automatically excludes children and young people from Albania, India and Georgia from claiming asylum.
- We call for further repealing of additional regressive clauses in the Nationality and Borders Act and Illegal Migration Acts, respectively, concerning child exploitation, trafficking, and the usage of X-rays to determine the age of a child. These are not fit for purpose, actively harm children, and can place them at risk of re-trafficking or exploitation.

## Barnardo's is calling for:

- 1. An exemption for parents entering the UK with children or legal wards from criminalisation and subsequent family separation.**

The Border Security, Asylum and Immigration Bill introduces a new offence of 'endangering life at sea'. This new offence would mean that those who endanger or risk another life at sea during the dangerous journeys could face a maximum sentence of up to six years in prison. The current wording of the Bill means that it will be applied to parents who are travelling with their own children on small boats to seek sanctuary in the UK. Similar offences were also introduced in previous legislation, such as the Nationality and Borders Act 2022, Section 25, which also introduced offences related to 'assisting unlawful immigration', including cases where parents or guardians assist in their own children's entry into the UK for the purposes of claiming asylum.

This would, worryingly, result in the criminalisation of parents and the separation of families. Similar offences were introduced in previous legislation, such as the Nationality and Borders Act 2022, Section 25, which also introduced offences related to 'assisting unlawful immigration', including cases where parents or guardians assist in their own children's entry into the UK for the purposes of claiming asylum. The provision risks the unnecessary and harmful separation of families when they already fleeing traumatic situations and seeking sanctuary in the UK. This separation also makes it harder to keep children safe and is ultimately more expensive to the public purse. Criminalisation also undermines the principle of family unity, which is a cornerstone of both domestic and international law.

The new offence also risks criminalising Unaccompanied Asylum-Seeking Children who are crossing the Channel with no parent or guardian present. We routinely see children wrongly assessed by the Border Force and Home Office as adults, detained and criminalised, denied the rights afforded to them as children.

#### **“Exemption from Endangerment Offence for Parents Travelling with their Children or Legal Guardians**

(1) In section 18 of the Border Security, Asylum and Immigration Bill, which amends section 24 of the Immigration Act 1971, the following new subsection is inserted after subsection (8):

“(9) Subsection (E1A) does not apply to a person who is a parent or legal guardian of a child who is also on the journey mentioned in subsection (E1A) (b)”.

(2) In section 25 of the Nationality and Borders Act 2022, after subsection (1), the following subsection is inserted:

“(2) Subsection (1) does not apply to a person who is a parent or legal guardian of a child who is also on the journey mentioned in subsection (1).”

#### **Explanatory Notes:**

**This amendment recognises the need to protect children and ensures that parents acting out of necessity to cross to claim asylum in the UK with their children are not criminalised for endangering their lives at sea.**

## **2. A repeal of Section 59 of the Illegal Migration Act that currently automatically excludes children and young people from Albania, India and Georgia from claiming asylum.**

The retention of the Illegal Migration Act Section 59, despite most other Clauses of the Bill being repealed. This section contains provisions that impose automatic exclusions on individuals, including children and young people seeking sanctuary from countries such as Albania, Georgia and India from claiming asylum. These countries are not safe for all individuals, particularly vulnerable groups such as children and young people who are victims of child exploitation, trafficking, those who are LGBT+ individuals, and girls who are victims of gender-based violence.

Though Unaccompanied Asylum-Seeking Children are protected from automatic removal under Section 4 of the Illegal Migration Act. It remains that under Section 59, the Home Office will still classify asylum claims from asylum-seeking children as inadmissible, unless under ‘exceptional circumstances’. This effectively means that once an unaccompanied child from Albania, India or Georgia reaches the age of 18, they risk being removed back to the country they are fleeing from, or left in limbo in the UK, with no status to remain and without recourse to public funds.

At Barnardo’s, we support a significant number of Albanian children who are victims of child exploitation and trafficking through the Home Office-funded Independent Child Trafficking Guardian Service. Following the positive identification of exploitation or trafficking, the Home Office will grant a period of discretionary leave. Once this leave expires, there are few, if any, other avenues to remain in the UK, and further extensions of leave may not be granted. Consequently, they may become liable for removal from the UK and placed back into the harmful situations in their country of origin, where they are likely to be re-trafficked, exploited or even sometimes killed.

### 3. The removal of regressive clauses in the Nationality and Borders Act and Illegal Migration Act on child exploitation and trafficking, including the usage of scientific methods to determine the age of a child.

Provisions in the Nationality and Borders Act 2022 retain clauses that put children at risk of harm. The Act introduced a higher evidentiary threshold for identifying child victims of trafficking and exploitation. Since then, we have seen a significant increase in children being denied support through a lack of identification and recognition as victims of child exploitation and trafficking. This risks placing children back into the cycle of exploitation, rather than giving them the support and protection they need to escape this cycle.

With regard to the usage of age assessments, the current system for determining the age of unaccompanied asylum-seeking children remains deeply flawed. Hundreds of children have been wrongly assessed as adults by the Home Office brief, resulting in children being placed in adult accommodation, detained, or even prosecuted. This is a clear safeguarding failure and one which requires urgent intervention.<sup>i</sup>

We urge the repeal of Sections 52 and 53 of the Nationality and Borders Act, which provide a legal basis for the usage of scientific age methods, such as X-rays, in usage of determining the age of a child. They also provide the footing for the establishment of a Home Office-governed National Age Assessment Board.

So-called ‘scientific methods’ to determine age (such as X-rays) are not trauma-informed and not rooted in child-centric safeguarding. We believe that the National Age Assessment Board funding would be better directed to social workers within local authorities who are specialists in safeguarding children and are best equipped to carry out independent social work evaluations in line with the national framework for children’s social care.

There is a real risk of serious harm when a child is wrongly assessed as an adult and placed in adult accommodation. Though Home Office hotels no longer house Unaccompanied Asylum-Seeking Children, there have been a number of reports of incidents of violence and sexual assault against children in hotels. ECPAT UK’s *Behind Closed Doors Report* found that the use of home office hotel accommodation for children seeking asylum was seen to increase the risks of both trafficking and re-trafficking.<sup>ii</sup>



#### Action you can take

- We are asking MPs to consider speaking in support of our concerns when the Bill returns to the Commons at Report Stage.

#### Suggested questions:

- Will the Minister commit to reviewing current clauses in the Nationality and Borders Act, and the Border Security, Asylum and Immigration Bill which criminalises children and families seeking sanctuary in the UK?
- As part of this Bill, will the Minister consider an exemption for parents entering the UK with children from criminalisation?
- What plans does the Minister have to ensure all children seeking sanctuary are safeguarded and prevented from being wrongly classified as adults by use of so-called ‘scientific methods’ in the age assessment process?
- Will the Minister consider repealing Section 59 of the Illegal Migration Act that currently automatically excludes children and young people from Albania, India and Georgia from claiming asylum?

## About

At Barnardo's, our purpose is clear - changing childhoods and changing lives, so that children, young people, and families are safe, happy, healthy, and hopeful. Last year, we provided essential support to 356,200 children, young people, parents and carers through 760 services and partnerships across the UK.

For over 150 years, we've been here for the children and young people who need us most – bringing love, care and hope into their lives and giving them a place where they feel they belong.

Barnardo's has a long history of helping children, young people and their families seeking sanctuary in the UK. We offer a wide range of specialist services, including specialist foster care for unaccompanied asylum-seeking children, supported accommodations, mental health therapy, trauma-informed support, specialist refugee support services, and running the Independent Child trafficking Guardianship Service.

### **For more information, please contact:**

Nabil Ali

Senior Policy Advisor - Refugee & Migrant Children

[nabil.ali@barnardos.org.uk](mailto:nabil.ali@barnardos.org.uk)

## References

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<sup>i</sup>Helen Bamber Foundation, Human for Rights Network & Refugee Council (2025); [Lost Childhoods: The consequences of flawed age assessments at the UK border](#)

<sup>ii</sup> ECPAT UK & University College London (2024); [Behind Closed Doors: A Storytelling Legal and Empirical Analysis of Human Trafficking Risks in Home Office Hotels Compared to Other Accommodation for Unaccompanied Children and Young People Seeking Asylum in the UK](#)

<sup>iii</sup> Refugee Migrant Children's Consortium (2025); [Border Security, Asylum and Immigration Bill - Briefing for Second Reading](#)