

Briefing from Greater Manchester Immigration Aid Unit (GMIAU) for North West MPs on the Nationality and Borders Bill

Autumn 2021

Introduction

This summer, watching the Taliban sweep through Afghanistan, we were confronted once more with the reality of what it means to flee conflict and persecution. We watched as desperate adults, children and families fled, and did everything they could to get to safety. In the North West, people responded with compassion and generosity. Charities have been overwhelmed with donations from the public, and regional leaders have been standing up to welcome new arrivals into our communities.

This is the context for the Nationality and Borders Bill.

Where our communities have come together and protected, the Bill divides, endangers and criminalises. There is no appetite for a law that criminalises Afghan women for fleeing the Taliban, or the RNLI for saving lives at sea. The government's own public consultation on policies in the Bill showed three-quarters of respondents were against the proposals.

The impact of the Bill on the North West

The Bill will cause direct harm to the North West by increasing the number of people in our communities with insecure immigration status, removing people's access to public funds and preventing families from being together. It will put more pressure on local authority services and ramp up the hostile environment that caused so much harm to our Windrush generation. The leaders of all ten Greater Manchester councils, as well as the Mayor, have [publicly opposed hostile environment policies](#) because they land so badly for people in the city-region and cut across local authority ambitions, for example to end rough sleeping. The lived experience of local communities provides a different perspective to the unworkable proposals in the Bill and we are encouraging MPs in the North West to voice that narrative in parliament.

Our experience

At Greater Manchester Immigration Aid Unit (GMIAU) we have thirty years' experience of supporting people across the North West who are subjected to immigration control. This briefing is based on our analysis of the Bill and highlights the impact we believe it will have on our region. We are happy to talk to MPs about these or any other aspects of the Bill as this briefing is not exhaustive. Please email rivka@gmiau.org.

We absolutely agree that the UK's asylum system needs improving. But the Bill does nothing to address the absence of safe routes that force people to take dangerous journeys to reach safety, the record backlog in asylum decisions or the unsafe and inappropriate accommodation, poverty and destitution that people face while seeking sanctuary in the UK.

Many of the Bill's flagship proposals have been around for decades and repeatedly proven to be unworkable: ['offshoring' people seeking asylum](#); housing them in [detention-like reception centres](#); attempting to [assess age scientifically](#). They will fail on their own terms while [putting money into the pockets of smugglers](#), pushing vulnerable people towards greater risk and piling pressure on our communities.



Afghan women among those criminalised by the Bill

This case study is fictional, demonstrating what could happen in future to a woman fleeing the Taliban today if the Bill becomes law.

Aisha, an Afghan woman, is facing persecution by the Taliban. She's at particular risk because of family ties to people working for the US and UK governments. So she flees to save her life and the lives of her two youngest children. They cross the border as quickly as they can, and having nowhere else safe to go, begin the long and dangerous journey to Europe where Aisha's cousin, her only family outside of Afghanistan, lives. Aisha speaks some English and her cousin lives in Manchester so having lost everything, she's heading here. After reaching France the only way she can get to the UK to claim asylum is to cross the Channel in a dinghy.

It capsizes near the UK coast, but luckily Aisha and her children are rescued by the RNLI. She's terrified but she hopes that she'll find safety for herself and her family here and that she'll be able to bring her husband and older children to make the family whole again.

Under the system proposed in the Bill, Aisha will be committing a criminal act by setting foot in the UK, as will anyone who helped her get here, even if it wasn't for their own gain. That includes the RNLI volunteers who save her life in the Channel. Because of her method of travel – because she left in a hurry – she will not have the same rights as other refugees. Her claim may be deemed inadmissible, meaning the government has six months to try to return her to another country. She may be removed from the UK and kept in detention-like conditions offshore, on a remote island or a far-away country. Rather than being able to recover from the trauma of what she's run away from, she'll be imprisoned for the "crime" of trying to keep her family safe. Even if her asylum claim means she is recognised as a refugee, she may still have restricted rights compared to other refugees from Afghanistan who came to the UK from resettlement camps. Instead she will have to make successive applications for temporary immigration status, continuing to live in fear and insecurity, kept apart from her husband and children.

Differential treatment of refugees (Part 2, Clause 10)

Based on a flawed interpretation of Article 31 of the 1951 Refugee Convention, one of the most controversial proposals in the Bill will allow refugees to be treated differently simply because of how they travelled to the UK. Clause 10 will mean if people arrive in the UK outside of a government-sanctioned route, they may be given a shorter, temporary form of immigration status, their route to settlement in the UK may be longer, they may not have access to public funds and they may have very limited rights to reunite with family *even if they are found to be a refugee*.

We stand alongside the UN refugee agency (UNHCR) in [condemning this proposal](#) which would affect the majority of people claiming asylum in the UK. Many people we support have had to travel by foot over mountains and through Europe in the backs of lorries to escape conflict and persecution.

The scenes at Kabul airport and at the Afghan borders this summer make it abundantly clear that people in desperate situations do not have the luxury of waiting for the UK government to set up a resettlement programme.

The clause also allows for people to be treated differently if they have delayed claiming asylum after arriving in the UK. The government expects every vulnerable, terrified person who arrives after an arduous journey to know how the UK asylum rules work and to be able to make a claim, in full, straight

away. Our experience in the North West tells us that this is not reflective of reality for people who have faced trauma, some of whom don't even know they can claim asylum.

We are asking MPs in the North West to: speak up against this clause, and push for safeguards to protect children (who are claiming asylum on their own as well as children in family groups) from a two-tier system.

Inadmissibility (Part 2, Clause 14)

The operating assumption of Clause 14 appears to be that everyone should claim asylum somewhere else in the world, and that the UK should be uniquely able to avoid its international obligations. Clause 14 will create even more of a bottleneck in the asylum system, as people wait in limbo while the government attempts to return them elsewhere. With [no return agreements](#) in place with other countries this is completely unworkable, and in the North West we have already seen this with the 'safe third country' provisions added to the Immigration Rules in January 2021.

We are asking MPs in the North West to: seek assurances about safeguards for children in relation to inadmissibility; speak up against the inadmissibility clause and put pressure on the government to prioritise faster, fairer grants of asylum, not more bureaucracy and delay.

What the Bill should address – asylum delays

People we support with insecure immigration status tell us about the severe mental health impact of living in insecurity, waiting in limbo for decisions or fearing detention and deportation. Emmanuel, who has been waiting over two years for a decision on his asylum claim, told us: *"there were moments when I thought about ending my life. (...) I can't sleep well at night because I think too much. It is very hard."* Many children we support are [physically and emotionally falling apart](#) while they wait for an asylum decision. One child's social worker wrote, *"His mental health has deteriorated... he reports feeling worried about his asylum claim the majority of the time which causes him to feel anxious, tense and upset."* Twelve children we support from Afghanistan have been waiting longer than six months for a decision on their asylum claim – the average time they have waited is nearly a year.

Immigration Offences and Enforcement (Part 3)

The Bill proposes to further criminalise people seeking asylum by making it a criminal offence to "arrive" – rather than "enter" – the UK without a visa. It will increase sentences for this kind of offence, *and* make it an offence to help people to safety on dangerous routes like Channel crossings, even if not for gain. This means that charities like the RNLI could be criminalised for saving people at sea.

We are asking MPs in the North West: to speak up against enforcement measures that criminalise people seeking asylum and those who save lives.

What is resettlement?

Some people who have fled their countries live in refugee camps. A small fraction will be referred for resettlement by the United Nations. This means they'll arrive in countries like the UK with their refugee status. In the Bill, this is how the government expects people to



claim asylum. But resettlement is a long-term solution and doesn't happen in anywhere near large enough numbers. In 2019, [only half of one percent](#) of the world's refugee population was resettled, and in the UK [only 823 people were resettled to the UK](#) in 2020.

A bespoke resettlement scheme for the situation in Afghanistan is important – although a commitment to resettle 5,000 people in the first year is not ambitious enough. The government needs to commit to a broader resettlement target that enables communities to plan to welcome their new arrivals.

We are asking MPs in the North West to call on the government to commit to a resettlement scheme of at least 10,000 people per year.

Refugee family reunion (the impact of Clause 10 and 14)

Our advice line has been busy with calls from distressed people of Afghan origin in the North West who are desperate to reunite with family members still stuck in Afghanistan. But the rules for refugee family reunion are strictly limited and people calling about brothers, sisters, parents and other family have found they don't fit into the rules. Families we have supported over the years have been put in situations where all their children are given permission to join them in the UK, but not their eldest child who is 19. They're put in the terrible position of having to choose whether to abandon their eldest child to reunite with their younger children in a place of safety.

It's something the government could do easily – expand the rules for refugee family reunion to allow people to join their family members. These are people within our communities who are being denied a most fundamental need – to live a full life with their family.

Instead the Bill will make it harder.

Because of the new inadmissibility rules and differential treatment, some people – even when given refugee status – may be denied the right to reunite with family members just because of the way they arrived in the UK.

We are asking MPs in the North West to: oppose these clauses; speak up for their constituents who are now trying to reunite with family; and put pressure on the government to expand refugee family reunion rules rather than restrict them.

No Recourse to Public Funds (the impact of clause 10)

With this Bill, the government proposes to impose a No Recourse to Public Funds (NRPF) condition on even more people, extending it to cover refugees who travel to the UK in ways the government does not approve. Hundreds of people in Greater Manchester already live with an NRPF condition - between March and December 2020, 231 people called our immigration advice line about living in poverty, many of them because of NRPF. [We believe](#) NRPF must be scrapped, and so do [Greater Manchester's council leaders](#). By increasing the number of people affected by NRPF the Bill will cause misery, it will threaten the cohesiveness of our communities, and it will also put more pressure on local authorities, already overstretched from the pandemic, to support people who should have the safety net of mainstream benefits.

We are asking MPs in the North West to: raise local concerns about poverty and destitution; work to scrap NRPF altogether; push to retain access to public funds for all refugees.



Age assessment (Part 5, Clause 58)

For some of the unaccompanied children we support seeking asylum in the North West, the trauma of separation from family and precarious journeys to the UK is made worse when their age is disbelieved by government or local authority officials and they are treated as an adult. [Too many young people we see](#) are put in accommodation with adults they have never met, without support or access to education and some have to endure a lengthy legal process just to be recognised as a child.

During the summer of 2021 we've been notified of alarming numbers of children dispersed into adult asylum accommodation in the North West because no meaningful attempt was made to establish their age when they entered the UK. But the new Bill offers no solution. Instead it extends the powers of the Home Secretary to make provisions for changing the age assessment process in future, with no specific detail. One of the only examples mentioned is the possible use of “scientific” age assessments – yet another wrongheaded idea that has been attempted and in the past and fallen down because there is [no such thing as a scientific age assessment](#).

We are asking MPs in the North West to ask for more clarity on this clause of the Bill, keeping children’s rights at the forefront, and limit the currently indefinite power it allows the Home Secretary.

Thank you for reading our briefing.

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To discuss this briefing or any other aspect of the new Bill please email rivka@gmiau.org

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