
Dogfennau Ategol – Y Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol

Lleoliad: I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgor 5 (Hybrid) Rhys Morgan
Dyddiad: Dydd Llun, 12 Mehefin 2023 Clerc y Pwyllgor
Amser: 13.30 0300 200 6565
SeneddCydraddoldeb@senedd.cymru

– Pecyn atodol

Noder bod y dogfennau a ganlyn yn ychwanegol i'r dogfennau a gyhoeddwyd yn y prif becyn Agenda ac Adroddiadau ar gyfer y cyfarfod hwn

7 Memorandwm Cydsyniad Deddfwriaethol ar y Bil Mudo

Anghyfreithlon: trafod yr ymatebion

(16:05–16:10)

(Tudalennau 1 – 18)

Dogfennau atodol:

Ymateb gan Lywodraeth Leol Cymru (Saesneg yn unig)

Ymateb gan Arolygiaeth Gofal Cymru (Saesneg yn unig)

Ymateb gan y Comisiynydd Plant Cymru (Saesneg yn unig)



Welsh Local Government Association evidence to the Senedd Cymru's Children and Young People Committee and the Equality and Social Justice Committee on the UK Government's Illegal Migration Bill

Introduction

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.
2. The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA also appoints senior members as Spokespersons and Deputy Spokespersons to provide a national lead on policy matters on behalf of local government.
3. The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.

Background

4. The Prime Minister has stated tackling small boats is one of his five priorities for 2023 and the Illegal Migration Bill was announced by the UK Government on 7 March 2023. The Bill aims to deal with challenges relating to the UK's asylum process, and in particular arrivals via small boat crossings in the English Channel.
5. Local authorities play a key role in supporting asylum seekers dispersed across the UK and in managing any local impacts. Welsh councils have also played an important role in supporting refugees arriving in Wales under different humanitarian programmes, arranging accommodation and support packages, working closely with local communities and residents in preparing them for arrivals and in supporting their settlement and integration in a variety of ways. The term 'Team Wales approach' was coined reflecting the close partnership working across public bodies evidenced in supporting Afghans evacuated from Afghanistan in 2021, and this approach has continued with the response to supporting guests from Ukraine.
6. Welsh councils are keen to play their part in helping to meet the UK's international and humanitarian responsibilities and are supportive of Welsh Government's ambition to make Wales a Nation of Sanctuary. However, the WLGA, on behalf of Welsh councils, has written to the Home Office on a number of occasions seeking better communication and more effective engagement and planning in relation to the procurement and use of accommodation in Wales. These concerns are also shared by local government across the UK. It is hoped that, should the Bill become law, that

there will be close working and planning *together* to manage and implement changes to the asylum system in partnership so that councils can better prepare and plan and effectively manage any local impacts, with a view to maintaining community cohesion and ensuring that everyone is treated with dignity and respect, regardless of their immigration status.

7. In April 2022, in response to increasing demand and with the aim of reducing the use of hotels, the UK Government wrote to all local authorities in the UK to inform them that they would be moving to a Full Dispersal model with all authorities participating in accommodating asylum seekers while their claims are considered. A Wales Full Asylum Dispersal Plan, with its development led by the Wales Strategic Migration Partnership, was agreed by the WLGA Executive Board in September 2022 and this plan sets out how an additional 2,344 asylum seekers will be accommodated across all Welsh councils with a target date of by the end of December 2023. Progress is being made and since the plan was agreed 279 asylum seekers have been dispersed to Wales with 8 council areas accommodating people for the first time.

Brief overview of the Bill

8. It is clear that the current asylum system is under immense pressure. It currently costs approximately £3bn per year and around £6m is spent per day on hotels. The following facts/figures indicates the scale of the challenge:
 - Over 45,700 people arrived in small boats in 2022 and there were over 40,000 asylum applications in 2022 from those who arrived in the UK via small boats.
 - There were 74,751 asylum applications (main applicants only) in the UK in 2022, more than twice the number in 2019.
 - In 2022, there were 110,171 individuals in receipt of support, 30% higher than 2021.
 - Over 45,000 asylum seekers are currently being accommodated in hotels located across 200 local authorities.
9. We understand the Bill makes a number of proposals:
 - The Bill will change the law so that people who come to the UK illegally will not be able to stay. Instead, they will be detained and then promptly removed, either to their home country or a safe third country. The Home Secretary will be under a legal duty to make arrangements for the removal of illegal entrants falling within the scheme.
 - Detention powers will be strengthened so that people can only apply for bail to the First-tier Tribunal after 28 days (with the aim to make it easier to remove people).
 - People who enter the UK illegally will not have their asylum claim determined in the UK. Once removed, they will not be allowed to come back to the UK again.
 - Changes will be made to last minute legal challenges for those with no right to be in the UK and due to be removed.
 - While those in scope will be able to challenge the decision to remove them from the UK, it will not prevent their removal and any legal challenges will be considered when they have been successfully removed to another

country. If, exceptionally, there is a real risk that someone would suffer serious and irreversible harm if they were sent to another country they would not be removed until it was safe to do so.

- Those subject to the duty to make arrangements for removal will not be able to access the modern slavery system in the UK. If someone is identified as a potential victim of modern slavery, the Government will ensure they are safely returned home or to another safe country.
- The list of countries that are considered safe in law is being expanded. As well as EU member States, the list will now include Albania, Iceland, Liechtenstein, Norway and Switzerland.
- The Bill will provide for the government to commit to resettling a specific number of the most vulnerable refugees from around the world every year, working with local councils to understand their capacity first and following Parliamentary approval.

10. Initial general concerns about the Bill include:

- Whether it is compatible with UK international obligations under the European Court of Human Rights and the UN Refugee Convention;
- The limited safeguards that, coupled with restrictive timescales for appeal, may diminish access to justice for people caught by its provisions. It is unclear where those in detention will be held and how they will access legal advice;
- The lack of safe and legal routes for people to claim asylum within the UK; and
- The location of large-scale detention centres would have significant local implications. As with currently proposed large sites, local government and their statutory partners should be engaged well in advance on potential locations, with a shared risk assessment, clarity on funding and community engagement process if any site is agreed.

11. Clause 58 of the Bill makes provision for setting an annual cap on the number of people to be admitted to the UK for resettlement through safe and legal asylum routes, to be set by Parliament. The Secretary of State is required to consult representatives of local authorities in the UK to determine their capacity to accommodate and provide integration services for the persons to be resettled each year to determine the country's capacity. The annual number will remain in place until revised by subsequent regulations and may apply for a period of years. The WLGA welcomes the approach of engaging with councils on an annual cap, however, the Bill does not outline how engagement will take place or how councils will be funded for any new routes to the UK. The LGA has raised concerns around being asked to pledge numbers or provide a cap, given the potential cohesion risks and the well-recognised issues with forecasting population change and churn both locally, nationally and internationally.

Concern in respect of the impact of the Bill on separated asylum-seeking children in Wales, including whether you have concerns around existing arrangements for these children.

12. The WLGA has not sought legal interpretation of the Bill, however, the following issues are flagged, based on our best understanding of the provisions and proposals to date:
- *Clause 2: Duty to make arrangements for removal* which places a duty on the Secretary of State to make arrangements for the removal of people from the United Kingdom when they arrive without leave to enter on or after 7 March 2023, where they have come from a "safe" country immediately prior. However, the detention and removal of families may act as a driver for children previously travelling within their families to claim asylum as lone children on arrival in the UK and in turn further increase numbers that need to be taken into care.
 - *Clause 3: Unaccompanied children* which clarifies that the Secretary of State is not required to remove a person from the United Kingdom while they are an unaccompanied child, though they retain the power to do so. Children would be removed when they turned 18, in line with Clause 2 of the Bill. In requiring the removal of children as soon as they turn 18, it is not clear how the Bill is compatible with other legislation, in particular the Children Act 1989 and associated guidance. This stresses the importance of consideration of the wishes and feelings of the child, and the need to operate in their best interests. Guidance also requires councils to plan for permanence for children, including developing relationships and ensuring children have a sense of security, commitment and belonging.
 - *Clause 15: Accommodation and other support for unaccompanied migrant children* which provides a power to the Secretary of State to provide, or arrange to provide, accommodation and other support to unaccompanied migrant children. The Bill clarifies that the Secretary of State is currently not in the position of corporate parent to any unaccompanied child given the Home Office does not have and therefore cannot discharge duties under Part 3 of the Children Act 1989. It states that the Home Office has always taken the view that these children should be in local authority care and that it is for the local authority where an unaccompanied child is physically located to consider its duties under the Children Act 1989. The Bill does not take the opportunity to clarify however who is the corporate parent of unaccompanied asylum-seeking children placed in hotels by the Home Office. Clarification on the corporate parent role is important to ensure clear accountability for the welfare and safety of all children. If children are placed in Home Office accommodation, the legislation should clarify that this must be regulated accommodation in line with all other accommodation for children in care. Councils would welcome further discussion on key operational issues such as age assessment, reducing the risks of children going missing to avoid detention and removal or as a result of being trafficked, and clarifying the corporate parent role for children in detention. Councils must be consulted on and able to influence the location of any Home Office accommodation for children to ensure the appropriateness of the location and capacity of local services to support children.

- *Clause 16: Transfer of children from Secretary of State to local authority and vice versa* which provides power to the Secretary of State to direct a council to receive a child or to cease looking after a child. The Bill strengthens government's powers to direct councils, this raises a concern that they will be required to take lone children into care, or to stop caring for a child, without consideration of whether that direction is appropriate for individual children. There are also concerns that councils will be directed to accept responsibility for children (including large numbers of children in Home Office accommodation) without the ability to engage on or influence where these children are placed, and without consideration of local capacity to appropriately support those children including social care, health and education services. This clause offers no recognition of pressures on individual councils or the need to ensure the appropriate placement of individual children in line with statutory guidance.
- *Clause 55: Decisions relating to a person's age* which removes the right of people to appeal age assessment decisions including where these are not made by social work professionals. A recent Freedom of Information request to councils found that in 2022, 70 councils reported at least 867 children being identified in adult asylum accommodation as a result of inaccurate age assessments at port. This carries significant safeguarding implications for children where they are being placed with unrelated, unknown adults without access to the support that unaccompanied children are entitled to under the Children Act 1989.

13. The WLGA has highlighted a range of concerns around the current operation of the National Transfer Scheme (NTS) for unaccompanied asylum seeking children in Wales which have been shared with both Welsh Government and the Home Office. In summary, we do not believe that the current approach always maintains the best interest of the child, with children and young people sent to areas where they have little information, can feel isolated and any specific religious or cultural needs may not be met. At this time, the majority of unaccompanied asylum seeking children transferred to Welsh councils are placed out of county and out of country, due in part to the limited number of appropriate and available placements and transfers having to be made within 5 days of a referral. This raises additional safeguarding concerns and means social workers are travelling to many different places to provide appropriate care and support to children in their care. Information about children to be transferred is often limited and is sometimes incorrect or incomplete. The WLGA would welcome an opportunity to share its views of the NTS and any proposals for improvements with the Committee, ensuring that the best interest of the child remains at the heart of the system.

Any anticipated implications of the Bill on the assessment of needs and provision of care and support under the Social Services and Wellbeing (Wales) Act 2014

14. The Social Services and Wellbeing (Wales) Act places clear responsibilities and legal duties on local authorities in relation to promoting the wellbeing of children and young people who need care and support and meeting their

needs. In relation to children looked after local authorities must safeguard and promote the child's well-being. In Wales, all unaccompanied asylum-seeking children are treated as looked after children in line with Part 6 of the 2014 Act. The Act also provides for a range of assessment functions to help councils to consider the care and support needs of children in their area.

15. However, the Illegal Migration Bill provisions, as introduced, do not necessarily recognise the devolved context, with Clause 19 enabling the Secretary of State to extend Clauses 15-18 to Wales without the consent of Welsh Ministers. Given the devolved nature of health and social care in Wales our view is that the Bill confers power on the Secretary of State to make regulations imposing functions on devolved Welsh authorities which could potentially undermine the requirements placed on Welsh local authorities set out in the 2014 Act, thereby treating asylum seeking children differently to other Welsh children.
16. Local authorities have concerns over any changes which could lead to the diminution of the lead, authoritative role for social workers in assessing what is in the best interests of children in their care.

Whether the Bill is compatible with the Rights of Children and Young People (Wales) Measure 2011 and any impact on 'child first, migrant second' approach which underpins delivery of support to child asylum seekers in Wales

17. The 2011 measure places a duty on Ministers to have due regard to the Convention on the Rights of the Child when exercising any of their functions. The 2014 Act then brings into Welsh domestic law compliance with the UN Convention on the Rights of the Child, where any person exercising functions under this Act in relation to a child falling within section 6(1)(a), (b) or (c) must have due regard to Part 1 of the United Nations Convention on the Rights of the Child.
18. Welsh Government's Programme for Government includes a commitment to 'continue to support and uphold the rights of unaccompanied asylum-seeking children and young people', supporting a 'child first, migrant second' approach which aims to uphold the best interests, rights and entitlements approach to providing care and support to children in Wales.
19. There is therefore already legislation in place in Wales to ensure the needs of child asylum seekers are met. The Bill has the potential to undermine this existing legislation with concerns over the UK Government being able to require the transfer of unaccompanied children to other accommodation or parts of the UK, irrespective of the care and support needs assessed by local authority social services.

Any concern relating to the Bill and compatibility with Convention Rights

20. There are some concerns that the Bill may be incompatible with the United Nations Convention on the Rights of the Child to which the UK is a signatory, in particular Article 3 (best interests of the child), Article 12 (respect for the

views of the child), Article 22 (refugee children) and Article 39 (recovery from trauma and reintegration). This incompatibility would place councils in the position of trying to comply with two competing sets of legislation as they attempt to fulfil their duties towards children.

Conclusion

21. Local authorities have a positive record on welcoming and supporting new arrivals in local areas, stepping forward at times of crisis to offer accommodation and support, often as people restart their lives in the UK. This is not without its challenges however and maintaining community cohesion is a key aim of the way in which councils wish to manage and oversee the impact of migration at the local level. The Bill is likely to add further complexity as to how councils undertake this role. Councils are fully aware of the pressure on the current system as this pressure is felt by local areas, particularly those with a number of hotels, including those for unaccompanied asylum-seeking children (none of which are currently in Wales). It is imperative that the UK Government works closely with councils, and other public services, in responding to the current challenges and in how changes required by the Bill, should it receive Royal Assent, will be taken forward, with joint planning and good communications and partnership working.

Jayne Bryant MS, Chair, Children and Young People
Committee seneddchildren@senedd.wales
Jenny Rathbone MS, Chair, Equality and Social Justice
Committee seneddequality@senedd.wales

Eich cyf/Your ref:

Ein cyf / Our ref:

Dyddiad / Date: 8 June 2023

Dear Jayne Bryant MS and Jenny Rathbone MS,

I am writing in response to your letter dated 22 May 2023 concerning the UK Government's Illegal Migration Bill, and the Welsh Government's laying of a Legislative Consent Memorandum in relation to clauses 19 and 20 of the Bill.

You have written to ask the Care Inspectorate Wales' (CIW) views on legislative consent. Our response to the issues outlined are as follows:

A very brief overview of your view of the Bill

It would not be appropriate for CIW to comment outside of a formal consultation on proposed UK Government legislation.

Any concerns you may have in respect of the impact the Bill would have on: separated asylum seeking children in Wales, including whether you have any concerns about existing arrangements for these children

We are aware local authorities in Wales are working hard to provide suitable care arrangements for unaccompanied asylum-seeking children and this can be challenging. We have been involved in ongoing discussions and options appraisal about whether a reception centre model is required in Wales, and if so whether this would require registration with CIW. There is potential the Bill may adversely impact on the number of unaccompanied asylum-seeking children requiring care and support.

Any anticipated implications of the Bill on the assessment of needs and provision of care and support under the Social Services and Well-being (Wales) Act 2014

We are aware many local authorities in Wales are under significant pressure to meet their statutory duties to assess and meet the care and support needs of children.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Tudalen y pecyn 8

Whether the Bill is compatible with the Rights of Children and Young Persons (Wales) Measure 2011, including what impact it would have on the 'Child First, Migration Second approach' which underpins the delivery of support to child asylum seekers in Wales.

The Social Services and Well-Being Act and Registration and Inspection of Social Care Wales Act are underpinned by a rights based approach for all people in need of care and support but as above, CIW does not comment specifically on proposed UK legislation.

Any concerns you may have relating to the Bill and compatibility with Convention rights.

CIW does not have any comment to make on this.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'G. Baranski', written in a cursive style.

Gillian Baranski
Chief Inspector
Care Inspectorate Wales

Children and Young People Committee

Equality and Social Justice Committee

To: See attached annexe

22 May 2023

Dear Colleague,

UK Government's Illegal Migration Bill

As you may be aware, the UK Government's Illegal Migration Bill ("the Bill") was introduced to the UK Parliament on 7 March 2023. The Bill seeks to change the law regarding the detention and removal of those who arrive in the UK in breach of immigration control, either to their home country or a safe third country.



The Welsh Government laid a Legislative Consent Memorandum (LCM) setting out that clauses 19 and 20 of the Bill require consent from the Welsh Parliament. The LCM has been referred to several Senedd Committees and this letter is being issued jointly by the Children, Young People and Education Committee and the Equality and Social Justice Committee. As part of considering its response to the LCM, we would like to invite you to give written evidence regarding your views on the issue of legislative consent.

Please note that debates regarding the merits or otherwise of the legislation more broadly are not being considered by the Committee at this time, as they are not devolved matters. We kindly ask therefore for you to focus your comments on the specific provisions that require consent (i.e. clauses 19 and 20). Given the short timescales for the Committees' consideration we would also emphasise the need for brevity, more detail on how to respond is set out in the annex. In particular, we would be most interested to hear your views on the following:



- A very brief overview of your view of the Bill;



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- Any concerns you may have in respect of the impact the Bill would have on: 'separated asylum seeking children in Wales, including whether you have any concerns about existing arrangements for these children;
- Any anticipated implications of the Bill on the assessment of needs and provision of care and support under the Social Services and Well-being (Wales) Act 2014; and
- Whether the Bill is compatible with the Rights of Children and Young Persons (Wales) Measure 2011, including what impact it would have on the 'Child First, Migration Second approach' which underpins the delivery of support to child asylum seekers in Wales.
- Any concerns you may have relating to the Bill and compatibility with Convention rights.

Time is very much of the essence in this matter and therefore the Committee asks that all written responses are received by no later than 1 June 2023.

Yours sincerely,

Jayne Bryant MS

Jenny Rathbone MS



Chair, Children and Young People Committee
Welsh Parliament

Chair, Equality and Social Justice Committee
Welsh Parliament



Annexe 1

How to share your views

Please email your response to both seneddequality@senedd.wales and seneddchildren@senedd.wales by no later than Thursday 1 June 2023.

The Senedd has two official languages, Welsh and English. In line with the Senedd's Official Languages Scheme the Committee requests that documents or written responses to consultations intended for publication or use in Senedd proceedings are submitted bilingually. When documents or written responses are not submitted bilingually, we will publish in the language submitted, stating that it has been received in that language only. We expect other organisations to implement their own standards or schemes and to comply with their statutory obligation. Please see guidance for those [providing evidence for committees](#). Please ensure that you have considered the Senedd's policy on disclosure of information before submitting information to the Committee.



Annex 2

List of consultees

The Association of Directors of Social Services (ADSS) Cymru;

Barnados (Independent Child Trafficking Advocacy Service);

Bevan Foundation;

British Red Cross;

Care Inspectorate Wales

Children's Commissioner;

Children in Wales;

Ethnic Minorities and Youth Support Team Wales (EYST);

Equality and Human Rights Commission;

Haven of Light

National Youth Advocacy Service;

Wales Strategic Migration Unit;

Welsh Local Government Association;

Welsh Refugee Council; and

Women Connect First.

Voices from Care



To: Jayne Bryant, Chair,
Children and Young
People Committee

Jenny Rathbone MS,
Chair, Equality and
Social Justice
Committee

Senedd Cymru

Via email only

8th June 2023

Dear Chairs,

Thank you for your letter dated 22nd May concerning the UK Government's Illegal Migration Bill ("the Bill").

I am deeply concerned by the Illegal Migration Bill and the impact it would have on children should it be enacted. This Bill has the potential to significantly undermine the safeguards in place to protect children, and the endeavours by Welsh Government to be a Nation of Sanctuary. By enacting the Bill as it currently stands the UK would be in breach of international treaties including the UN Convention on the Rights of the Child (UNCRC), the European Convention on Human Rights (ECHR) and the Convention and Protocol relating to the status of refugees (the Refugee Convention 1951).

The implications of this Bill on children's rights would be significant and wide-ranging, failing to recognise the universal basis of the UNCRC and violating the right to protection for children in vulnerable circumstances. Specifically, article 22 of the Convention states:

States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

Implications of the Bill

As this Bill sits within the remit of my counterpart in England, as you'd rightly expect, my office has been in close contact with Dame Rachel de Souza's team during this period, offering advice and support. Here I set out what I see as some of the key implications of the Bill on affected children in Wales:



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As set out in section 19 of the Bill, section 15 to 18 regarding unaccompanied asylum seekers will apply to Wales. I have significant concerns regarding the provisions set out within this Bill and the implications this will have on children and their rights. In a recent [briefing](#), the Children's Commissioner for England highlights concerns relating to section 15 and 16 of the Bill. This briefing details issues from a children's rights perspective and reflects on the situation of children being accommodated in Home Office accommodation since 2021. My office has worked with my counterparts in England, Scotland and Northern Ireland in preparing this briefing, and it reflects my concerns regarding the safety of children in these accommodations and the impact it will have on access to their rights as set out within the UNCRC.

Given the concerns my counterpart in England has raised regarding the standard of safeguarding in Home Office Hotel accommodation for children, I am particularly worried about the proposed powers of the Secretary of State to cease local authority care and make arrangements for a child reside in accommodation for unaccompanied migrant children. The quality of care must be considered and children must have access to their rights within all settings. Explicitly, this allows for asylum seeking children to be treated differently to others under local authority care, placing their 'looked-after' status at risk, breaching article 22 of the UNCRC. Article 22 states that 'the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason...'. Children who are seeking asylum are entitled to all rights set out within the UNCRC.

The proposal for the Home Office to be provided with the power to accommodate children, and to direct a looked after child to be returned to Home Office accommodation is deeply troubling. You'll be aware that local authorities here in Wales have a duty under the Social Services and Wellbeing Act to carry out a needs assessment. If a child is not placed with the local authority but with the Home Office, this duty will not apply. Again this in direct conflict with Article 22 of the UNCRC.

After meeting with unaccompanied Asylum Seekers being cared for by local authorities in Wales, I have recently raised a range of concerns with Welsh Government including access to education, mental health support and suitable accommodation. It is feared that the implementation of this Bill, as it stands, would exacerbate these issues and have a negative impact on children in accessing their rights. During my time as Commissioner, I have met unaccompanied asylum seeking children living independently, in hotels. This reflects the wider and ongoing issues regarding social care and a lack of suitable accommodation, particularly for those young people aged 16 and over,

who are approaching the milestone of leaving care. It is important that all children young people are able to access a safe, registered caring environment, which promotes a children's rights approach.

The Bill is a threat to existing devolved legislation and the powers and duties of the Welsh devolved Government, local authorities, and public bodies. The Rights of Children and Young Persons (Wales) Measure (2011) places a duty on Welsh Ministers to pay due regard to children's rights as set out within the UNCRC. This includes local authorities' duty to assess and address children's support and accommodation needs, regardless of their immigration status. The Bill would also undermine this existing legislation, violating children's rights and conflict with Welsh Government's Nation of Sanctuary commitments as set out in the *Nation of Sanctuary – Refugee and Asylum Seeker Plan* (2019).

Wales' 'Child First, Migration Second approach' promotes a children's rights approach to the delivery of support to children seeking asylum in Wales - this Bill would entirely undermine this delivery model.

The UN Committee on the Rights of the Child published its [Concluding Observations](#) on the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland last week. Included with that work are several areas that need 'urgent measures', including asylum-seeking, refugee and migrant children and it goes on to raise specific concerns about the Bill. I append the relevant recommendations to the UK State Party to this letter.

I trust the above will be of use in your deliberations. Please do not hesitate to reach out if you need us to expand further on any of the points raised.

Yours sincerely,



Rocio Cifuentes MBE
Children's Commissioner for Wales

Appendix: UN Committee on the Rights of the Child - Concluding observations on the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland

The Committee is deeply concerned about:

- a) Restrictions to the rights of asylum and family reunification, the criminalization of arrival without prior permission and the introduction of a two-tiered system for identifying refugee children, under the Nationality and Borders Act of 2022;*
- b) The potential impact of the Illegal Migration Bill on children, which includes a ban on the right to claim asylum, allows for the prolonged detention and removal of children, creates barriers for acquiring nationality, and lacks a consideration of the principle of the best interests of the child;*
- c) The persistent use of unreliable methods for determining a child's age, the large number of children whose age has been disputed, and the lack of data on the number of asylum-seekers claiming to be children who have been assessed and sometimes detained as adults by immigration officials. 50.*

With reference to joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration, the Committee urges the State party to:

- a) Urgently amend the Illegal Migration Bill to repeal all draft provisions that would have the effect of violating children's rights under the Convention and the 1951 Refugee Convention, and bring the Bill in line with the State party's obligations under international human rights law to ensure children's right to nationality, to seek asylum and to have their best interests taken as a primary consideration, as well as to prevent their prolonged detention and removal;*
- b) Amend the Nationality and Borders Act to abolish the designation of "Group 2" status to certain groups of refugee children, and ensure that all asylum seeking and refugee children, including unaccompanied children, are not criminalized and have access to necessary support and services;*
- c) Review and strengthen the asylum process to ensure that children receive age-appropriate information and legal advice about their rights, asylum procedures and requirements for documentation; that their best interests are given primary consideration in all asylum processes; that*

- their views are heard, taken into account and given due weight; and that they have access to child-friendly justice mechanisms and remedies;*
- d) Strengthen measures to ensure that all asylum-seeking, refugee and migrant children have equal and prompt access to education, health services, housing, psychosocial support, and social protection including benefit entitlements;*
 - e) Put an end to the use of unreliable and invasive procedures for determining a child's age; develop an age determination procedure that is child- and gender-sensitive, includes multidisciplinary assessments conducted by relevant professionals of the child's maturity and level of development, and respects the legal principle of the benefit of the doubt; and ensure that children have access to legal advice throughout the process and, if necessary, can challenge the outcome of such assessments;*
 - f) Ensure that children and age-disputed children are not removed to a third country;*
 - g) Develop a consistent, statutory system of independent guardianship for all unaccompanied children, and ensure that all unaccompanied children throughout all jurisdictions of the State party are promptly identified and appointed a professionally trained guardian;*
 - h) Review its system of family reunification involving unaccompanied children, with a view to ensuring that children have an unqualified right to apply for family reunification and that applications are considered in a consistent, expeditious and child rights-based approach, and that the best interests of the child are a primary consideration in all related decisions.*