# WRITTEN STATEMENT

# BY

# THE WELSH GOVERNMENT

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| **TITLE**  | **UK Nationality and Borders Bill**  |
| **DATE**  | **06 December 2021** |
| **BY** | **Jane Hutt MS, Minister for Social Justice and Mick Antoniw MS, Counsel General**  |

The UK Government’s New Plan for Immigration and its Nationality and Borders Bill, which is currently making its way through the Houses of Parliament, severely undermine our vision of Wales as a Nation of Sanctuary.

We agree that the asylum system is “broken”. There are many flaws which need to be addressed but this Bill is the antithesis of what is needed and will only exacerbate inequity and harm communities.

We believe many of the provisions in the Bill will breach international conventions, violate basic principles of justice and will place ultimately extreme and insurmountable conditions on people who seek our protection.

Many of the Bill’s provisions will impact on the operation of devolved responsibilities – and we will bring forward a Legislative Consent Motion in relation to these – and it will affect our ability to exercise functions relating to equality, planning, social services, community cohesion and migrant integration.

The Bill proposes a new two-tier system to create “group one” and “group two” refugees – a system we believe to be incompatible with international law through the UN Refugee Convention.

Group two refugees may be prohibited from accessing public funds; prevented from being reunited with their family in the UK, and restricted to just 30 months refuge in the UK pending further reviews of their circumstances. These restrictions relate to their method of travel to the UK and not on the merits of their case.

This will cause unforeseen and unequal impacts on the people arriving in Wales and the UK and will adversely impact the delivery of integration support in Wales. It will exacerbate destitution and increase exploitation of migrants and illegal working in our communities – increasing vulnerability among an already vulnerable population.

It will also increase homelessness and potentially endanger public health, as those without recourse to public funds are likely to be fearful of coming forward for healthcare. Service providers will confront difficult ethical and legal dilemmas about who they should or could provide services to and, inevitably, some will incorrectly be turned away from vital avenues of support.

In the context of these challenges, maintaining community cohesion and supporting effective migrant integration will be made more difficult. This change will apply to people the UK Government has already accepted are fleeing a well-founded fear of persecution.

It is difficult to understand the rationale for denying people who have found refuge in the UK access to public funds; preventing them putting down roots and denying them opportunities for family reunion, simply because of the way they travelled to the UK.

After the Windrush scandal, the UK Government assured us it would “see the face behind the case” and ensure a more compassionate approach but that commitment rings hollow when the implications of this Bill are considered.

The UK played a key role in developing the principles of the UN Refugee Convention, which it signed 70 years ago, but the Nationality and Borders Bill will erode these principles and with it the UK’s credibility and ‘soft power’ around the world.

As signatories to the Refugee Convention the UK explicitly accepts that people should be able to claim asylum in this country but this Bill gives the false impression that asylum seekers are “shopping around” to find the most advantageous country in which to claim asylum. It is, more often than not, a simple reality that the individuals who claim asylum here are more likely to be able to integrate peacefully in the UK than anywhere else.

The Bill’s proposal to open “accommodation centres”, including in Wales, will undermine our Nation of Sanctuary vision, by warehousing asylum seekers in large facilities – potentially indefinitely – away from the wider Welsh community. This prevents the development of social support networks, informal language acquisition, and cross-fertilisation of culture, which are essential elements of integration.

Unfortunately, we have seen first-hand just how damaging such “accommodation centres” can be. Last year, the Home Office’s decision to use Penally Army training camp in Pembrokeshire, as an asylum centre caused disruption to community cohesion with protests outside the camp and damage to the mental health of the people accommodated there. We have seen a legacy of far-right activity in Pembrokeshire, long after the closure of Penally.

The Bill does not place limits on the use of these centres – they could be used to accommodate children, people with a history of torture and arbitrary confinement, the placement of LGBTQ+ individuals alongside those with hateful views, and other unacceptable outcomes.

The Bill proposes no right of appeal for asylum seekers, leaving them reliant on judicial review. This is tantamount to depriving people of a right to a fair trial under Article 6 of the Human Rights Act 1998.

The Bill requires people to bring forward grounds for protection and human rights claims within a set time period but it can take time for people escaping a repressive regime to set out their full case. There is a lack of legal representation in the UK to support asylum seekers to build these cases and people who have been victims of trafficking do not always disclose their cases immediately.

We recognise and support the UK Government’s focus on disrupting criminal networks carrying out modern slavery. However, we believe the proposals concerning modern slavery in the Bill may exacerbate vulnerabilities, cause additional trauma and stress to victims, and make detection much harder. Rather than having a deterrent effect on organised criminal networks, it may create additional obstacles to addressing modern slavery in Wales and the provision of support to victims and survivors.

We are concerned about the proposals, which are aimed at the age assessment process. As the registration of birth differs around the world, many children who come to the UK cannot provide documentation as evidence, either because they have never had it in the first place or it has been lost or destroyed.

This has been established over many years of case law but the Bill disregards these important cases. We urge the UK Government to consult the ethical committees of relevant medical, dental and scientific professional bodies and publish a report before making regulations.

We welcome the Home Office’s proposal to grant immediate indefinite leave to remain (ILR) to group one refugees. The vast majority of refugees resettled to Wales cannot return to their country of origin within five years of arrival and most will apply for ILR. The current delay in being able to apply for ILR causes uncertainty and prevents refugees from fully rebuilding their lives.

However, the logic which convinced the UK Government to make this change should also be applied to people in the group two category who are no less in need. To do otherwise cruelly ignores the reality of refugee trauma.

The Home Office is failing to capitalise on the skills asylum seekers bring with them by not allowing them to work. This change would see asylum seekers contributing to our economy; helping to fill gaps in the labour market, while minimising the loss of their skills and supporting integration. There is a clear ethical, economic and social case to make this change.

We have seen recently how quickly the UK can act to help those in need of refuge – as we evacuated thousands of people from Afghanistan. This underlines the inconsistencies in the Bill.

Any Afghan who could not get onto an evacuation plane but was able to make the long and difficult journey to the UK, via people smugglers, will be criminalised by the proposals in the Bill, despite fleeing the very same threat from the Taliban.

In Wales, we are proud to be a Nation of Sanctuary. We are proud of all the agencies and individuals which work together to create a unified and welcoming experience for people who have been resettled here.

Wales is a welcoming nation and we will always stand with those who need us the most. We want the UK Government to change course and to advance – not diminish – the legal, equitable and moral standing of the United Kingdom.