Refugee and Migrant Children's Consortium

Immigration and Asylum Bill Second Reading
Refugee and Migrant Children's Consortium briefing, July 2026

1. Introduction: The need to consider the impact on children's rights

The Refugee and Migration Children's Consortium (RMCC), a coalition of more than 100 organisations working with refugee, migrant and separated children, is deeply concerned about the impact of the Immigration and Asylum Bill on children, young people and families.

This briefing examines the impact of key provisions affecting children's rights, including:

- **Clause 18:** Narrows the definition of family life for Article 8 purposes.
- **Clause 19:** Restricts how children's family and private life is considered in Article 8 decisions.
- **Clauses 23 and 24**: Introduce powers to make recognised refugees repay the cost of their asylum support and accommodation.
- **Clause 36:** Introduces credibility provisions that risk child victims of trafficking being disbelieved because of delayed disclosure.
- **Clause 38:** Makes protection from public order disqualification dependent on a child's immigration status.
- **Clause 39:** Removes the duty to grant Victim of Trafficking Stay leave and further restricts access to secure immigration status for child victims.
- **Clause 43:** Removes the Secretary of State's statutory duty to provide assistance and support to child victims of trafficking.

The RMCC is also deeply concerned about the proposed changes to the asylum appeals system in part 1 of the Bill and endorses briefings by the Law Society and ILPA on this.

The Government has committed to assessing the impact of its asylum and immigration reforms on children. We urge Ministers to ensure that this includes the measures in this Bill, takes the form of a Child Rights Impact Assessment using the Department for Education's established template, and is published.

As the Children's Commissioner has said:

> "The Children Act is clear that children's best interests should always be at the centre of decisions about their lives. And I am clear that includes every child in the country – with no exceptions."

This Bill should be assessed against that principle to ensure it complies with the UK's obligations to protect every child, regardless of their immigration status.

2. Article 8: Give proper weight to what is best for children

Article 8 of the European Convention on Human Rights protects the right to respect for private and family life. For children, it is about far more than family relationships. It protects their identity, sense of belonging, and the relationships that are fundamental to their upbringing and development. Decisions under Article 8 often determine whether children can remain in the only country they have ever known, and whether families are kept together.

The Bill changes how Article 8 claims are considered by narrowing the definition of family life and giving greater weight to immigration control. Taken together, these changes will reduce the weight given to children's best interests in immigration decisions, contrary to Article 3 of the UN Convention on the Rights of the Child and the Government's duty under section 55 of the Borders, Citizenship and Immigration Act 2009.

Article 8 is already a qualified right — and one that is applied restrictively

When considering this section of the Bill, MPs should bear in mind that Article 8 has never been an absolute right. Courts must already weigh an individual's right to family life against the public interest in immigration control, and in practice, considerable weight is given to the latter — frequently at the expense of a child's best interests.

The clearest evidence of this is the hundreds of British and settled families already forcibly separated by the UK's family migration rules. Since 2012, the minimum income requirement has kept children, many of them British citizens apart from a foreign parent solely on the basis of the British parent's income. A right that has been unable to reunite these children with their parents cannot credibly be described as "too powerful."

Article 8 also underpins the Exceptional Circumstances route: the mechanism through which British and settled residents who cannot meet the requirements of the family Immigration Rules, but whose refusal would breach their right to family life, can apply to be reunited in the UK with a partner — often the other parent of their children. This route has already proven an inadequate safety net, with tens of thousands of children growing up separated from a parent as a result of the rules[1]. Weakening Article 8 further would remove the last remaining protection for these families, and the current proposals would substantially increase the number of children harmed by the UK's immigration system.

Case Study

Caroline and Carlos met in Ecuador in 2015. They married over there and when Caroline, who is British, fell pregnant, she moved back to the UK to work, build up some savings and give birth. She thought her stay would be temporary and she would head back out to Ecuador soon afterwards.

Yet still, it all started to fall apart after Thomas was born. Suffering from what she now realises was postnatal depression, Caroline found that she did not want to leave the UK. Carlos had come over on a visit visa for the birth and eventually they decided to apply

[1] Already in 2015, a report commissioned by the Children's Commissioner for England found that in 3 the years since the introduction of the financial requirement of the spouse visa in 2012, 15,000 children had been separated from one of their parents because their British parent could not meet the financial requirements of the Immigration Rules.

under Exceptional Circumstances for him to stay.

With Carlos not allowed to work, no money between them and facing huge application fees and lawyer costs, they ended up living off credit cards in a caravan in a friend's garden.

To make things worse, their application was initially refused by the Home Office, before their appeal was eventually allowed no less than another year later, after a thirty-minute hearing.

Case study courtesy of Reunite Families UK

Clause 18 – A narrow definition of family life

What the clause does
Clause 18 uses a statutory definition to limit “family life” to a person's "core cohabiting family". This is defined as a spouse or partner, any children under 18, or, where the individual is a child, their parents. Relationships with other family members, including adult siblings, grandparents, aunts, uncles and other relatives, will generally fall outside this definition unless exceptional circumstances can be shown.

Why this matters for children
Children's lives and relationships are often far more complex than this narrow definition recognises. Many children are raised or cared for by grandparents, older siblings, aunts, uncles or other extended family members, particularly where they have experienced migration, domestic abuse, trafficking or bereavement.

The Bill also sits uneasily alongside other governmental priorities like its opportunity mission, child poverty strategy, and the emphasis being placed upon kinship care in the Department for Education’s children’s social care reform plans. A child's family life cannot be reduced to a narrow definition that excludes many of the people who provide them with love, care and stability.

Case Study

A single mother lives in the UK with her three children - her eldest son aged 27 and two younger children aged 17 and 11 years old. The family are estranged from their father as a result of domestic violence and poor mental health. Whilst the estranged father and two youngest children are all British citizens, the eldest child and mother are not.

For many years, the eldest child and mother have shared caring responsibilities for the two younger children, raising them together and supporting each other in doing so. The eldest son has lived in the UK since the age of 13 and has now spent more than half his life in the UK.

The eldest son was supported to make an Article 8 application under Appendix Private Life, because alongside his mother and younger sibling, the four of them form a strong family unit. Furthermore, he has lived in the UK for more than half his life and would find it difficult to integrate into the country of his birth due to long absence and the stigma attached to the breakdown of his mother and father's marriage in their home country. The application also acknowledged the best interests of his two younger siblings - both children

- to have their brother remain in the UK to care for them as he has done for many years.

Under the changes proposed in the Immigration and Asylum Bill, the older brother's claim would be harder to make because although he is a sibling, he is an adult over the age of 18. If enacted, the changes could result in a well-functioning family unit, with both carers in work, being torn apart, a young man who has lived half is life in the UK being returned to a country he had not lived in since the age of 13, and a single mother with significant vulnerabilities as a result of domestic violence, being left to raise two children on her own. Indeed, it is because of her eldest son's embrace of British values that she has been supported to separate from her husband as her son strongly argued that it was safest for his mother, siblings and himself to not live with him due to his ongoing violence against them all.

Case study courtesy of Migrant and Refugee Children's Legal Unit, Islington Law Centre

Suggested question

- *How does the Government's definition of family life reflect the reality of children's lives, particularly those growing up in kinship care, separated families or wider family networks?*

Clause 19 – Reducing the weight given to children's rights

What the clause does

Clause 19 changes the public interest considerations that courts and tribunals must take into account when deciding Article 8 cases. It places greater emphasis on immigration control by strengthening public interest factors, requiring little or no weight to be given to family and private life established when a person had no immigration status or only precarious status, and introducing new statutory tests for when it is reasonable to expect a child to leave the UK.

Why this matters for children

The Bill provides that no weight should normally be given to family or private life established while a person was in the UK without leave, and little weight where their status was precarious. Children have no control over their immigration status or the decisions made by their parents. Yet these provisions risk reducing the weight given to a child's relationships, identity and integration simply because of circumstances outside their control.

These changes appear to directly contradict the commitment made in the May 2025 White Paper that children who:

"have been in the UK for some time, turn 18 and discover they do not have status, are fully supported and able to regularise their status and settle."
Page 69, 'Restoring Control over the Immigration System' White Paper

The Bill also introduces new statutory criteria for determining when it would be unreasonable to expect a child to leave the UK. The provisions provide a limited checklist around factors of: any education, integration and whether removal would have significant long-term adverse effects.

This is not a proper ‘best interests’ test, which under both Article 3 of the UN Convention on the Rights of the Child and section 55 of the Borders, Citizenship and Immigration Act 2009, should be the proper standard. By predetermining that balance by prescribing the weight that should be given to certain factors the Bill risks further reducing the weight afforded to children's best interests and family life in immigration decisions.

Finally, Article 8 has become increasingly important for children as other immigration routes have become more restrictive. It provides an essential safeguard for children who have grown up in the UK, British children separated from a parent by the family migration rules, children facing very long routes to settlement and any child in exceptional circumstances. This Bill will weaken that safeguard despite there being a very clear legal and moral need to provide children with a robust safety net given that immigration decisions are outside of their control.

Suggested questions

- *Why should a child's family and private life receive little or no weight because of circumstances entirely outside their control?*
- *How are the new statutory tests compatible with the Government's duty to treat children's best interests as a primary consideration under section 55 of the Borders, Citizenship and Immigration Act 2009 and Article 3 of the UN Convention on the Rights of the Child?*
- *Is the Government still committed to providing a route to settlement for children who turn 18 and find they do not have status, as outlined in the Immigration White Paper?*

3. Asylum support - creating debt and hindering integration

Clauses 23 and 24 – A refugee tax

What the clauses do

These would introduce powers for the Home Secretary to require some people who have received asylum support - including accommodation and basic subsistence - while their claims were being determined to repay the cost of that support once they are granted refugee status.

Why this matters for children and young people

Regulations will determine how much would be paid and in what circumstances but the Home Office has briefed the press that it could be up to £10,000. Although the Bill provides that repayments should not leave a person destitute and exempts some groups, including children aged under 18 whilst in support, it will still have a significant impact on families and young people, rebuilding their lives. Children who turned 18 whilst in asylum accommodation will not be exempt, despite the fact that they have no control over how long their asylum decision takes and they will be reliant on asylum support during that time.

Many recognised refugees spend years recovering from trauma, overcoming barriers to employment and securing stable housing after lengthy asylum procedures. Requiring them to repay the costs of essential support risks creating debt and financial insecurity at the very point they are trying to integrate into society. The threat of future debt could also deter families and young people from accessing the support they need during the asylum process,

undermining the purpose of the asylum support system as a safety net for those who are legally prohibited from supporting themselves while awaiting a decision.

4. Modern slavery: Protect and support child victims, don't punish them

Clause 36 – Delayed disclosure should not undermine a child's credibility

What the clause does

Clause 36 introduces new statutory credibility provisions for trafficking decisions. It requires decision makers to treat delays in disclosing trafficking or providing relevant information as damaging to a person's credibility unless there are good reasons for the delay.

Why this matters for children

Delayed disclosure is a well-recognised feature of human trafficking, particularly for children. Children often do not disclose their exploitation immediately because of trauma, fear, coercion, grooming, shame, distrust of authorities, or because they do not recognise themselves as victims. The Home Office's own Modern Slavery Statutory Guidance acknowledges that victims' accounts may be affected by trauma and that delayed disclosure is common.

By requiring delayed disclosure to count against a child's credibility, the Bill risks children being wrongly disbelieved and denied protection simply because they were unable to disclose their experiences at the earliest opportunity. This approach is inconsistent with a child-centred and trauma-informed response to trafficking and places an unrealistic burden on children who have experienced serious abuse.

Suggested question

- *How will the Government ensure that child victims of trafficking are not disbelieved because they disclose their exploitation late, when delayed disclosure is recognised in the Home Office's own statutory guidance as a common consequence of trauma?*

Clause 38 – Protection from disqualification should not depend on immigration status

What the clause does

Clause 38 makes public order disqualification mandatory rather than discretionary and extends its scope to include suspended sentences of any length. While the Bill does not extend the expansion of the 'bad faith' disqualification provisions to children, it provides that only children with the right of abode or leave to remain (other than under section 65) are exempt from public order disqualification.

Why this matters for children

The Government's Explanatory Notes state that this exemption reflects "the need for enhanced protection of children within the modern slavery framework". However, the Bill provides this enhanced protection only to children with secure immigration status. Child victims who are subject to immigration control remain at risk of being disqualified from protection under the National Referral Mechanism.

Whether a child is identified as, and protected as, a victim of trafficking should depend on the facts of their exploitation, not on their immigration status. Introducing different levels of protection for trafficked children undermines the principle that every child who has experienced trafficking should receive equal protection and support.

Suggested question

- *If the Government accepts that children require enhanced protection within the modern slavery framework, why does the Bill deny that protection to child victims who are subject to immigration control?*

Clause 39 – Secure immigration status should be based on a child's best interests

What the clause does

Clause 39 removes the Secretary of State's duty to grant Victim of Trafficking Stay (VTS) leave to confirmed victims of trafficking and further restricts eligibility by removing the "personal circumstances" ground for granting leave.

Why this matters for children

For child victims of trafficking, secure immigration status is often essential to recovery, safeguarding and long-term stability. The Bill further weakens access to immigration status by removing the duty to grant leave and narrowing the circumstances in which it can be provided.

These changes move further away from the standards set out in the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), which provides that residence permits for child victims should be granted in accordance with their best interests. Rather than strengthening protection for trafficked children, the Bill makes it more difficult for child victims to obtain the secure immigration status they may need to recover from exploitation and rebuild their lives.

Suggested question

- *How are these changes compatible with the UK's obligations under ECAT, which require residence permits for child victims of trafficking to be granted in accordance with their best interests?*

Clause 43 – Child victims of trafficking should have a statutory right to support

What the clause does

Clause 43 removes the Secretary of State's statutory duty to secure assistance and support for child victims of trafficking during their recovery period. The Government's Explanatory Notes state that this reflects current practice, as support is generally provided through local authorities and other existing services.

Why this matters for children

In practice, many child victims are already failing to receive the support they are entitled to under the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), and some receive little or no support from children's services. Rather than addressing these gaps, Clause 43 removes an important statutory safeguard and weakens accountability for ensuring child victims receive the assistance they need.

The change is particularly concerning for young people transitioning into adulthood while in the National Referral Mechanism, especially those who are not entitled to leaving care support or whose age is disputed. Recovery from trafficking does not end on a child's eighteenth birthday, yet this provision risks creating further gaps in support at a time when young people remain highly vulnerable to re-trafficking and exploitation.

Suggested question

- *If the Government accepts that child victims should receive specialist support, why is it removing the Secretary of State's statutory duty to secure that support instead of* **strengthening** *accountability to ensure every child receives the assistance they are entitled to?*

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.**

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