



Home Office

Policy paper

Child's Rights impact assessment (accessible)

Updated 20 July 2023

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This publication is available at <https://www.gov.uk/government/publications/illegal-migration-bill-overarching-documents/childs-rights-impact-assessment-accessible>

The UK Government has made a public commitment to give due consideration to the United Nations Convention on the Rights of the Child (UNCRC) when making new policy or legislation.

The Department for Education (DfE) developed a child's rights impact assessment (CRIA) template for use within government departments, to consider the impacts on children's rights when developing new policy or legislation. CRIsAs should help ensure that the best interests of children are taken into consideration during the policy and legislation development process and what the impact will be. There is no statutory obligation to conduct this assessment.

Stage 1: Screening

1. What is the legislation?

The UK asylum system is broken. Since 2018, around 89,000 people have illegally entered the UK by small boat – around 46,000 of them in 2022 alone. The government has introduced the Illegal Migration Bill ('the bill') which will make it unambiguously clear that if a person arrives in the UK illegally they 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.

It will do this by placing a duty on the Secretary of State to make arrangements to remove anyone who comes to the UK illegally and satisfy the four conditions set out in clause 2 of the bill.

This means that those who come to the UK illegally will have their protection and human rights claims (in relation to their home country) declared inadmissible in the UK. People who enter the UK illegally will not have access to the asylum system in the UK, and they will never be able to make a life in the UK. They will also be exempt from modern slavery protections that would prevent their removal, using the public order exception set out under Article 13(3) of ECAT

A person will no longer be able to frustrate removal attempts with late or spurious legal challenges or appeals, including where they relate to age dispute matters and once removed, a person will have no right to re-entry, settlement or citizenship, except in limited circumstances.

The only way to come to the UK for asylum will be through safe and legal routes and, as the government gets a grip on illegal migration, we will create

more of those routes. We will work with the United Nations High Commissioner for Refugees to identify those who are most in need so that the UK remains a safe haven for the most vulnerable. We will also introduce an annual cap on numbers, set by Parliament in consultation with local authorities to determine our capacity, and amendable in the face of humanitarian emergencies.

Background

- In 2022 there were 5,242 asylum applications from unaccompanied asylum-seeking children (UASC), a 39% increase on the number prior to the COVID-19 pandemic (3,775 in 2019). Of these, 3,681 (70%) were aged 16 or 17.
- Between 2016 and March 2023 there were 8,611 asylum cases where age was disputed and subsequently resolved following an age assessment, of which half (47 per cent – 4088 individuals) were found to be adults. In one instance pupils raised alarm at an obviously mature adult joining their class. He was re-assessed to be 10 years older than his claimed age.
- The National Transfer Scheme (NTS) has facilitated the transfer of 4,187 children to local authorities with children's services between 1 July 2021 and 31 December 2022. This compares to 775 children transferred in the same timeframe in previous years (representing a 440% increase in transfers).
- In the year ending 31 March 2022, 5,540 UASC were being cared for by local authorities in England, an increase of 34% from the previous reporting year.

More details can be found at the links below:

- [Illegal Migration Bill: factsheets - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/illegal-migration-bill-factsheets)
(<https://www.gov.uk/government/publications/illegal-migration-bill-factsheets>)
- [Illegal Migration Bill publications - Parliamentary Bills - UK Parliament](https://bills.parliament.uk/bills/3429/publications)
(<https://bills.parliament.uk/bills/3429/publications>)

2. Will aspects of the legislation affect children up to the age of 18 either directly or indirectly?

Yes

3. Are there particular groups of children and young people who are more likely to be affected than others?

Yes

Stage 2: Assessing impact

4. Set out briefly how your legislation might impact on children and young people.

The Illegal Migration Bill includes the following powers:

a. Inadmissibility

i. In order to avoid creating a perverse incentive for people smugglers to prioritise unaccompanied children and families with children for dangerous crossings across the channel, any protection claims or human rights claims (in relation to their home country) made by accompanied or unaccompanied children who come to the UK illegally and who meet the conditions in clause 2 will be declared inadmissible.

b. Removal

i. The Secretary of State is not required to make arrangements for the removal of an unaccompanied child from the UK until they turn 18-years-old, but there is a power to do so in very limited circumstances prescribed by legislation. The bill sets out the very limited circumstances in which this power may be exercised for people who are under 18. These include: for the purposes of reunion with a parent, where removal is to a safe country of origin, and where the person has not made a protection or human rights claim. The bill also confers a power for the Secretary of State to set out further circumstances in the future by way of regulations. Where removal is temporarily suspended until the individual is an adult, they will normally be provided with temporary permission to remain in the UK until they are 18-years-old, under provisions to be made in the Immigration Rules.

ii. The duty to remove in this bill will apply to families with children as it applies to other cohorts, and is therefore likely to result in an increase in removals of families with children as with other groups. This is again, to avoid a situation where people smugglers are incentivised to prioritise vulnerable people for illegal crossings, increasing risk to those individuals.

As a result of this legislative change, the Home Office will be reviewing its published policy on the family returns process for those families with children who fall within scope of the bill and the policy on use of force on children.

iii. The current family returns policy operates for all families where an adult family member is liable to be removed. Children will either be removed as a dependant of that adult, or where they may reasonably be expected to accompany them. The scope of families who enter the family returns process will need to be widened and the stages of the current policy will need to be revised to operationalise the legislative changes. It is anticipated that as part of the revised family returns process, families with children may be detained on arrival into the UK to facilitate their return and to avoid separating children from their families which could lead to adverse harm to minors. Separate considerations have been given in this assessment in respect of the impact of detention on children.

iv. We are also reviewing our existing policy position in respect of use of reasonable force, or physical intervention, to enable the Home Office to facilitate removals of families with children under this bill. The Home Office has existing powers under legislation for immigration officers and detainee custody officers (including escorts) to use reasonable force where absolutely necessary to exercise their powers. The power to use force for immigration officers are provided in law: Section 146(1) of the Immigration and Asylum Act 1999 which allows Immigration Officers to use reasonable force where necessary in the exercise of any power conferred by the Immigration Acts; paragraph 2(4) of Schedule 11 and paragraph 2(5) of Schedule 13 to the Immigration and Asylum Act 1999 gives Detainee Custody Officers (DCOs) (contractor staff undertaking detention or escorting duties on behalf of the Home Office) the power to use "reasonable force where necessary". While this is technically not age restricted, use of force against minors is not permitted under current policy except where in the rare circumstances there is a risk of harm. Use of force is not currently used against minors for compliance / removal purposes. We do not envisage the use of reasonable force being used for such purposes under the auspices of the new bill unless it is necessary as a last resort where other methods to ensure compliance have failed.

v. A key consideration in reviewing this policy will centre around safeguarding – the Home Office will consider what monitoring provisions and safeguards are appropriate to facilitate any change.

c. Detention

i. In order to avoid creating a perverse incentive for people smugglers to prioritise children and families with children for dangerous crossing across the channel, families and children who come to the UK illegally are not exempt from detention and removal under this bill. The detention powers in the bill are fundamental to enable the removal of people who have entered or arrived in the UK illegally and here, as elsewhere, we need a robust and

uniform scheme which broadly applies to all and does not allow the system to be gamed, for example, by adults pretending to be children, or provide scope for the people smugglers to exploit any exceptions or carve outs, for example, by targeting children. The Home Office already has the power to detain children at the border for the purpose of removal, but detention for the purpose of removal is limited to a maximum of 24 hours and unaccompanied children can only be detained in a short-term holding facility.

ii. Under the powers of the bill, the Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. Unaccompanied children will only be detained in circumstances to be prescribed in regulations, subject to the affirmative parliamentary procedure (this means that they must be debated and approved by both Houses). The detention powers in relation to removal will only be exercised in very limited circumstances ahead of them reaching adulthood, such as where they are being removed for the purposes of reunion with a parent or where removal is to a safe country of origin.

iii. Where a decision is made to remove an unaccompanied child under 18, detention will be for the shortest possible time in appropriate detention facilities with relevant support provisions in place and all international obligations, including the UN Convention on the Rights of the Child, respected. The Home Office is not currently in the position of corporate parent to any unaccompanied child and there is nothing in the bill which changes this position. It will continue to be for the local authority where an unaccompanied child is located to consider its duties under the Children Act 1989.

d. Accommodation of unaccompanied children

i. Where deemed necessary, an unaccompanied child in the scope of the bill may be temporarily placed in accommodation provided or arranged by the Home Office. In such circumstances they will receive appropriate support, pending transfer to a local authority.

ii. We expect local authorities to meet their statutory obligations to children from the date of arrival and for the Home Office to only step in sparingly and temporarily. The best place for an unaccompanied child is within a local authority care placement and the bill does not change this position. The Home Office is not taking on corporate parent responsibilities for unaccompanied children and there is nothing in the bill which changes this position.

iii. The Home Office does not have, and therefore cannot discharge, duties under Part 3 of the Children Act 1989. It is for the local authority where an unaccompanied child is located to consider its duties under the Children Act 1989.

iv. The Home Office will have the power to transfer that child to a local authority. The bill also provides the Secretary of State with the power to transfer that child back to Home Office accommodation from the local authority should they choose to do so. We expect local authorities to meet their statutory obligations to unaccompanied children from the date of arrival and for the Home Office to only step in sparingly and temporarily. The Home Office does not have, and therefore cannot discharge, duties under Part 3 of the Children Act 1989. It is for the local authority where an unaccompanied child is located to consider its duties under that Act. There is nothing in the bill which changes this position. These powers are enforceable through the courts.

v. We have been consistently clear that the use of hotels to accommodate unaccompanied children is only as a last resort. The bill will provide the Home Office with the power to provide or arrange accommodation and support for unaccompanied children, and another power to transfer that child to a local authority. The Home Office is having to accommodate unaccompanied children out of necessity. It is right that we take steps to ensure that there is clarity, and it is in the best interests of these children that we put in place these measures.

vi. In relation to the so called 'vice versa' power it may be, for example, that an unaccompanied child is in the care of a local authority but, after a period of weeks, a parent has been located in a safe third country and arrangements are made to reunite child and parent. Ahead of being reunited with the parent, it may be appropriate for the child to come into Home Office provided accommodation for a short period, pending that reunion. We are still working through the operational processes relating to unaccompanied children and the circumstances in which we will use this vice versa power.

e. Limited leave to remain, settlement, citizenship and re-entry bans

i. We do not want parents or others to have an incentive to put children on small boats and make dangerous journeys. It is important that we do not incentivise people smuggling gangs to target particular groups or those with certain characteristics. Therefore families, and children who come to the UK illegally will not be exempt from detention and removal under this bill. Individuals, including children, who are subject to the duty to remove are also subject to permanent bans on obtaining Leave to Remain, Settlement and British citizenship and, following removal or departure from the UK, lawful re-entry. These powers will prevent all illegal migrants regardless of age from being able to lawfully remain in or return to the UK although there is an exception that enables unaccompanied children who are not to be removed under the powers in clause 3 to be granted limited leave under the Immigration rules (see new section 8AA(2)(a)(i) of the Immigration Act 1971 inserted by clause 29(3)).

ii. As part of the powers to introduce new permanent bans, the bill also provides the Secretary of State with the discretion to waive each of the bans in limited circumstances. The threshold for being able to seek or obtain a

waiver differs depending on the type of leave being sought. The settlement and citizenship bans may be waived if the Secretary of State considers it necessary in order to comply with the UK's obligations under the European Convention on Human Rights. This would include Article 8 (family life) rights. The re-entry and limited leave to remain ban may additionally be waived to ensure the UK complies with obligations resulting from international agreements it is a party to – for example, the United Nations Convention on the Rights of the Child. In addition, there is an exceptional circumstances waiver to the re-entry ban, and where someone has been granted such a waiver they can also obtain a waiver to the limited leave ban on that same other exceptional circumstances basis. If a person establishes that they meet the grounds for one of the bans to be waived, there will be a mechanism for that person to apply for a waiver and for the relevant permission to be granted.

f. Modern slavery

i. Anybody arriving in the UK through the methods specified in the bill presents a risk to the public due to the very nature of their arrival. In arriving through these methods. Illegal entrants put unprecedented pressure on our public services, causing loss of life and undermining our ability to control our borders therefore enabling people traffickers. The disqualification measure will send a clear message that children must not be exploited and cross the Channel in small boats for the purpose of starting a new life in the UK, as the only way to come to the UK for protection will be through safe and legal routes, taking the power out of the hands of the criminal gangs and protecting vulnerable people, including children. Whilst accompanied children will fall under the scope of the measures, the modern slavery clause is not a blanket disqualification, there is an exemption on the basis of cooperating in an investigation that will apply to children who are potential victims of modern slavery. If it does, their parent or adult with responsibility for them will also be exempt (see clause 21(6)) during the period the child falls into the cooperation exemption. Likewise, if the parent is the potential victim and is currently covered by the investigation exemption, a dependent child will be exempted in line with the parent (see also clause 21(6)).

ii. In addition, the Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. While the power in clause 3 is not exercised, an unaccompanied child would continue to receive modern slavery protections until the age of 18. However, accompanied children who meet the criteria set out in clause 2 of the bill will fall within scope of the public order disqualification. It is noted that only a very small number of accompanied children come over in small boats; and that the accompanied children are very unlikely to be victims of modern slavery – since this tend to be associated with individuals or unaccompanied children. The risk that unaccompanied children may not come forward to support an investigation or criminal proceedings may be mitigated where they are able to build

trusted relationships during the time that they are supported by local authorities.

iii. For children to whom the public order disqualification applies, there is a potential impact, due to a feeling of limbo while they await removal from the UK. To mitigate any potential impact of any increased risk of absconding of modern slavery as under-18s approach their 18th birthday, First Responders are trained in taking a trauma-informed approach and recognising signs which indicate that an exploiter is still exerting control over a victim, particularly with regard to children who have additional vulnerabilities. Unaccompanied children will also continue to have their needs assessed and be safeguarded by local authorities until they turn 18, irrespective of whether they are in the NRM – and will consider risks that may pertain as they approach their 18th birthday, when the disqualification will apply. We will continue to carefully consider Section 55 (duty to safeguard the welfare of children) duties in the development of the policy.

g. Age assessment and legal proceedings

i. Those who claim to be a child and are subject to an age assessment will be able to challenge the decision on age via judicial review. In order to prevent adults from using age assessment challenges to prevent removal the judicial review will not suspend removal and can continue from outside the UK after they have been removed. Age assessment judicial reviews will be considered by the courts on conventional public law principles (that is amongst others for example, on grounds of rationality, procedural fairness) and the court will not be able to substitute its own decision on age.

ii. The bill introduces a regulation making power which would allow the Secretary of State to set out the effect of an individual refusing to undergo scientific age assessment without good reason, which may include the automatic assumption that they are an adult if they refuse to consent. This power will not be used unless and until the Home Secretary determines the science and analysis is sufficient to support providing for an automatic assumption of adulthood, which would bring the UK closer to several European countries like Luxembourg and the Netherlands.

h. Safe and legal

i. The introduction of a quota on safe and legal routes may indirectly impact children and young people – depending on how the constituent routes are managed, it may, for example, allow for a greater proportion of those most in need, including children. Those that come to the UK through safe and legal routes will do so without the risks of exploitation that are prevalent on current illegal routes and will no longer need to rely on people smugglers. The quota is to ensure that there is sufficient local authority capacity (for both housing and integration) to support people in starting their new life in the UK.

ii. Through our global resettlement routes, including the UK Resettlement Scheme (UKRS), the UNHCR refers individuals to the UK; children may be

referred for resettlement if it is deemed in the best interest of the child. The vast majority of children resettled through the UKRS will arrive with their parents or other carers. UNHCR will always seek to find local solutions and reunify unaccompanied children with parents or family members within the region or wherever those family members may be.

iii. Between 2015 and March 2023, the UK has resettled over 28,400 individuals through our global resettlement schemes, around half of whom were children. This figure does not include those resettled or relocated under the government's bespoke Afghan or Ukraine schemes.

iv. The proposed quota will not change of the current guidance for other safe and legal routes regarding safeguarding duties of children and young people, whether accompanied or unaccompanied.

i. Electronic devices

i. The bill introduces new powers to search for, seize and retain electronic devices on which it appears to an immigration officer relevant information is or may be stored and to copy, retain and use any such information found on them. The powers apply in relation to people liable to detention under new paragraph 16(2C) of Schedule 2 to the Immigration Act 1971 (as inserted by clause 10(2) of the bill), and who entered or arrived in the UK as mentioned in clause 2(2) of the bill on or after the day Schedule 2 comes into force. This includes children.

5. Which UNCRC articles are relevant to your legislation?

a. Removal of unaccompanied children

i. The Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. This power will only be exercised in very limited circumstances ahead of them reaching adulthood, such as for the purposes of reunion with a parent or where removal is to a safe country of origin.

ii. Under existing policy, unaccompanied asylum-seeking children can already be returned to their country of origin if they are a national of a country covered by the provisions under section 80A of the Nationality, Immigration and Asylum Act 2002. The bill will extend the list of safe states to which section 80A of the 2002 Act applies to include EU member states (as now), the other EEA countries (Iceland, Liechtenstein, Norway), Switzerland and Albania, and enable other states to be added by regulations.

iii. With respect to removal for family reunion purposes this has a positive impact in implementing Article 8 of the UNCRC with respect to the right of the child to preserve family relations. This links to removal for the purposes of family reunion also having a positive impact in implementing Article 18(1) of the UNCRC which sets out that states parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be legal guardians, have the primary responsibility for the upbringing and development of the child.

iv. With respect to removal acting as a deterrent to disrupt the business model of traffickers this has a positive impact in implementing Article 11 which respect to state parties taking measures to combat the illicit transfer and non-return of children abroad. In addition, there will be a positive impact in implementing Article 6 as the legislative changes seek to deter dangerous small boat crossings where children's lives are put at risk, and in implementing articles, 32, 34, 35 and 36 with respect to protecting children from abduction and forms of exploitation.

v. For any unaccompanied child who is removed when under 18, we will ensure that adequate reception arrangements are in place where the child is to be removed to.

b. Removal of families with children

i. Families, and children who come to the UK illegally are not exempt from removal under this bill. It is vital that we do not create incentives for unaccompanied children or family groups to make dangerous small boat crossings.

ii. The legislative change will require the Home Office to revise the current policy on the family returns process and to review the policy position in respect of use of force on children.

iii. In addition to the articles referenced above, articles of the UNCRC directly relevant to the family returns and use of force policy review include Article 3 (best interests of the child), Article 6 (life, survival and development), Article 9 (separation from parents), Article 19 (protection from violence, abuse and neglect), Article 23 (children with a disability) and Article 37 (inhumane treatment and detention).

iv. With respect to the removal of families with children and the implementation of articles 3, 9 and 23, it is assessed that the impact will remain neutral, or may be positive, since maintaining family cohesion is generally conducive to these articles. Section 55 of the Borders, Citizenship and Immigration Act 2009 is a procedural duty which requires the Home Secretary to have due regard to the interests of children as a primary factor in her decision making. The best interests of the child will remain a primary consideration in the review of our policies.

v. In facilitating removals of families with children, the Home Office operates a published policy on family returns and on family separations. Family groups with children will remain together wherever possible during the detention and removal process. Throughout the family returns process, a family welfare form is updated to document any welfare concerns or medical issues (which would include disabilities – Article 23) which allow for safeguarding considerations to be made and appropriate provisions to be implemented. Fitness to fly considerations must be made in accordance with the published policy on arranging removal.

vi. Article 6, 19, and 37 are particularly relevant to the review on the use of force on children. As noted in this section, before making any changes to the policy on use of reasonable force, the Home Office will conduct a targeted consultation.

vii. Using reasonable force on children would only ever be an absolute last resort, and only exercised by those properly trained to an extremely high standard. We are considering whether existing training is sufficient or needs to be further developed, working closely with the police, Department for Education and the Ministry of Justice, to ensure that it is age appropriate, in line with other settings where such exceptional measures are necessary. Where physical intervention is required, the position would remain that this would be for the shortest time possible and only when there is no other option. We do not envisage the use of reasonable force being used for such purposes under the auspices of the new bill unless it is necessary as a last resort, where other methods to ensure compliance have failed, or where there is a risk of harm, including from families being separated. In line with the current family returns process, any welfare, medical and other safeguarding issues will be documented, and appropriate provisions considered and implemented in pre-planning for removal, and in any assessment as to the use of force, should that be deemed absolutely necessary. [Use of force guidance \(https://www.gov.uk/government/publications/powers-and-operational-procedure\)](https://www.gov.uk/government/publications/powers-and-operational-procedure).

viii. In making any change to the policy on the use of reasonable force the Home Office will consider what monitoring provisions and safeguards are appropriate to ensure the policy does not have a negative impact on implementing articles 6, 19 and 37.

ix. It is also important to note that articles of the UNCRC listed as being relevant to legislative changes in respect of detention may apply equally to removals, as families with children may be detained to facilitate their removal from the UK.

c. Accommodation of unaccompanied children

i. The bill provides the Secretary of State with the power to direct a local authority to provide accommodation and support for an unaccompanied migrant child where that child is being temporarily accommodated and supported by the Home Office. The provisions relating to accommodation

and transfer will therefore have a positive impact on implementing Article 3(1)-(3) of the UNCRC as we consider that the best place for these young people is and will remain within a local authority care placement.

ii. The transfer power in the bill with respect to moving unaccompanied children into local authority care also has a positive impact in implementing Article 20 of the UNCRC given that a child temporarily or permanently deprived of his or her family environment, shall be entitled to special protection and assistance provided by the State. The fact that the child enters a care placement meets obligations under Article 20(2) which requires states parties in accordance with their national laws to ensure alternative care for such a child and Article 20(3) with respect to such care including foster placement, or if necessary, placement in suitable institutions for the care of children.

iii. Some stakeholders are concerned that the fact a child will not be able to settle in the UK and may be removed in very limited circumstances as an unaccompanied child or upon reaching 18 may impact on their development and place them in a limbo situation. These concerns are mitigated by the exceptions to the settlement and citizenship provisions – meaning that where a person enters the UK illegally as a young child, clause 29 does afford discretion to grant them limited or indefinite leave to remain if a failure to do so would contravene the UK's obligations under the ECHR, which would, amongst other things, take in any Article 8 claims.

iv. We recognise the particular vulnerability of children making life threatening journeys to the UK which are being facilitated by criminal gangs who have little regard for their safety. Unaccompanied children who arrive in the UK illegally will be provided with the necessary accommodation and support but they will not be able to settle in the UK, unless they are granted leave under the exceptions noted above. Taking these measures will send a clear message that children cannot be exploited and cross the Channel in small boats for the purpose of starting a new life in the UK. The only way to come to the UK for protection will be through safe and legal routes. This will take power out of the hands of the criminal gangs and protect vulnerable people, including children.

d. Detention

i. Families, and children who come to the UK illegally are not exempt from detention and removal under this bill. The Home Office already has the power to detain children at the border and for the purpose of removal, but detention for the purpose of removal, is currently limited to a maximum of 24 hours and unaccompanied children can only be detained in a short-term holding facility.

ii. Under clause 3 of the bill, the Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. These detention powers in relation to removal will only be exercised in very limited circumstances

ahead of them reaching adulthood, such as for the purposes of family reunion with a parent or where removal is to a safe country of origin.

iii. In line with this legislative change the Home Office will revise current detention policy.

iv. Articles of the UNCRC directly relevant to detention include Article 3 (best interests of the child), Article 9 (separation from parents), Article 15 (freedom of association), Article 20 (right to special protection and help), Article 23 (children with a disability), Article 24 (health and health services), Article 25 (review of treatment in care), Article 27 (adequate standard of living), Article 28 (education), Article 31 (leisure, play and culture) and Article 37 (inhumane treatment and detention).

v. The Home Secretary has a duty under Section 55 of the Borders, Citizenship and Immigration Act 2009 to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the UK. With respect to the detention of families with children and the implementation of articles 3, 9 and 23, it is assessed that the impact will remain neutral.

vi. In facilitating removals of families with children, the Home Office operates a published policy on family returns and on family separations. Family groups with children will remain together wherever possible during the detention and removal process. Throughout the family returns process, a family welfare form is updated to document any welfare concerns or medical issues (which would include disabilities – Article 23) which allow for safeguarding considerations to be made and appropriate provisions to be implemented. Fitness to fly considerations must be made in accordance with the published policy on arranging removal.

vii. To mitigate any negative impacts, where possible, that the legislative changes and policy will have on articles 15, 20, 24, 25, 27, 28, 31 and 37 we will:

- Ensure these detention powers in relation to removal will only be exercised in very limited circumstances ahead of them reaching adulthood, such as for the purposes of family reunion or where removal is to a safe country of origin. Detention will be for the shortest possible time in appropriate detention facilities with relevant support provisions in place. In line with the current detention guidance, which we will review and update with the legislative changes, any welfare, medical and other safeguarding issues will be considered in all detention decisions.
- When developing the accompanying policy to accommodate the legislative changes on detention of children and families with children, we will work closely with the Department of Education, and continue open dialogue with the Family Returns Panel and Children's Commissioner to

ensure that, where practicably possible, children's needs can be met within detention.

- Build upon our current detention facilities for families to ensure they are appropriate and provide safe and secure accommodation. We will ensure there are proper provisions in detention for children and families with children.

e. Age assessment and legal proceedings

i. The age assessment clauses aim to disincentivise adults from falsely claiming to be children and avoid the safeguarding issues which arise if an adult is wrongly accepted as a child and accommodated with younger children to whom they could present a risk. Our age assessment process already has in-built safeguards to ensure our ongoing compliance with the duty under section 55 of the Border, Citizenship and Immigration Act 2009 and this duty is how Article 3 of the UNCRC is given expression within UK law.

ii. Home Office guidance makes clear that age assessments are only conducted if there is reason to doubt an individual's claimed age. There is a wide margin of error in the individuals favour built into initial age decisions which consider whether an individual is significantly over 18. Initial decisions on age, based on appearance and demeanour, are used as a first step to ensure that arrivals are routed into the correct process. Where there is doubt over whether claimants are adults or children, they will be afforded the benefit of the doubt and treated as children and referred for a comprehensive age assessment.

iii. Clause 56 of the bill means that those assessed to be an adult and who wish to challenge a decision on age, can do so via judicial review which will not suspend removal and can continue from outside the UK.

iv. The Home Office will ensure that the appropriate support and facilities will be in place in the country of removal so the individual can effectively participate in their judicial review from abroad. Where decisions are found to be unlawful following a successful judicial review, each case will be assessed on its own merits and a further age assessment may be required.

v. The bill includes a regulation making power to make an automatic assumption that a person is an adult if they refuse to undergo scientific methods of age assessment without good reason. This power will not be exercised until the analysis and science is developed to support and justify an assumption being made, which would then bring the UK in line with many European countries, like Luxembourg and the Netherlands, which operate similar systems as ECHR signatories. We will ensure that any scientific methods are reviewed by the Age Estimation Scientific Advisory Committee (AESAC) who are composed of an expert panel; and we will also consider best practice in other countries. In addition, we will continue working to ensure children's needs are met during this process and ensure

compatibility with the European Convention on Human Rights (in particular Article 8 [right to private and family life]). This clause is intended to disincentivise adults from knowingly misrepresenting themselves as children if a sufficiently robust method of scientific age assessment would show that they were over 18. The implementation of any regulations will comply with our duty under Section 55 of the Border, Citizenship and Immigration Act 2009. This is in line with Article 3 of the convention specifically as it is intended to safeguard genuine children by ensuring adults are not placed in accommodation and other services alongside them, and on that basis we assess it has a positive impact.

f. Limited leave to remain, settlement, citizenship and re-entry bans

- i. Article 2(2) sets out that states shall take all appropriate measures to ensure the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.
- ii. The introduction of permanent bans on obtaining Leave to Remain, Settlement and, following departure or removal, re-entry and citizenship could affect the implementation of this article. In particular, in respect of the principle that children should be protected against discrimination and/or punishment on the basis of the status or activities of their parents. The introduction of permanent bans on obtaining Leave to Remain, Settlement and, following departure or removal, re-entry and citizenship could affect the implementation of this article. In particular, in respect of the principle that children should be protected against discrimination and/or punishment on the basis of the status or activities of their parents.
- iii. The provisions in the bill mean that individuals, including children, who are subject to the duty to remove are subject to permanent bans which will prevent them from ever obtaining leave or citizenship in the UK. As a result, we need to assess the potential impact on children who travel to the UK illegally, and who are therefore prima facie subject to the bans.
- iv. The bill contains powers to waive each of the bans in certain circumstances, which we believe have the effect of mitigating any adverse impact. The grounds on which the waiver powers may be exercised can be found in response to Question 4 of Stage 2.
- v. Article 3(1) states in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
- vi. The introduction of the permanent bans could have both negative and positive impacts on the implementation of this article. It is important that we consider the impact on those families, including children, that make the dangerous and illegal journeys; and those who are deterred by the proposed legal regime, and therefore choose not to make such journeys.

The permanent bans will demonstrate there is no benefit to be gained from entering the UK illegally. As such, the measures are designed to deter migrants who are considering or attempting to circumvent the UK's border controls to enter illegally. It is thought the deterrent effect will result in fewer people, including children, putting their lives at risk by using dangerous routes or paying criminal gangs whom they then become indebted to. The bans will instead, rightly, place the emphasis on safe and legal routes to the UK. On balance, deterring families bringing children (without agency) on dangerous and potentially fatal journeys, is of far greater impact than being subject to bans (especially given the exceptions) - so on balance these provisions may have a positive impact on the implementation of this article.

vii. Likewise, the imposition of permanent bans for all illegal migrants will ensure that families subject to the duty are not separated by the removal process whilst any supposed claims to remain are given consideration. It is widely acknowledged that it is in the best interest of the child to remain with their parents or families rather than be separated from them. This adds to the assessment of the positive impact.

viii. In addition, the bill contains powers to waive each of the bans in certain circumstances. The grounds on which waivers of the bans may be exercised can be found in response to Question 4 of Stage 2.

ix. Articles 9(1) and (3) respectively set out that: a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence; and, states shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

x. It is, very unlikely that the imposition of permanent bans may negatively affect a child's ability to remain with or maintain personal relationships with their parents. In the case of accompanied children, the family would be kept together – and likely removed to a safe third country, therefore supporting the maintenance of personal relationships. In the case of unaccompanied children, it is unlikely that their parents would be in the UK. The 'classic' case will be individuals who are children or young adults, whose parents will not be in the UK. Therefore, the imposition of these bans has no bearing on the ability of the individual to maintain personal relationships with their non-UK based family. Even if we think the situation is very uncommon, it is necessary to assess the impact of the bans where an individual with no lawful status in the UK enters illegally in an attempt to join their lawfully present family member. However, we do not consider it necessary or appropriate for family members to circumvent immigration control by

entering the UK illegally to reunite. Where a party (child, parent / parents or other legal guardian) is lawfully present in the UK and a family member wishes to join them, there are existing family reunification or visitor routes which can be utilised. It is also relevant to consider that such individuals may be able to seek exemptions to the bans as noted above. Therefore, on balance, these provisions have a neutral or positive impact on a child's ability to maintain relationships.

xi. Furthermore, the bill provides the Secretary of State with the discretion to waive each of the bans in certain circumstances. The grounds on which this waiver power may be exercised can be found in response to Question 4 of Stage 2. It is, therefore, considered that there is a neutral or positive impact in respect of implementation of this article.

xii. Article 10(1) specifies that applications by a child or his or her parents to enter a state for the purpose of family reunification shall be dealt with in a positive, humane and expeditious manner.

xiii. The government recognises the practical consequences of the imposition of permanent bans on obtaining Leave to Remain, Settlement and, following removal, re-entry and citizenship however, as set out above, the Secretary of State retains the discretion to waive each of the bans in certain circumstances. The threshold for obtaining or qualifying for a waiver differs depending on the type of leave being sought. Nonetheless, all of the bans may be waived without breaching our obligations if the Secretary of State considers it is necessary to do so in order to comply with the UK's obligations under the ECHR. The importance of deterring illegal and dangerous entry, with its potentially life-saving consequences, also must be factored in – as well as deterring engagement with criminal and exploitative people smugglers. It is, therefore, considered the availability of a waiver is sufficient to mitigate the negative impact in respect of this article, meaning that, on balance there is a neutral or positive impact.

xiv. Article 22(1) stipulates that states 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.

xv. It is important to recognise that the relevant international agreements do not require that appropriate humanitarian assistance and protection be given in the UK itself, and, moreover, that the Refugee Convention, under Article 31, allows for the fact that those who do not adhere to the 'first safe country principle' may be disadvantaged. Therefore, the mere fact that individuals, or their family members, subject to the permanent bans will be unable to remain in the UK will not mean that protection cannot be provided.

This is strengthened by the fact that individuals will only be returned to safe third countries, including Rwanda, where arrangements have been made for their support. They will also be unable to lawfully re-enter in the future, unless it is determined that one of the exceptions apply.

g. Safe and legal routes

i. Articles of the UNCRC relevant to the introduction of a quota on safe and legal routes are articles 9, 19, 22, 24, 27, and 28.

ii. This policy will have a neutral impact on children's Article 9, 22, 24 and 28 rights, as the introduction of a quota will not change the rights those children have once they are in the UK. The quota will also not change the steps undertaken before their arrival to ensure they are not unduly separated from their parents, or the measures undertaken by foreign governments to ensure their rights are maintained before transit to the UK. It may have a positive impact on children's Article 19 and 24 rights, since the introduction of the quota, coupled with the deterrence effect of other provisions, could make individuals and families less likely to undertake dangerous journeys.

iii. This policy will have a positive impact on children's Article 27 rights, as under the quota children will only be brought to the UK through safe and legal routes once appropriate accommodation can be provided, thus ensuring their standard of living is suitable.

h. Electronic devices

i. In addition to the four general UNCRC principles, Article 16 (right to privacy) is directly relevant to the new powers to search for, seize and retain electronic devices and to access, copy and use relevant information found on them. Decisions to use these powers will be taken on case-by-case basis and the powers will only be used where any interference with the right to privacy is considered proportionate. Articles 12 (respect for the views of the child) and 13 (freedom of expression) are relevant insofar as a child's views may be expressed through their electronic device.

6. What is the impact of the legislation on the four general UNCRC principles?

Non-discrimination (article 2)

a. Removal of children and families with children

i. Families, and children who come to the UK illegally are not exempt from removal under this bill, and this policy is operated on a universal, non-discriminatory basis. It is vital that we do not create incentives for unaccompanied children or family groups to make dangerous small boat crossings. It is assessed that the legislative change will have a neutral, or positive impact on implementing the principle.

b. Detention

i. Families, and children who come to the UK illegally are not exempt from detention under this bill. It is vital that we do not create incentives for unaccompanied children or family groups to make dangerous small boat crossings. It is assessed that the legislative change will have a neutral impact on implementing the principle.

c. Modern slavery

i. Children who are foreign nationals will be directly impacted versus British nationals as this policy only applies to individuals who arrive in the UK illegally (British nationals do not require leave to enter). However, the measures in the bill including modern slavery will apply equally to people of all nationalities who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. We do not consider there to be any direct discrimination on account of race.

ii. The bill will also differentially impact a young person based on their age. Depending on the time spent in the UK, an individual under 18 who has lived in the UK for a large period of their lives may have accrued Article 8 ECHR rights such that they should be granted leave – in which case, the exceptions to the settlement and citizenship bans may be applied. However, the majority of child illegal migrants are usually much older (ages 16 and over) and this would effectively mean they are unlikely to accrue Article 8 rights to remain in the UK by their 18th birthday.

The best interests of the child (article 3)

a. Removal of unaccompanied children

i. The Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. This power will only be exercised in very limited circumstances ahead of them reaching adulthood, such as for the purposes of reunion with a parent or where removal is to a safe country of origin.

ii\ Under existing policy, unaccompanied asylum-seeking children can already be returned to their country of origin if they are a national of a country covered by the provisions under section 80A of the Nationality, Immigration and Asylum Act 2002. The bill will extend the list of safe states to which section 80A of the 2002 Act applies to include EU member states (as now), the other EEA countries (Iceland, Liechtenstein, Norway), Switzerland and Albania, and enable other states to be added by regulations.

b. Removal of families with children

i. During the review of the family returns process and use of force policies, the best interests of the child will remain a primary consideration. Section 55 of the Borders, Citizenship and Immigration Act 2009 is a procedural duty which requires the Home Secretary to have due regard to the interests of children as a primary factor in her decision making.

ii\ The fact that this bill supports families being kept together, and deters illegal dangerous crossings, means that there is also a positive impact. Therefore, it is assessed, that at this stage, the impact on implementing this principle will either remain neutral or be positive in respect of the removal of families with children. In line with the current policy on family separations and family returns, family groups with children will remain together wherever possible during the detention and removal process, as this is usually considered to be in the interests of the child – which further supports an overall positive impact.

c. Accommodation of unaccompanied children

i. Section 55 of the Borders, Citizenship and Immigration Act 2009 was enacted in order to implement the UNCRC requirements around the best interests of children, set out particularly in Article 3. Parliament is not bound under UK law to comply with or have regard to the UNCRC as an unincorporated convention, but the Secretary of State is required to have regard to the section 55 duty in the exercise of her functions. This would include the making of individual decisions and devising any policy or guidance in respect of unaccompanied children under clauses 15 to 20.

ii. The government has been consistently clear that the use of hotels to accommodate unaccompanied children is only as a last resort. The bill provides the Secretary of State with the power to direct a local authority to provide accommodation and support for an unaccompanied migrant child where that child is being temporarily accommodated and supported by the Home Office. The provisions relating to accommodation and transfer will therefore have a positive impact on implementing Article 3(1)-(3) of the UNCRC as we consider that the best place for these young people is and will remain within a local authority care placement.

d. Citizenship

i. It is important we do not incentivise people smuggling gangs to target particular groups or those with certain characteristics. Therefore, children who enter illegally, will be removed. It is therefore unlikely that they will qualify for citizenship on the basis of long residence. For registration at the Home Secretary's discretion, we would expect a child to have completed a period of residence and be in the UK lawfully. Where it would breach our ECHR obligations to do otherwise, we will have the power in the legislation to consider whether a person meets the statutory requirements for citizenship. However, a child's right to a family or private life, or their best interests, may well be met through permission to remain in the UK without the need to be a British citizen.

e. Detention

i. It is important that we do not incentivise people smuggling gangs to target particular groups or those with certain characteristics. Therefore families, and children who come to the UK illegally will not be exempt from detention under this bill.

ii. We already have the power to detain children at the border and for the purpose of removal. When an unaccompanied child arrives in the UK, they can be detained so that initial checks can take place to ascertain their status and this detention will usually take place in a holding room. Any person (regardless of age) must not be detained in a holding room for a period of more than 24 hours, however in exceptional circumstances this period may be extended.

iii. It is assessed, at this stage and in light of the powers that already exist, that the legislative change will have a neutral impact on implementing the principle.

f. Age assessment and legal proceedings

i. The legal proceedings provision on age assessment, which ensures age assessment judicial reviews are non-suspensive, is intended to reduce the incentives to falsely claim to be a minor in order to delay or prevent removal. Even without implementing a duty to remove, there is already significant evidence of individuals falsely claiming to be children – with almost half of those who are age assessed being found to be over 18. In turn the intention is that this will reduce the safeguarding risks where adults are wrongly assessed as children and placed in accommodation with younger children to whom they could present a risk in line with ensuring that the best interests of genuine children remains the primary consideration.

ii. The regulation making power provision, which allows for an automatic assumption that a person is an adult following refusal to undergo scientific methods of age assessment without good reason, is intended to disincentivise adults from knowingly misrepresenting themselves as children if a sufficiently robust method of scientific age assessment would show that they were over 18. This is in line with our Section 55 duty, and Article 3 of the convention specifically as it is intended to safeguard genuine children by ensuring adults are not placed in accommodation and other services alongside them.

g. Modern slavery

i. Families that fall within the scope of exemptions will be kept together. If an adult guardian is cooperating in an investigation their child will also be exempt and vice versa.

ii. Under the bill, the Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. This power will only be exercised in very limited circumstances ahead of them reaching adulthood, such as for the purposes of reunion with a parent or where removal is to a safe country of origin. Unaccompanied children will therefore likely continue to receive support at least until age 18. Modern slavery support for children includes dedicated independent trafficking guardians (ICTGs).

h. Safe and legal routes

i. Children will only be brought to the UK through safe and legal routes when there is suitable local authority provision available for accommodation and support with integration. This will help children and young people achieve stability faster in their new country and will help ensure they are living in suitable accommodation. We therefore assess that the impact of implementing this policy is positive in respect of the best interests of the child.

i. Electronic devices

i. When operating the powers conferred under the electronic devices etc provisions, decisions to search for, seize and retain devices, and access, copy and use relevant information on them, will be taken on a case by case basis. Considerations including the best interests of the child will form part of the decision making process.

The right to life, survival, and development (Article 5)

a. With respect to the bill as a whole we recognise the particular vulnerability of children making life-threatening journeys to the UK which are being facilitated by criminal gangs who have little regard for their safety. The measures in this bill will send a clear message that children cannot be exploited and cross the Channel in small boats for the purpose of starting a new life in the UK.

b. The only way to come to the UK for protection will be through safe and legal routes. This will take power out of the hands of the criminal gangs and protect vulnerable people, including children.

c. In order to deter people smugglers from targeting certain cohorts, families, and children who come to the UK illegally are not exempt from removal under this bill.

d. It is vital that we do not create incentives for unaccompanied children or family groups to make dangerous small boat crossings.

e. Overall, the policy creates a clear disincentive for taking life threatening journeys, greatly hampers the business model of the gangs, and therefore reduces the likelihood that children will be put in dangerous and exploitative situations in the future. It is therefore assessed that the legislative change will have a positive impact on implementing the principle.

f. To facilitate the removal of families with children, the Home Office policy on use of reasonable force on children remains under review.

g. In making any change to the policy on the use of force the Home Office will consider what monitoring provisions and safeguards are appropriate to ensure the policy does not have a negative impact on implementing Article 6.

h. Unaccompanied children will therefore continue to receive support at least until age 18.

i. Modern slavery support for children includes dedicated ICTGs which support development and recovery. We assess that this approach provides the child with the best prospect of development.

The right of children to express their views and have them be given due weight in decisions that affect them (article 12)

a. Removal of families with children

iii. Families, and children who come to the UK illegally are not exempt from removal under this bill. In line with the current family returns process, when a family returns conference is chaired, the adult members of the family must be present. It is for the parents or guardians to decide whether their child or children should attend.

iv. It is clear that any situation where illegal, dangerous crossings are incentivised is also a situation where children may be placed in danger without any due weight to their agency. Since the consequences there are potentially fatal, disincentivising that behaviour through this policy means there could be a positive impact on this duty.

v. The policies on family returns and on use of force on children are under review. At this stage, it is assessed that there will be a neutral impact in respect of implementing Article 12. As noted in the considerations of implementing Article 3, Section 55 of the Borders, Citizenship and Immigration Act 2009 is a procedural duty which requires the Home Secretary to have due regard to the interests of children as a primary factor in her decision making.

b. Modern slavery

i. Children and young people will have the opportunity to speak to first responders and police prior to receiving a decision on their claims and their views will be considered given the weight of the decision.

ii. Children will be given the opportunity and support to cooperate in a criminal investigation into their exploitation.

c. Scientific age assessment

i. Age-disputed individuals will be given the opportunity to consent to scientific methods of age assessment, and any reasonable grounds the person has for refusing to consent will be taken into account in this process. The regulation-making power in the bill which allows the Secretary of State to lay out the effect of a person refusing to consent without good reason, will only be implemented when there is sufficient scientific and analytical justification, and through implementation we will take into account best practice in other countries that take this approach, like the Netherlands and Luxembourg.

d. Electronic devices

i. The electronic devices etc provisions confer new powers to search for, seize and retain devices, and access, copy and use relevant information on them. The powers expressly include certain opportunities for the person subject to their use to be able to express their views and have them given due weight. For example, in relation to a search requiring the person to remove any clothing other than an outer coat, jacket or glove, the powers allow the person being searched to request a specific person be present and the powers allow for exceptions to be made at the request of the person being searched to the requirement that only people of the same sex as the person searched be present.

ii. Additionally, the way in which the powers are operated may have an impact on opportunities for a child to express their views and have them be given due weight in decisions which affect them. Guidance for operational staff will be published prior to the powers being implemented to help mitigate any potential impact.

7. Referring back to Question 3, are specific groups of children and young people more likely to be affected? If so, are there different impact for the different groups of children and young people?

a. Removal

i. The Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. This power will only be exercised in very limited circumstances ahead of them reaching adulthood, such as for the purposes of reunion with a parent or where removal is to a safe country of origin.

ii. Families, and children who come to the UK illegally are not exempt from removal under this bill.

b. Accommodation of unaccompanied children

i. Where removal from the UK is temporarily suspended until an unaccompanied migrant child reaches adulthood, they will normally be provided with temporary permission to remain in the UK until they are 18 years old under provision to be made in the Immigration Rules.

ii. Where deemed necessary, any such child may be temporarily placed in accommodation provided or arranged by the Home Office where they will receive appropriate support, pending transfer to a local authority.

c. Detention

i. Under the powers of the bill, the Secretary of State is not required to make arrangements to remove an unaccompanied child from the UK until they turn 18 years old, but there is a power to do so. These detention powers in relation to removal will only be exercised in very limited circumstances ahead of them reaching adulthood, such as for the purposes of reunion with a parent or where removal is to a safe country of origin.

ii. Where a decision is made to remove an unaccompanied child under 18, detention will be for the shortest possible time in appropriate detention facilities with relevant support provisions in place.

d. Modern slavery

i. Children who are foreign nationals will be disproportionately impacted as this policy is designed to tackle illegal migration. However, all of the measures in the bill, including the modern slavery measure, will apply equally to people of all nationalities who are subject to the provisions of the Immigration Act 1971 and enter or arrive without permission. We do not consider there to be any direct discrimination on account of race. In respect of nationality, which may be a proxy for race, data on small boat arrivals shows that, of the 45,755 people that arrived in the UK by small boat in 2022, 12,561 were Albanian nationals, 8,633 were Afghans, 5,642 were Iranian and 4,377 were Iraqi. Syria (2,916) was the 5th country on the list. The nationalities who most frequently attempt to enter via illegal routes are likely to be different, depending on a range of factors.

ii. The bill will impact accompanied children more than unaccompanied children because unaccompanied children are exempted from scope of measures until they turn 18. The bill will also differentially impact a young person based on their age. Depending on the time spent in the UK, an individual under 18 who has lived in the UK for a large period of their lives may have accrued Article 8 rights such that they may be granted leave. However, the majority of child illegal migrants are usually older (ages 16 and over) and this would effectively mean they are unlikely to accrue Article 8 rights to remain in the UK by their 18th birthday.

e. Age assessment and legal proceedings

i. There is no single technique, or combination of techniques, that can determine someone's age with precision. Given the difficulty in establishing age in the absence of reliable documentary evidence, genuine children who are closer to the age of 18 are more likely to be affected by provisions in relation to age assessment.

ii. This is because children who are clearly younger are less likely to be identified as requiring an age assessment. Age-disputed persons, who are perceived to (potentially) be over 18, will be subject to an age assessment.

iii. They may be assessed to be a different age than claimed. Therefore, the legislation could impact age-disputed persons who are children but are considered to potentially be adults (rather than those who are children and

are believed to be children) on the basis of their perceived age. Where a young person disagrees with their age assessment, they can challenge this by submitting a judicial review.

f. Re-entry, limited leave to remain and settlement bans

i. The imposition of permanent bans on obtaining Leave to Remain, Settlement and re-entry and citizenship will affect any child or young person who enters the UK illegally from 7 March 2023.

ii. Unaccompanied children or those assisting in a modern slavery or human trafficking investigation will be temporarily excluded from the ban on obtaining limited leave to remain, in line with broader provisions in the bill. In those limited scenarios, the child will be given a form of limited Leave to Remain until they turn 18 years old or have finished assisting an investigation. At the point any limited Leave to Remain expires or an unaccompanied child turns 18, they will become subject to the bans.

g. Electronic devices

i. Children who are foreign nationals will be more impacted by these provisions as this policy is designed to tackle illegal migration. However, the measures apply equally to all those liable to detention under new paragraph 16(2C) of Schedule 2 to the Immigration Act 1971, regardless of whether the child is part of a particular race, nationality or other protected group.

ii. Additionally, the way in which these powers are implemented will influence the impact that they have. In line with our Public Sector Equality Duty, we will consider potential impacts on people with protected characteristics as we develop operational guidance on how the powers should be implemented.

8. What other evidence is there to support your assessment of the impact on children's rights?

The implementation of the bill provisions will continue to be developed with consideration of the duty to safeguard the welfare of children and the rights of children.

9. Have you made any modifications to the legislation to address any negative impacts (whether on children generally or on specific groups of children)? If no

modifications have been made, what barriers exist to doing so?

The bill was developed and iterated internally, taking into account various factors including any potential impacts on children. We continue to assess how children can be appropriately supported through the application of the bill and measures will be put in place during implementation through guidance and regulations where specified, including support and care at the point at which a child turns 18.

The powers of search include a specific safeguard for people under 18 where a search requiring the person to remove any clothing other than an outer coat, jacket or glove is undertaken. In these cases, an appropriate adult must be present.

10. Are there any alternative options to the proposal being considered? What would their projected impacts on children's rights be?

As the government's economic impact assessment for the bill set out, the alternative to the bill is to accept an increasing number of illegal migrants crossing the Channel. This would have numerous accompanying risks to children's safety. This bill has been introduced to deal with the increasing numbers of small boat and illegal migrant arrivals in the UK, and we recognise the particular vulnerability of children making life-threatening journeys to the UK which are being facilitated by criminal gangs who have little regard for their safety. The bill will change the law so that people who come to the UK illegally will not be able to stay. If people know that there is no way for them to stay in the UK, they will be deterred from taking illegal, and very unsafe, routes to the UK. Not legislating will put more young people at risk and result in more children being separated from their parents, and, sadly, more drowning in the Channel.

11. Does your legislation address any of the recommendations put forward by the UN Committee on the Rights of the Child in its Concluding Observations on the UK?

The UK is a signatory of the UN Convention on the Rights of the Child (UNCRC) and constantly strives to find new ways to improve children's outcomes. We are grateful to the Committee for the observations and

recommendations set out in this report following our constructive dialogue in Geneva. We will carefully review and consider the Concluding Recommendations.

12. Has there been any public or stakeholder consultation on the legislation? If yes, how have the public / stakeholders responded? Please provide evidence.

As set out, there are provisions in the bill whereby a targeted consultation will be held in due course ahead of implementation.

13. What steps have been taken to directly or indirectly gather the views of children and young people and how have you taken their views into account?

We will continue to engage with stakeholders in order to collate views and feedback which will be considered during implementation. We will be engaging with the views of children through children's advocacy groups in ongoing stakeholder engagement work.

Stage 3: Summary and monitoring

14. Record your overall conclusions from the CRIA.

As set out above, currently there are mitigations in place for children and young people where there may be a negative impact, and where provisions have a neutral impact, the government will continue to keep the impact on children under review. Taken in totality, including in particular the overriding interest to protect children from the risk of death, trafficking, etc the bill will have a positive impact.

15. How will the legislation's impact be monitored?

The implementation and delivery of the bill provisions will be monitored, and through close workings with other government departments, the impact on children's rights will be considered.

Home Office

July 2023

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