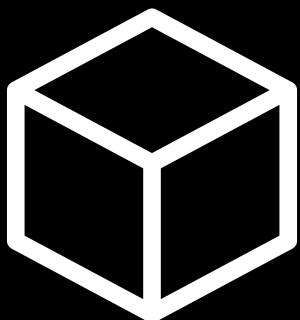


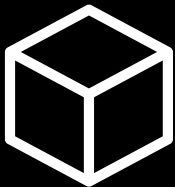


NATIONALITY & BORDERS BILL BRIEFING

BLACK BOX INSIGHTS



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Briefing – Nationality & Borders Bill, Pt 5

Executive Summary

- *Pt 5 harms victims of criminal exploitation (CE) by (a) penalising late disclosure; (b) failing to provide specific arrangements for victims of Child Criminal Exploitation (CCE); and (c) imposing a broad 'public order' disqualification from support.*
- *(a) Penalties for late disclosure risks denying support to victims who, due to trauma, fear and ongoing abuse, do not disclose in time.*
- *(b) National Referral Mechanism (NRM) statistics show that 47% of modern slavery referrals are for children.*
- *(c) Victims of CCE are often themselves coerced perpetrators of crime.*
- *(d) Support provided to British children is insufficient.*

(A) Late Disclosure

Clauses 57 and 58 of the Bill expect disclosure at the moment of self-identification. Failure to do so can lead to penalties, such as being deemed as 'less credible' for the purpose of NRM decisions.

Children can take years to self-identify as victims and/or disclose details of their experience. This may be due to the impact of trauma, ongoing grooming and psychological abuse.

Child victims often do not see themselves as victims and may view involvement in criminality as a way to earn money, gain kudos, and form an identity (Hesketh & Robinson, 2019).

Male victims of CCE, in particular, often reject the victim label to uphold masculine ideals (Robinson et al., 2019). This is despite the use of debt bondage and violence to coerce young people.

The 'no grassing' culture and stigma associated with victimisation can prevent children from ever disclosing their abuse.

Due to the nature of criminal exploitation, children who do disclose details of their experiences run the risk of prosecution, instead of receiving the support that they require. Such considerations may influence the timing of disclosure.

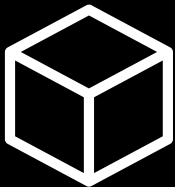
Clauses 57 and 58 risk penalising those who make late disclosure due to (a) trauma, and/or (b) the complex relationship of victims to their 'victim' status. The latter point is especially at risk of not being seen as a 'good reason' by decision-makers who are unfamiliar with these dynamics.

(B) Child Specific Provision

The Bill does not include specific provisions for child victims of modern slavery and CCE. **Children as young as 7** are exploited by criminal networks, often acting as 'runners' (Turner, et al., 2019; Wroe, 2019), because they "represent a cheap, easily recruited workforce" (Windle et al., 2020, 4).

Perpetrators use children to mitigate the risk of violence, arrest, and to protect their own identity. As law enforcement tactics improve, so too do the methods employed by perpetrators/criminal networks, utilising children in new and more harmful ways to circumvent such developments.

Convictions of young people aged 10 to 17 for Class A (e.g. heroin and crack cocaine) drug offences have increased by 77% between 2012 and 2016, three-times the equivalent increase among adult offenders (MoJ, 2017).



Briefing – Nationality & Borders Bill, Pt 5

Many of these children are embedded in organised criminal networks (Von Lampe, 2016).

This is a problem which calls for tailored solutions and mechanisms, not simply a 'one-size-fits-all' approach. The law should reflect the **different developmental needs of children and the subjective vulnerabilities** caused by structural inequalities.

(C) Leave to Remain for Child Victims

Clause 64 of the Bill provides for **limited leave to remain** where the Secretary of State considers it necessary for (a) assisting the victim in their recovery from any physical or psychological harm, (b) enabling the victim to seek compensation (unless this can be done outside the UK), and (c) enabling the victim to co-operate with law enforcement.

This **standard does not meet the UK's obligations to children** under the Council of Europe's Convention against Trafficking ("ECAT").

Article 14(2) ECAT specifies that in the case of children residence permits 'shall be issued in accordance with the **best interests of the child**'. Para 186 of the Explanatory Report to ECAT explains that the child's best interests are to 'take precedence'.

The absence of 'best interests of the child' as a child-specific fourth condition is a serious omission.

(D) Disqualification of Victim/Offenders

Clause 62 **disqualifies victims** from protection if they are deemed to be a 'threat to public order'.

This phrase is **not clearly defined**. If construed broadly, it could be read as embracing offences committed by victims as part of their exploitation.

Notwithstanding their prevalence in the commission of drug offences, criminally exploited **children are coerced into committing a wide range of crimes**: i.e. possession of firearms, robbery, burglary, criminal damage, providing false alibis, etc.

By any reasonable definition of the phrase 'threat to public order', victims who have committed these offences in the course of their exploitation may be disqualified from protection and support.

(E) British & Non-British Victims

The NRM holds significant value within the immigration system, but in reality does very little for British victims of criminal exploitation.

British children who are identified as victims are often already subject to state intervention and **support provided by the NRM is insufficient**.

NRM decisions are inadmissible in criminal trials. This means **children awaiting decisions, and those identified as victims, are being prosecuted**.

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