

Royal College of Nursing (RCN) Parliamentary Briefing for The Nationality and Borders Bill: Lords Committee Stage

The Royal College of Nursing (RCN) is the largest professional body and trade union for nursing staff in the world. The RCN represents 465,000 members who are registered nurses, midwives, students, and nursing support workers.

The Nationality and Borders Bill was introduced to Parliament in July 2021 and marks a significant change to immigration law across the UK. The Bill creates a two-tier system for individuals applying for asylum and allows for differential treatment based on method of arrival to the UK. This includes aspects such as granting leave to remain, the requirements an individual applying for asylum status must meet in order to be granted leave to remain, access to public funds, and also to have access to family reunification.

It is the RCN's view that these proposals significantly narrow access to the asylum system for those arriving through irregular routes. Irregular migration is defined as migration which takes place outside the laws, regulations, or international agreements governing the entry into a State¹. However, the presence of irregular migration does not relieve States of their obligations to uphold the rights of refugees². The United Nations Refugee Agency (UNHCR) has raised that the proposal for differential treatment contravenes international law (1951 Refugee Convention) by denying refugees access to the rights enshrined in the Convention and the right to family reunification³.

Across the UK there are currently 131,640 registered international nurses⁴. Every day international nurses make enormous contributions within the health and social care sector across the UK and are a vital part of the workforce. International nurses arrive to the UK through several immigration routes, including sometimes as refugees.

Key areas of concern

The Bill creates additional barriers for individuals navigating the system for applying for asylum status, including those who might be internationally qualified as nurses. The Bill also presents a challenge to these registered nurses as professionals in two key areas which are set out below.

Restricting access to secondary care

The RCN is concerned by proposals within the Bill that grant powers to the Home Secretary and immigration officials to refuse leave to remain for refugees entering the UK through irregular routes. This will likely increase the number of people subject to the NHS charging system. In England, refugees without leave to remain or an ongoing asylum case are liable to pay for health care in secondary care settings. In Wales, Scotland and Northern Ireland, those who have had an asylum application denied are exempt from charges. These rules may have an impact on current nursing staff and other health and care colleagues practising, as in England, they are expected to identify and refer a person who is liable for NHS charges to an overseas visitor team⁵. Research indicates that recent reforms to the NHS charging system in England have negatively

¹ [International Organisation for Migration, Key Migration Terms, Migration Glossary](#)

² [International Organisation for Migration, Key Migration Terms, Migration Glossary](#)

³ [UNHCR \(2021\) Observations on the Nationality and Borders Bill](#)

⁴ [The Nursing and Midwifery Council \(2021\) Register Mid-year update: 1 April to 30 September 2021](#)

⁵ [Institute for Public Policy Research \(2021\) Towards true universal care](#)

affected the roles of healthcare staff and may alter the way that staff can deliver treatment and interact with their patients⁶.

The Bill will create a two-tier system for refugees based on how they arrive in the UK. In allowing for the differential treatment of refugees based on their method of arrival to the UK, including granting leave to remain, it is likely that a greater number of people seeking asylum will be liable to pay for secondary care in England. It is considered that this creates further barriers for refugees to access healthcare services. The RCN supports amendments to remove Clause 11, which provides for the differential treatment of refugees depending on their method of arrival to the UK.

Age assessments

The RCN is concerned by the broad powers that are granted to the Home Secretary to designate who can undertake age assessments and create regulations about how age assessments are carried out. These include regulations specifying methods that may be used to determine age. The practitioners involved in age assessments remain undefined in the Bill, but the RCN anticipates that registered nurses would likely have a role in age assessments.

Appropriate and accurate methods for assessing age of children are disputed⁷⁸⁹. It is therefore significant that this legislation gives the Home Secretary the authority to determine a process for determining age. Some have lobbied against Home Office plans to use dental x-rays to determine age, highlighting the position that this method is considered inaccurate, and that it is inappropriate to subject people to radiation without health benefits¹⁰.

Considering the powers granted to the Home Secretary to determine methods for age assessments, it is the RCN's view that there is a risk that health and care professionals such as registered nurses may be asked to use methods which are scientifically disputed and could harm patients where they are exposed to radiation without medical benefit¹¹. The RCN is concerned that potential changes to age assessments could place registered nurses at odds with their professional requirements under The Nursing and Midwifery Council (NMC) Code to always act in the best interests of people, and to always practise in line with the best available evidence¹².

The RCN urges caution regarding Clause 51 which allows for the Home Secretary to introduce regulations specifying scientific methods to be used in age assessments.

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⁶ [Institute for Public Policy Research \(2021\) Towards true universal care](#)

⁷ [British Medical Association \(2021\) Briefing Nationality and Borders Bill committee stage](#)

⁸ [Royal College of Paediatrics and Child Health \(2021\) Refugee and unaccompanied asylum seeking children and young people - guidance for paediatricians](#)

⁹ [British Association for Social Workers \(2021\) Age assessments proposal within Nationality and Borders Bill statement](#)

¹⁰ [British Dental Association \(2021\) Press release: Child asylum seekers: dental age check plan dropped, but key questions remain](#)

¹¹ [British Dental Association \(2021\) Written evidence submitted for the Nationality and Borders Bill](#)

¹² [The Nursing and Midwifery Council \(2015\) The Code](#)