

## **Royal College of Nursing (RCN) Parliamentary Briefing: Illegal Migration Bill**

*The Royal College of Nursing (RCN) is the largest professional body and trade union for nursing staff in the world. We represent around half a million members who are registered nurses, midwives, students, and nursing support workers across the United Kingdom and beyond.*

### **1. Background**

- 1.1 The Illegal Migration Bill was introduced into the House of Commons on Tuesday 7 March 2023 and marks a significant change in immigration legislation. The Bill undermines the rights and protections for refugees enshrined in international law by making asylum claims inadmissible where applicants arrive in the UK through irregular methods (including small boat crossings).
- 1.2 The United Nations Refugee Agency (UNHCR) has raised that proposals within the Bill contravene international law by denying refugees access to the rights enshrined in the Refugee Convention. In the absence of safe regular routes for asylum to the UK (which at present are only open to Ukrainian and a limited number of Afghan refugees) the Illegal Migration Bill in effect acts as an asylum ban.<sup>1</sup>
- 1.3 The Royal College of Nursing (RCN) believes that the Illegal Migration Bill threatens the rights of refugees and people seeking asylum and opposes this Bill in its entirety. In particular, the RCN has significant concerns that proposals within the Bill will have a catastrophic impact on the health and wellbeing of people seeking asylum in the UK.

### **2. Restricting access to asylum**

- 2.1 The Bill legislates for asylum claims to be made inadmissible where applicants arrive through irregular methods. It also allows for those who arrive irregularly to be permanently banned from returning to the UK. The RCN considers that there is a significant risk these proposals will likely increase the undocumented population as people seeking asylum will be deterred from making formal claims upon arrival in the UK.
- 2.2 Across the UK those without 'ordinary residence' are liable to pay for secondary care, therefore where proposals lead to an increase in the number of people who are undocumented, greater numbers of people will be subject to the NHS charging system, and deterred from accessing the health care that they need.
- 2.3 These rules may have a direct impact on health staff, particularly in England, where staff are expected to identify and refer a person who is liable for NHS charges to an overseas visitor team<sup>4</sup>.
- 2.4 The RCN calls on the Government to uphold its international obligations under the 1951 Refugee Convention and asks Parliamentarians to contest proposals which disqualify those who arrive irregularly from asylum claims. It is imperative that the UK Government creates new safe routes to the UK for people seeking asylum.

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<sup>1</sup> [UNHCR - UK Asylum and Policy](#)

### 3. Deportations

- 3.1 The Illegal Migration Bill legislates for the offshoring of the UK's asylum system and allows for the removal of anyone arriving in the UK irregularly regardless of the validity of their asylum claim, to their home country where safe, or a third country- where their asylum claim will be processed.
- 3.2 The use of third countries for the processing of asylum claims, such as by Australia, has been widely criticised as offshore facilities have been reported to lack appropriate health care and medicines.<sup>2</sup>
- 3.3 The Bill provides no specific protection to prohibit the deportation of unaccompanied minors or victims of trafficking.
- 3.4 Across the world, over 80% of trafficking survivors seek medical care within the first year of being trafficked.<sup>3</sup> Nurses are therefore key participants in identifying victims of trafficking, However, removing protections for victims of trafficking, the Bill would allow for any trafficking referrals made for those who arrive irregularly, to be disqualified and then for those people to be deported. This means that trafficking referrals made by nurses could lead to the deportation of trafficking survivors in their care.
- 3.5 The RCN calls on Parliamentarians to ensure that the Government upholds its international obligations, including the principle of non-refoulement (i.e. that no person is returned to a country where they would be at risk of irreparable harm, persecution or other human rights violations), and to reject proposals which allow for the deportation of people based on their method of arrival to the UK.

### 4. Detention

- 4.1 The Bill confers a legal duty on the Secretary of State (SoS) to detain anyone who arrives irregularly, for 28 days and allows for individuals to be detained for as long as there is a reasonable prospect of removal, with no exemptions for children or those with protected characteristics.<sup>4</sup> Such proposals risk significantly increasing the number of people held in immigration detention facilities.
- 4.2 In the UK, conditions within asylum processing centres present significant challenges to the provision of healthcare. Detention facilities pose significant threat to detainees' health due to issues in infection control as evidenced by recent outbreaks of diphtheria within the Manston processing centre.<sup>5</sup>
- 4.3 A report into centre conditions found significant issues with healthcare governance and that detainees were regularly held more than 24 hours in non-residential

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<sup>2</sup> [Australia: UN experts urge immediate medical attention to migrants in its offshore facilities | OHCHR](#)

<sup>3</sup> [Nurses play key role in identifying victims of human trafficking | ICN - International Council of Nurses](#)

<sup>4</sup> Institute for Government: [Insight paper - The Illegal Migration Bill: seven questions for the government to answer](#)

<sup>5</sup> [Home Office ignored warnings on diphtheria weeks before Manston outbreak | The Independent](#)

accommodation.<sup>6</sup> Detainees with a wide range of needs including severe mental illness and victims of trafficking, were not designated at risk and did not receive coordinated care pathways.<sup>7</sup>

4.4 The RCN calls on Parliamentarians to remove provisions which would allow for the detention of anyone who arrives to the UK through irregular methods, and to put in place safeguards to protect vulnerable persons, including children from detention.

## 5. Age assessments

5.1 The Government has introduced Clauses 24 and 25 regarding age assessments for asylum seekers that would provide powers to the Home Office to decide the consequences of refusing consent to undergo age assessment. This could include regulations to consider all asylum seekers that refuse age assessment as adults. This comes despite the recommendation of the Home Office's own Age Estimation Science Advisory Committee (AESAC) that "no automatic assumptions or consequences should result from refusal to consent".<sup>8</sup>

5.2 Age assessments are made through a variety of means, however usually done through dental imaging that uses ionising radiation. The accuracy is widely disputed.

5.3 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 benefit. 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 evidence.<sup>9</sup>

5.4 The RCN calls on Parliamentarians to remove Clauses 24 and 25 in the Bill relating to age assessments.

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<sup>6</sup> [Report on an unannounced inspection of the short-term holding facilities at Western Jet Foil, Lydd Airport and Manston by HM Chief Inspector of Prisons 25-28 July 2022 \(\[justiceinspectorates.gov.uk\]\(https://www.justiceinspectorates.gov.uk\)\)](#)

<sup>7</sup> [Report on an unannounced inspection of the short-term holding facilities at Western Jet Foil, Lydd Airport and Manston by HM Chief Inspector of Prisons 25-28 July 2022 \(\[justiceinspectorates.gov.uk\]\(https://www.justiceinspectorates.gov.uk\)\)](#)

<sup>8</sup> <sup>8</sup> [Biological evaluation methods to assist in assessing the age of unaccompanied asylum-seeking children \(accessible\) - GOV.UK \(\[www.gov.uk\]\(https://www.gov.uk\)\)](#)

<sup>9</sup> [The Nursing and Midwifery Council \(2015\) The Code \(\[nmc.org.uk\]\(https://www.nmc.org.uk\)\)](#)