

Ymateb gan: [Consortiwm Plant Ffoaduriaid a Mudwyr](#)  
Response from: [Refugee and Migrant Children's Consortium](#)

# Refugee and Migrant Children's Consortium

## Border Security, Asylum and Immigration Bill

February 2025

### Introduction

The Refugee and Migrant Children's Consortium welcomes aspects of the Border Security, Asylum and Immigration Bill (BSAIB), particularly the repeal of child detention powers,<sup>1</sup> the Home Office accommodation powers over unaccompanied children,<sup>2</sup> the Safety of Rwanda Act 2024, and other significant portions of the Illegal Migration Act 2023 (IMA).

While we support the repeal of IMA measures that would have penalised young people for refusing scientific age assessments and limited legal challenges, we remain deeply concerned about the continued application of age assessment and modern slavery provisions in the Nationality and Borders Act 2022 (NABA). As organisations working with thousands of children, we consistently raise concerns with the Home Office about the serious flaws in age assessment procedures. Border guards' misjudgements result in hundreds of children being wrongly placed in the adult system each year, posing a major safeguarding risk—one that is not treated with the urgency it demands.<sup>3</sup> Additionally, child victims of trafficking continue to be denied essential modern slavery protections due to these policies.

We are also concerned that the Bill expands on NABA's immigration offences, potentially criminalising more people—including children. Efforts to target smugglers must not lead to the unjust criminalisation of those seeking safety. Furthermore, the retention of IMA provisions that impose blanket exclusions on individuals from countries such as Albania, Georgia and India from making asylum claims is particularly concerning. For children and young people deemed inadmissible, these provisions prevent them from being properly safeguarded. They also fail to acknowledge the unique challenges children and young people may face if forcibly returned, as well as their heightened vulnerabilities.

---

<sup>1</sup> We welcome the repeal of powers to detain children that were brought in with section 11 of the IMA. These powers had not yet been commenced. The scrapping of the powers preserves the status quo of the Immigration Act 2014. This means unaccompanied children can only be detained for 24 hours in airports and other short-term facilities and children in families can only be detained for 72 hours or a week if personally authorised by the minister and in special facilities and with certain safeguards.

<sup>2</sup> From 2021, the Home Office diverted unaccompanied children from the care system and placed them instead in Home Office-run hotels leading to hundreds of children going missing, with 90 still unaccounted for as of 30 October 2024. The IMA, at sections 16-21, the previous government legislated to claim the power to directly accommodate, transport and remove unaccompanied children from care by the Home Office. This power was not commenced and undermined the landmark provisions enshrined in the Children Act 1989 preventing Local Authorities from discharging their statutory duties towards children, creating a two-tier system of care. Following [litigation brought by RMCC member ECPAT UK](#), the Home Office directly accommodating unaccompanied children outside the care system was found to be unlawful.

<sup>3</sup> Helen Bamber Foundation, Humans for Rights Network, and Refugee Council. (2024). [Forced Adulthood: The Home Office's incorrect determination of age and how this leaves child refugees at risk](#).

## Ensuring the Modern Slavery system protects children

The government has declined to remove the expansion of the public order disqualification in this Bill as part of Clause 38, which repeals all other provisions related to modern slavery in the IMA. This provision, which arises from NABA and is further expanded in the IMA penalises children prosecuted for offences by excluding them from protection, despite the prevalence of child criminal exploitation, which may lead to wrongful criminalisation for offences committed as a result of their exploitation.<sup>4</sup> Additionally, the Government has declined to repeal these harmful provisions in NABA which have increased the risk of child trafficking, and criminalisation.<sup>5</sup> 65% of all disqualified potential victims exploited as children were acknowledged as having an element of criminal exploitation in their case.

NABA also allowed the Government to alter, via statutory guidance, the evidentiary threshold for reasonable grounds (RG) decisions, previously set lower to assist victims in acknowledging the complexity of identification, particularly for children as a result of trauma.<sup>6</sup> This change heightens the risk of re-trafficking, making it more likely that essential support will be denied. Negative RG decisions for children increased significantly as these provisions came into force - from 10% negative decisions issued in 2022 to 26% in 2023. Cases where exploitation occurred in whole or in part overseas were particularly impacted by stricter evidentiary requirements. Children at this stage rarely, if ever, receive access to legal advice to support the process leading to rejections which have a significant impact on them.

NABA also introduced consideration for temporary permission to stay for victims of human trafficking (VTS) following a positive conclusive grounds decision through the National Referral Mechanism if they meet specific criteria as a result of their 'personal circumstances' or because they are cooperating with a police investigation. Despite the commitments from the Government to fulfil the UK's obligations under the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT), this legislation and subsequent guidance ignores the specific standard for children in that treaty. ECAT specifies in Article 14 (2) that "the residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions". The explanatory report to ECAT goes on to state: "In the case of children, the child's best interests take precedence over the above two requirements" (personal circumstances or police investigation).

This provision and previous leave policy for victims has seen few child victims granted this form of leave.<sup>7</sup> Between 2020 and 2022, 5,266 children were confirmed as victims of trafficking subject to immigration control, but fewer than 21 were granted trafficking leave.<sup>8</sup> In the few cases leave was granted to children, it was extremely limited – with previous figures obtained by ECPAT UK for the years 2019/20 showing the average length of leave is short, suggesting that decisions are not being taken in their best interests as a primary consideration and as a result provide minimal stability.

---

<sup>4</sup> Magugliani, N. et al. (2024). [Assessing the Modern Slavery Impacts of the Nationality and Borders Act: One Year On.](#)

<sup>5</sup> IASC and ECPAT UK. (2024). [Child Trafficking in the UK: A Snapshot.](#)

<sup>6</sup> Davis, M. (2024). [Identifying Victims of Human Trafficking: The Legal Issues, Challenges and Barriers.](#)

<sup>7</sup> [Nationality and Borders Bill: immigration outcomes for child victims of trafficking](#)

<sup>8</sup> Helen Bamber Foundation. (2023). [Leave in Limbo.](#)

Overall, the retention of IMA and NABA provisions weakens the identification, protection, and support systems for trafficked children, increasing their risks of exploitation, re-trafficking, and criminalisation.

### Not criminalising children

This Bill builds on an existing list of immigration criminal offences, including arrival without the required entry clearance or authorisation. It will create a new offence if someone travels by boat and creates a risk of injury to another person. While one of the government's aims with the Bill is to prevent, investigate and prosecute smuggling,<sup>9</sup> the measures in BSAIB risk criminalising people seeking safety who have no other means of reaching the UK, including child victims of trafficking and children travelling alone.

The RMCC is firmly opposed to the criminalisation of people seeking asylum in the UK. Our specific concern regarding children in need of protection is that yet more will face prosecution and spend months in adult prisons because they have been wrongly deemed to be adults by the Home Office.

Unaccompanied children seeking asylum have had to flee war, persecution and human rights abuses, and have endured perilous journeys. Many children who come to the UK on their own from countries such as Afghanistan, Sudan and Eritrea are unable to show official identity documents, such as passports or birth certificates, because they have either never had them; they've been destroyed, lost or taken; or the child has been forced to travel on false documentation. As a result, many have their ages questioned.

Under the previous government, the Home Office took increased control over the age determination process, with an increase in flawed decision-making, and hundreds of children being put at risk. Time and time again RMCC members see unaccompanied children incorrectly determined by immigration officials to be adults upon their arrival in the UK, based on a cursory visual assessment, only for them to be found to be children after further detailed assessments carried out by social workers. While the government does not publish data on this, **evidence from local authorities' children's services revealed that over an 18-month period alone, over 1,300 children had been wrongly assessed by the Home Office to be adults.**<sup>10</sup>

Using the existing criminal offences introduced by NABA, children have already ended up being wrongly prosecuted because they were disbelieved about their age by border officials. Criminal courts often accept the Home Office decision that a child is an adult, which is often presented as fact with no acknowledgement that there is was a dispute about age. Many judges believe that the dates of birth have been provided to the Home Office by the children themselves. They have little understanding of the flawed age determination process that takes place upon arrival and that immigration officers arbitrarily assign these dates.<sup>11</sup>

---

<sup>9</sup> [Border Security, Asylum and Immigration Bill Explanatory Notes](#)

<sup>10</sup> Helen Bamber Foundation, Humans for Rights Network, and Refugee Council. (2024). [Forced Adulthood: The Home Office's incorrect determination of age and how this leaves child refugees at risk.](#)

<sup>11</sup> *Ibid.*

## Case study

Marwan (name has been changed) is a Sudanese national who arrived in the UK by small boat when he was 17 years old. Marwan was 'assessed' upon arrival as significantly over 18 years old by two Home Office officials, who allocated a date of birth making him 21 years old. Marwan has since explained that the interview lasted around 10 minutes. After the interview, he was taken to Manston Detention Centre.

Three days after he arrived he was arrested for the offence, under Section 25 of the Immigration Act 1971 (as amended by the Nationality and Borders Act 2022), of facilitating the commission of a breach of immigration law by persons who were not nationals of the UK, and the Section 24 offence of knowingly arriving in the UK without valid entry clearance.

Marwan was then taken to Margate Police Station, where neither the police nor his criminal law representative asked Marwan about his age. Marwan was subsequently charged with these offences and taken to Folkestone Magistrate's Court the following day.

At this hearing, Marwan told the court his claimed date of birth. However, as the Home Office had established his age as 21 years old, Marwan continued to be treated as an adult for the purposes of the criminal hearing. Marwan's clear communication that he was in fact 17 was disregarded and he was sent to HMP Elmley, an adult prison in Kent.

Marwan was held on remand at HMP Elmley. He told prison staff that he was 17 years old, but because he was recorded as being 21 years old no actions were taken to safeguard his welfare. At this time, Marwan was sharing a cell with a 30-year-old man. At a hearing a month later, Marwan pled guilty to the Section 24 offence, after the Section 25 offence was discontinued.

For three months after his arrival, Marwan received no support. He was eventually able to call a friend from prison who raised the alarm, contacting a volunteer he had met in France who subsequently referred Marwan to Humans for Rights Network (HFRN).

HFRN sent safeguarding referrals to the prison and the local authority regarding Marwan's age and immediate risk of harm. No action was taken following either safeguarding referral. HFRN subsequently referred Marwan to a community care solicitor, who visited him and then wrote to the local authority—a bail address was provided by the local authority, and it was confirmed that they would decide whether his age was accepted or a full age assessment was needed.

Marwan was released into the care of the local authority four months after he was first incarcerated. One month later it was confirmed by the local authority that there were not sufficient grounds to undertake an age assessment and Marwan's date of birth was accepted. Marwan remains a looked-after child and has subsequently been acquitted of any offence.

*Marwan's case clearly shows that there are significant failings within a wide range of procedures and practices implemented by state actors from the Home Office to the Ministry of Justice. Marwan is recovering well. However, he has ongoing mental health issues, suffers from sleeping problems and struggles to talk about his time in prison where he was subjected to violence.*

Between June 2022 and the end of 2024, the best available data suggests that over 550 people were charged with ‘illegal arrival’ having arrived on ‘small boats’, and over 450 convicted.<sup>12</sup> By September 2024, **Humans for Rights Network had identified 18 cases where children wrongly treated as adults have been charged with offences under NABA, with 14 spending periods of time held with adults in adult prisons.**<sup>13</sup>

We urge the government to repeal these provisions in NABA and reconsider their expansion through this bill. Additionally, we urge reconsideration of the age determination policy at the border by the Home Office by ensuring young people asserting they are children are treated as such on arrival except in exceptional cases (e.g. where there is evidence they are in their late 20s).

### **Ensuring age assessments are local authority-led and cause as little harm as possible**

As discussed above, for years the Home Office has needed to address the problem of visual assessments on arrival. Yet, instead, resources have been allocated to creating the National Age Assessment Board (NAAB) and developing scientific (biological) age assessment methods, both introduced by NABA. Neither of these measures tackle the key problem of children wrongly treated as adults at port and simply further complicate the age-determination process. NAAB assessments have been shown to be flawed and 14% of assessments have been ordered by the Home Office even though the local authority had accepted a child’s age (or assessed them to be under 18). Costing £1.7 million in its first year of operation,<sup>14</sup> the NAAB appears to be wasting time and resources and resulting in unaccompanied children seeking asylum going through unnecessary and harmful assessments.<sup>15</sup>

The use of scientific methods to assess age has long been the subject of debate and professional medical bodies have been unequivocal in their rejection of use of dental x-rays, bone age and genital examination as being “extremely imprecise” as methods for assessing age. The Home Office’s own advisory committee made it very clear that scientific methods can only be used to assess whether the age claimed is *possible* and should only be used as part of a wider social work assessment that is compliant with existing guidance and case law.<sup>16</sup> Social work assessments are already detailed and should include a wide range of evidence - if scientific methods can only ascertain whether an age might be possible, there is no clear benefit to adding another, costly and time-consuming element to the existing system. Furthermore, NABA states that a child will be seen as less credible if they do not agree to undergo medical procedures, undermining the principle of informed consent.

Under the current system, a child could end up with as many as four determinations of age: an initial ‘assessment’ at the port of entry; a local authority assessment; a NAAB assessment; and a finding by the court. This means that a process that has already been found to be harmful and costly will be made even longer, delaying a child’s access to support and a decision on their asylum claim even further. Rather than giving more and more control to the Home Office, it is time for the government to look at what actually works in age assessments

---

<sup>12</sup> Vicky Taylor and Catriona Götz, “Security at the heart”: Criminalisation and Labour’s Border Security, Asylum and Immigration Bill 2025, February 2025

<sup>13</sup> Refugee and Migrant Children’s Consortium, [Age Disputes](#), September 2024

<sup>14</sup> Freedom of Information request reference FOI2024/05630, answered by the Home Office on 16 July 2024

<sup>15</sup> Helen Bamber Foundation. (2024). [The psychological impact of the age dispute process on unaccompanied children seeking asylum in the UK.](#)

<sup>16</sup> Helen Bamber Foundation. (2023). [“An educated guess at best”: x-raying children to determine their age.](#)

and invest in supporting local authorities to carry them out using their expertise as child protection professionals.

We urge the government to repeal Sections 52 and 53 of NABA, ending the push for scientific age assessments and the Home Office-led codification of the process. Funding should be redirected to training and supporting local authorities—who, as child protection experts, are best placed to conduct independent social work assessments. Investing in proven methods will ensure children receive the care and protection they need.

### **Ensuring full consideration of children’s protection needs**

The decision to retain Section 59 of the IMA is deeply concerning, particularly for children and young people. This provision imposes blanket exclusions on people seeking asylum from countries like India, Georgia, and Albania, meaning claims are only considered in “exceptional circumstances”.<sup>17</sup> As a result, the Home Office does not assess cases individually, leaving vulnerable children without proper safeguarding.

Evidence shows that individuals—including children—are not always safe in these countries.<sup>18</sup> The Home Office itself has previously granted asylum to applicants from Albania, Georgia and India. Yet the government continues to apply a rigid approach, despite data showing many successful appeals against refusals.<sup>19</sup>

In relation to Albania, for example, the Home Office’s own Country Profile Information Notes (CPINs) about Albania, highlight the risks concerning human trafficking, blood feuds, and LGBTQIA+ persecution.<sup>20</sup> Albanians received grants of protection with 60% positive decisions in 2022, then falling significantly to 10% in 2023<sup>21</sup> as a result of changes in government policy<sup>22</sup> and not because the context in Albania has changed in any significant way. Furthermore, at appeal, many Albanians secure protection, but currently, the government is not publishing appeal outcomes.<sup>23</sup>

Children and young people are particularly at risk under these rules. They could lose crucial protections and face the danger of refoulement without proper consideration of their vulnerabilities. Just as women, LGBTQ+ individuals, and minoritised groups require additional safeguards, so too do children. Section 59 prevents the Home Office from assessing individual needs and must not be retained in this Bill.

The Bill and policy beyond also retains the concept of ‘inadmissibility’ in the asylum system, where a person’s asylum claim in the UK is not accepted because the Home Office believes they could have claimed asylum in another country. While children are exempt, young people who have turned 18 and those wrongly assessed as adults could be at risk of not having their protection claims properly considered.

---

<sup>17</sup> [Illegal Migration Act 2023, Second Reading.](#)

<sup>18</sup> ILPA and Rainbow Migration. (2023). [Joint Briefing on Draft Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe States\) Regulations 2024.](#)

<sup>19</sup> Secondary Legislation Scrutiny Committee. (2023). [Draft Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe States\) Regulations 2024.](#) para. 12.

<sup>20</sup> Home Office. (2024). Country policy and information note: human trafficking, Albania.

<sup>21</sup> UKVI Immigration System Statistics: Asylum and Resettlement - Applications, Initial decisions, and Resettlement (to year ending June 2024). Main applicants and dependants included.

<sup>22</sup> ICIBI. (2023). [An Inspection of Asylum Casework.](#)

<sup>23</sup> Home Office. (2023). [Immigration Statistics - Asylum and Resettlement - Asylum appeals lodged and determined. Data excludes dependants and withdrawn appeals.](#)

## Allowing refugee children to sponsor their family members

The Bill presents an opportunity to improve the rights of refugee children in the UK. Allowing child refugees to sponsor their immediate family is a logical, humane, and necessary step. It aligns with the UK's commitment to protecting vulnerable children, strengthens safe and regular migration routes, and ensures that children seeking safety are not left alone in an unfamiliar country.

The UK rightly allows adult refugees to sponsor their children to join them, but the same right is not extended to children who arrive alone. This gap in the refugee family reunion rules leaves vulnerable children without the support and protection of their families, increasing their risk of harm, exploitation, and trafficking. The lack of regular routes for family reunification forces families to take dangerous journeys to reunite. Evidence suggests that restricting safe pathways strengthens smuggling networks, putting children at greater risk of trafficking and exploitation. Providing a legal route through family reunion would be a humane and effective way to protect children.<sup>24</sup>

Concerns that allowing child refugees to sponsor family members would encourage parents to send children alone to the UK are unfounded. There is no clear evidence of this so-called “pull factor,” while the dangers children face at home and on their journeys are well documented. Families do not take such risks lightly—there are strong “push factors” forcing them to flee.<sup>25</sup>

Family plays a crucial role in a child's development, well-being, and integration. Being separated from parents and siblings can have devastating effects on a child's mental health. Allowing child refugees to sponsor their immediate family would provide stability, emotional

Enabling family reunification could reduce the burden on local authorities, who currently provide care for unaccompanied minors. Parents are best placed to support their children, easing pressure on public services and improving refugee integration.

---

<sup>24</sup> Refugee Council and Safe Passage report. (2024). [Families belong together: Fixing the UK's broken family reunion system](#)

<sup>25</sup> Home Office. (2020). [Sovereign Borders: International Asylum Comparisons report](#).

### Suggested Questions

1. Why has the government retained the public order disqualification for modern slavery protections in the Bill, despite its contravention of international law?
2. Can the government explain why such a low number of confirmed child trafficking victims have been granted trafficking leave to remain?
3. How will the Bill address the issue of flawed age assessments for unaccompanied children, particularly in light of evidence showing that many have been wrongly determined to be adults by the Home Office?
4. Will the government consider repealing Sections 52 and 53 of the Nationality and Borders Act 2022 and redirecting resources from the National Age Assessment Board to support local authorities in conducting independent, expert-led social work assessments?
5. What safeguards will be put in place to prevent children from being criminalised under new and existing immigration offences?
6. How many grants of asylum has the government made to children from Albania, India and Georgia in the last five years and given these grants of protection how does the Secretary of State justify their presence on a 'Safe List'?
7. Since the Home Office restarted asylum decision-making on IMA-era claims, how many asylum cases have been referred to the Third Country Unit for inadmissibility consideration?

For more information contact:

Laura Durán, Head of Policy, ECPAT UK at [l.duran@ecpat.org.uk](mailto:l.duran@ecpat.org.uk) or Kamena Dorling, Director of Policy, Helen Bamber Foundation at [kamena.dorling@helenbamber.org](mailto:kamena.dorling@helenbamber.org)

The Refugee and Migrant Children's Consortium is a coalition of over 100 organisations working to promote and protect the rights of young refugees and migrants - see our [website](#) for more information.