

Agenda – Health and Social Care Committee

Meeting Venue:

For further information contact:

Remote via Zoom

Helen Finlayson

Meeting date: 14 February 2022

Committee Clerk

Meeting time: 12.30

0300 200 6565

SeneddHealth@senedd.wales

Private pre-meeting (12.30–13.00)

1 Introductions, apologies, substitutions and declarations of interest

(13.00)

2 Hospital discharge and its impact on patient flow through hospitals: evidence session with third sector organisations

(13.00–14.00)

(Pages 1 – 42)

Jake Smith, Policy Officer – Carers Wales

Catrin Edwards, Head of External Affairs Wales – Carers Trust Wales

Kate Griffiths, Director for Wales – British Red Cross

Research brief

Paper 1 – Carers Wales

Paper 2 – Carers Trust Wales

Paper 3 – British Red Cross

Break (14.00 –14.15)



3 Hospital discharge and its impact on patient flow through hospitals: evidence session with the housing sector

(14.15–15.00)

(Pages 43 – 60)

Chris Jones, Chief Executive – Care and Repair Cymru

Faye Patton, Policy and Research Officer – Care and Repair Cymru

Catherine May, Tyfu Tai Cymru Manager – Chartered Institute of Housing

Paper 4 – Care and Repair Cymru

Paper 5 – Chartered Institute of Housing

4 Paper(s) to note

(15.00)

4.1 Joint letter from the Chairs of the Health and Social Care and Children, Young People and Education Committees to the Minister for Social Justice regarding the Legislative Consent Memorandum for the Nationality and Borders Bill

(Pages 61 – 63)

4.2 Response from the Minister for Social Justice to the Chairs of the Health and Social Care and Children, Young People and Education Committees regarding the Legislative Consent Memorandum for the Nationality and Borders Bill

(Pages 64 – 118)

5 Motion under Standing Order 17.42(ix) to resolve to exclude the public from the remainder of this meeting

(15.00)

6 Hospital discharge and its impact on patient flow through hospitals: consideration of evidence

(15.00–15.15)

Document is Restricted

January 2022

Subject: Hospital discharge and its impact on patient flow through hospitals consultation

Dear Health and Social Care Committee,

Thank you for the opportunity to respond to this important consultation.

Before the COVID-19 pandemic it was estimated that there were at least 487,000¹ unpaid carers in Wales, providing care on an unpaid basis to people who need care and support due to age, illness, disability or due to mental health. At the height of the pandemic in the summer of 2020, it was estimated that this number may have risen to as many as 683,000². As people live longer with ill health, it is predicted that the number of unpaid carers in Wales will continue to grow into the future. The care unpaid carers provide is diverse; from undertaking medical interventions, personal care such as washing to making meals, transporting loved ones to doctor's appointments, as well as organising access to formal care services.

Before the pandemic it was estimated that unpaid carers saved the Welsh NHS and other statutory services in Wales £8.1 billion³ a year, and Welsh Government data suggests 96%⁴ of all care in Wales is delivered by unpaid carers. As more people have taken on caring responsibilities and services have been reduced or closed entirely, it was estimated that unpaid carers saved Wales £33m⁵ every day at the height of the pandemic in summer 2020. Unpaid carers are the critical third pillar of health and care services in Wales.

Carers Wales is the national membership charity for unpaid carers in Wales. As part of Carers UK, we provide a range of information resources for carers, support carers to balance caring with employment and provide carer-focused wellbeing initiatives. We also conduct research into the experiences of carers in Wales and use our findings to respond to policy developments and campaign for better support for carers.

This consultation response has been informed by our existing insights and research into the experiences of unpaid carers in Wales and has been supplemented by a dedicated survey based on this consultation

¹ Carers Week (2020): Carers Week 2020 Research Report

² ibid

³ Welsh Government (2018): Minister confirms £15m investment to support carers and adults with care needs

⁴ Social Care Institute for Excellence (2017): Preventative support for adult carers in Wales: rapid review

⁵ Carers UK (2020): Unseen and undervalued: The value of unpaid care provided to date during the COVID-19 pandemic

that was completed by 14 carers in Wales. We have addressed each of the consultation's core themes in turn.

- *the impact of delays in hospital discharge, both on the individual and the patient flow through hospitals and service pressures.*

Delays in hospital discharge can have a profound effect on an individual, including leading to a loss of skills and independence. This in turn is likely to have a significant impact on the carer who looks after them who may find themselves having to provide more care, and more complex care, following discharge. This can in turn seriously limit the ability of an unpaid carer to maintain employment or have breaks from caring, risking their finances as well as their own physical and mental health. Delayed discharge can also increase the risk of hospital-acquired infections, including but not limited to COVID-19, placing still further pressure on their carer after discharge.

Our research has found that where the cared for person is in hospital for an extended period, and the carer is not frequently informed of developments and consulted by health staff, the carer may live with uncertainty for weeks or months, bracing themselves for an unexpected hospital discharge which severely impedes their ability to plan for and maintain education or employment, or find time for hobbies and social interaction. Carers feel they must put their life on hold until they know more about what will happen to their loved on.

In many cases, the person in hospital facing delayed discharge may be a carer themselves, such as for their partner or child. Our research over several years has found persistent worries among carers regarding the lack of contingency planning for emergencies within care plans should a situation arise where they are no longer able to provide care. In 2019-20, 56%⁶ of carers who had undergone a carers needs assessment said they were not asked about emergency planning during the assessment, while only around a quarter (27%) of carers who responded to our State of Caring in Wales survey⁷ in Autumn 2021 and who had undergone an assessment said that it fully considered the support that would have to be put in place for the person they care for should an emergency occur. The expected continued community prevalence of COVID-19 into the medium term further underscores the importance of contingency planning should carers fall ill. Delayed discharge can lead to an uncertain and extended period where someone in need of care is separated from their carer and, should there be inadequate communication with the family, family and friends may struggle to cover the carer's absence. The Welsh Government must issue guidance to local authorities requiring them to improve monitoring of the assessments they deliver, or fund others to deliver, to ensure all carers needs assessments include contingency planning.

⁶ Carers Wales (2020): Track the Act Briefing 5: Monitoring the 4th year of implementation of the Social Services and Well-being (Wales) Act 2014

⁷ Carers Wales (2021): State of Caring 2021: Wales Briefing A snapshot of unpaid care in Wales

- *the variations in hospital discharge practices throughout Wales and cross-border, and how they are meeting the care and support needs of individuals.*

While we cannot speak to variations in practice between hospitals, 77% of respondents to our survey on this consultation, from 11 local authorities, said the person being discharged did not have their needs assessed, which could suggest that hospitals are under pressure to discharge patients quickly in a way where their care needs can be overlooked. At a time of immense pressure on so many hospitals, it would be unsurprising if this is occurring in other areas of Wales.

- *the main pressure points and barriers to discharging hospital patients with care and support needs, including social care services capacity.*

Insufficient capacity in social care services is a significant barrier to enabling the discharge of patients from hospital. Over a year and a half on from the start of the pandemic, and over 6 months since Wales emerged from the last lockdown in early 2021, carers who completed our State of Caring survey⁸ in Autumn 2021 reported that there was still widespread disruption to the services they rely on to provide care, with only 8% of carers saying day centres had fully re-opened and only 40% said support form paid care workers had fully re-opened. From summer to winter 2021, 6 out of 7 health boards in Wales (all except Powys), and their associated local authorities, announced that they would no longer be able to honour all previously agreed care packages and would be asking families and carers to step in and provide more care. With the expectation that alert level two restrictions will be eased in the near future, the Welsh Government must commit to work with local authorities to fully re-instate disrupted carer services across Wales in the short term as doing so would make it easier to discharge patients from hospital.

While the lack of social care in the community, and services to support the health and wellbeing of carers to manage their caring role, clearly impedes the ability for patients to be safely discharged, we are concerned that many hospitals and health staff may pay insufficient attention to these factors as they seek to free up hospital beds.

Research shows carers in Wales are under overwhelming pressure. 73%⁹ have been unable to take any breaks from caring at all since the start of the pandemic, 80%¹⁰ say they are having to provide more care compared to before the pandemic, while 60%¹¹ say their physical health has deteriorated and 71%¹² say their mental health has worsened during this period. Insufficient investment in services for carers impedes hospital discharge as so many carers are close to breaking point.

⁸ Carers Wales (2021): State of Caring 2021: Wales Briefing A snapshot of unpaid care in Wales

⁹ Carers Week (2021): Breaks or breakdown Carers Week 2021 report

¹⁰ Carers UK (2020): Caring Behind Closed Doors: 6 months on

¹¹ Carers Wales (2021): State of Caring 2021: Wales Briefing A snapshot of unpaid care in Wales

¹² Carers Wales (2021): State of Caring 2021: Wales Briefing A snapshot of unpaid care in Wales

- *the support, help and advice that is in place for family and unpaid carers during the process.*

Unpaid carers must be involved and consulted meaningfully at every stage of the hospital discharge process. As they are experts by experience in the care of the person they look after, insufficient involvement of carers, as so often happens, risks the needs of the person in hospital being misunderstood or not fully understood. Considering that carers will have to care for the patient after discharge, sustained and meaningful consultation with carers is the only way to accurately understand the level and types of care they will be able to give to the patient. The Social Services and Well-being (Wales) Act 2014 says carers should only care if they are “willing and able” to do so. Fulfilling this legal obligation requires consistent, meaningful consultation with carers throughout the hospital discharge process. A carer who responded to our consultation survey said there should be *“An honest assessment of their needs and the unpaid carers needs. Too much emphasis to get patients back home regardless due to Covid pressures. The discharge coordinator should be in direct contact with the carer.”*

To receive support, help or advice carers must be identified as carers by staff involved in the discharge process. Where this doesn't happen, carers can miss out on the help and advice they need. As one carer who responded to our consultation survey explained *“I had to ask several times before someone would discuss the discharge and his needs. The staff couldn't understand why I needed to know”*, while another said, *“The hospital's need to acknowledge the carer, as they have valuable input. I had difficulty speaking to hospital staff even as a wife, carer and power of attorney, which was logged at the hospital”*. Guidance to staff involved in the process must emphasise the importance of identifying carers and involving them in the process. To support this, steps must be taken by health boards to ensure relevant staff undertake mandatory training on the experiences and roles of unpaid carers to enable them to identify carers expeditiously. Health boards should also review the information that is provided to carers before discharge to ensure it covers condition specific information, general information on caring and information about carers services provided locally or nationally, such as our own Carers Wales information and advice resources.

Advocacy services support people to understand and engage with processes and express their wishes to professionals. The importance of Advocacy services is highlighted by the Social Services and Well-being Act and health boards should consider how they can help carers through the discharge process by promoting access to advocates for patients and their carers.

The restrictions on hospital visits introduced in response to COVID-19 has reduced the access of carers and other family members to both the patient and the healthcare staff looking after them, increasing the likelihood that carers are out of the loop regarding the discharge of their loved one. One carer who responded to our consultation survey said they were *“Not able to visit due to covid, [with] no contact from hospital at all”*.

Hospitals across Wales have gone to great lengths to enable communication between families, patients and staff, but we would encourage health boards to consider how they can further facilitate regular

communication with carers at a time of reduced physical visiting. In a situation where a carer is not frequently informed of developments and consulted by health staff, a carer can live with uncertainty for weeks or months, bracing themselves for an unexpected hospital discharge they may receive little notice of.

- *what is needed to enable people to return home at the right time, with the right care and support in place, including access to reablement services and consideration of housing needs.*

Under the Social Services and Well-being (Wales) Act 2014, unpaid carers have a legal right to have their needs assessed through undertaking a Carer's Needs Assessment whenever they request one, or when their caring role changes. Accordingly, every carer must be offered an opportunity to have their needs assessed before a discharge takes place. This ensures the needs of the carer and the support they may need to care for the patient have been assessed. Therefore, no patient should be discharged from hospital before a care package is in place if it is required, as discharging a patient without support in place could result in eventual re-admission to hospital for the patient and potentially admission of an additional person in the form of a carer who has seen their health deteriorate through struggling to care. Guidance must be issued to relevant staff to ensure these principles are consistently adhered to. Many carers feel they are set adrift and left to cope by themselves after discharge has taken place, with little to no contact from health or social care services. We would ask for regular follow up calls and appointments to ensure the carer is supported and has the information and knowledge to care effectively.

"We need to know what to expect, hubby discharged with a catheter neither of us had been told how to deal with it. A fellow carer had her husband sent home without notifying her, she was elderly, home alone, no extra care in place and she could not cope, he could not eat, and it was a very unsafe discharge. I hear this all too often."-carer respondent to consultation survey.

For exceptional cases where it is not possible to put a support package in place before discharge, processes must ensure quick and efficient communication and joined-up working between health, social care and local authority staff to ensure key personnel, such as social workers, are put in place as soon as possible.

Additionally, we welcome good practice in healthcare settings that helps patients to regain their independence before being discharged, such as the trial ward in St David's Hospital in Cardiff. Setups like these, and similar initiatives such as step-down facilities, could ease pressure on carers after discharge.

Turning to housing needs, patients must be discharged into homes that are conducive to their recovery and which enable them to live as independently as possible. Doing so is likely to reduce the extent that unpaid care or formal care packages will be needed to help the patient recuperate. It appears that many

older people are needing increasingly complex adaptations as COVID-19 restrictions and shielding has meant issues in their main have gone unaddressed.

“my mother is 9 months home and still her bathroom has not been adapted for her”-carer respondent to consultation survey.

Staff involved in discharge should consider whether the home they propose to discharge the patient to facilitates their recovery, and organisations or services which carry out home adaptations should be publicised to carers and patients and adequately funded.

Yours faithfully,

Jake Smith

Carers Wales

Health and Social Care Committee Inquiry: hospital discharge and its impact on patient flow through hospitals

Carers Trust Wales, January 2022

Carers Trust is a major charity for, with and about carers. We work to improve support, services and recognition for anyone living with the challenges of caring, unpaid, for a family member or friend who is ill, frail, disabled or has mental health or addiction problems. Our vision is that unpaid carers count and can access the help they need to live their lives.

In Wales, we are supported by our eight Network Partners who provide direct support to unpaid carers across the country.

Unpaid caring in Wales

- There are more than 370,000 unpaid carers in Wales
- Of these, around 30,000 are young carers or young adult carers
- An estimated 96 per cent of care in Wales is provided by families and unpaid carers

Unpaid carers and hospital discharge

Time spent in hospital can be a significant transition point in the care needs of a family member or loved one. Many people will become unpaid carers for the first time when a loved one is discharged from hospital. Some unpaid carers will be faced with caring for a person with increased care needs as they return home. This can mean the introduction of a new social care package at home or the person being discharged to a new setting, such as a care home, whether temporarily or permanently.

Tailored support for carers within hospital settings

Of the eight Carers Trust Network Partner organisations working in Wales, six have dedicated in-hospital and hospital discharge services supporting unpaid carers.

These include:

- NEWCIS: supports carers around the discharge process from Wrexham Maelor and Ysbyty Glan Clwyd and supports the carer with their caring role once the cared for person returns home.

- Bridgend Carers Centre: the integrated hospital carers support service at Princess of Wales Hospital supports carers of people who have been admitted to hospital, including by supporting carers to communicate their concerns with healthcare professionals, social workers and discharge staff.
- Swansea Carers Centre: Hospital outreach project providing support, advice and information in Morriston, Singleton, Gorseinon and Cefn Coed hospitals
- Carers Outreach in North West Wales: specialist officer within the discharge teams at Ysbyty Gwynedd, Dolgellau Hospital and Ysbyty Tywyn.

The impact of the pandemic on hospital discharge and patient flow, from a carer-perspective

Carers have shown incredible strength and resilience during the pandemic. However our Network Partners have told us the pandemic has placed significant pressures on carers in relation to hospital discharge:

There is often **insufficient consultation with carers about discharge**, in many cases this is because of the speed of the process. We have been told of some patients being transferred or discharged to other hospitals without their carer's knowledge.

The **discharge-to-assess policy is causing anxiety for some carers, especially in relation to new care home placements**. Anxiety is often around **financial concerns and eligibility for Continuing Health Care**. We have heard of patients who were assessed in their care home when CHC was declined; carers were not appropriately involved in the process and therefore could not discuss or challenge decisions as they would like. Faced with this situation, many carers confront financial hardship due to high top up fees because there has been a lack of choice and control in relation to the care home placement of their loved one.

Hospital discharge is continuing to happen rapidly. This is experienced as a positive for some unpaid carers as hospital continues to feel unsafe because of the risk of hospital-acquired infection with Covid-19. Countering this, **carers continue to feel under great pressure to care for their loved ones at home and facilitate fast discharges without an assessed and agreed social care package in place**. We also heard of some people being discharged rapidly without being tested for Covid-19.

Long delays in obtaining care packages mean that **carers are under pressure to provide prolonged and unsustainable levels of care at home** without the support they and their loved one are entitled to from statutory sources. We have

heard of delays of upwards of three months and carers faced with the choice of leaving their loved one in hospital to wait for the care package, visibly deteriorating in hospital, or to shoulder the care burden themselves at home. Without the appropriate support in place at home or in the community **some discharges inevitably fail very quickly**, with the patient readmitted to hospital shortly afterwards.

All sources referred to in this evidence have provided their consent to Carers Trust Wales sharing their views.

British Red Cross submission to the Senedd
Health and Social Care Committee consultation on hospital discharge
and its impact on patient flow through hospitals

January 2022

I. Summary

1. The British Red Cross has more than 19,600 volunteers in the UK and nearly 3,900 staff. We are part of the world's most wide-reaching humanitarian network, the International Red Cross and Red Crescent Movement, which has 17 million volunteers across 192 countries. The Red Cross has decades of experience supporting people with health and care needs home from hospital, responding to UK emergencies from house fires to terror attacks, and supporting refugees and people seeking asylum.
2. The British Red Cross has a long history of working in partnership with the NHS, and we have seen a lot of good practice through our work. We recognise how hard NHS staff and volunteers are working, especially during the Covid-19 pandemic.
3. We welcome the opportunity to respond to the Health and Social Care Committee inquiry into hospital discharge. The British Red Cross has unique insights into hospital discharge:
 - In Wales, the British Red Cross has been working with the NHS in Wales to deliver home from hospital services for over 20 years. In 2021 we delivered eight services across Wales, supporting over 2,000 people.¹ Through this work, we have seen the positive impact support at home can have, both on people and the healthcare system.
 - We have also been supporting in emergency departments in Wales since December 2018. We are currently providing support in 12 Welsh emergency departments, working closely with NHS staff to prioritise patient pastoral care needs. As part of this service, we also provide support once the person is discharged home from hospital through a short intervention which offers assistance ranging from befriending services and domestic support to supporting referrals to Care and Repair for home adaptations and to Social Services for care needs assessments.
 - The British Red Cross also has a number of insights from our growing research and evidence base into the needs of people being discharged from

¹ In 2021, we accepted 2,737 new referrals for support, with seven cases pending over to 2022.

hospital.² The methodology for the research upon which this submission is based is detailed in Annex 1.

4. This submission draws on our extensive experience as a service provider, working in partnership with the NHS and our growing research and evidence base into the needs of people leaving hospital in the UK and will respond to the relevant areas of interest to the Committee and Red Cross. Our experience and research shows that the hospital discharge process is not consistently meeting the needs of patients and carers in Wales for three main reasons:
 - a. A lack of communication across the board. This includes communication between teams in hospital and with community-based staff but also a lack of communication between health and social care professionals and patients and carers during the discharge process.³
 - b. Pre and post discharge assessments are not being carried out where patients felt they had support needs.⁴
 - c. A lack of resources in the community. This includes the availability of social care,⁵ services in the community not having capacity to run a 'seven days' service⁶ and barriers to the Voluntary and Community Sector (VCS) being able to provide support in the community.⁷

5. Our upcoming research, *Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales* also found that the Discharge to Recover then Assess (DR2A) model, which was mandated within guidance in April 2020,⁸ is supported by health and social care staff working in hospitals and communities and professionals working in the VCS that we spoke

² British Red Cross, 'Home to the unknown: Getting hospital discharge right' (2019) redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/british-red-cross-home-to-the-unknown-full-report.pdf?la=en&hash=473A7D4C88DE5C38C48E982BE7212B9E7037C352
British Red Cross and Healthwatch England, '590 people's stories of leaving hospital during COVID-19 (October 2020)' redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/590-stories-of-leaving-hospital-during-covid-19.pdf?la=en&hash=748707F3A43B80B00CC5D60715CEF2E23B6F6751

British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' due to be published in March 2022. **Contact British Red Cross for the link once published.**

³ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

⁴ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

⁵ British Red Cross, 'Home to the unknown: Getting hospital discharge right' (2019) redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/british-red-cross-home-to-the-unknown-full-report.pdf?la=en&hash=473A7D4C88DE5C38C48E982BE7212B9E7037C352

⁶ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

⁷ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

⁸ Welsh Government, (2020) 'COVID-19: hospital discharge service requirements' gov.wales/sites/default/files/publications/2021-11/covid-19-hospital-discharge-service-requirements_0.pdf

Y Groes Goch Brydeinig

to. The report identified a collective agreement that patient outcomes tend to be better when they are able to recover at home, as long as there is capacity to adequately assess them at home once discharged.

II. The scale of the current situation with delayed transfers of care from hospital and the impact of delays in hospital discharge, both on the individual and the patient flow through hospitals and service pressures.

Delays in discharge

6. Our research, *Home to the unknown: Getting hospital discharge right (2019)*, which covers all four UK nations, emphasised a persistent narrative about a shortage of carers causing delays, with many healthcare professionals highlighting that patients were getting worse on the wards while awaiting a care package.⁹ Concerns around availability of social care were also echoed in *Listening to what matters* by many VCS and health and social care staff in both hospitals and the community.¹⁰
7. **To improve access to social care, the British Red Cross recommends that:**
 - Welsh Government reform social care to take forward a long-term settlement for social care provision which embeds the universal implementation of the D2RA model as part of that process.

Delays in leaving an acute hospital setting after a decision to discharge

8. We have also found that people are experiencing delays in leaving hospital after a decision by medical professionals to discharge. *Listening to what matters* found that in practice some people were waiting longer than the three-hour target within in the discharge guidance.¹¹ Survey results indicate that almost half (36 of 77 respondents) waited more than three hours, with 23 per cent (18 of 77 respondents) waiting more than eight hours between being told they were well enough to go home and being discharged.¹²

⁹ British Red Cross, 'Home to the unknown: Getting hospital discharge right' (2019) [redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/british-red-cross-home-to-the-unknown-full-report.pdf?la=en&hash=473A7D4C88DE5C38C48E982BE7212B9E7037C352](https://www.redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/british-red-cross-home-to-the-unknown-full-report.pdf?la=en&hash=473A7D4C88DE5C38C48E982BE7212B9E7037C352)

¹⁰ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

¹¹ Note that Welsh Government, (2020) 'COVID-19: hospital discharge service requirements' gov.wales/sites/default/files/publications/2021-11/covid-19-hospital-discharge-service-requirements_0.pdf states that all patients must be transferred to an allocated discharge area/lounge within one hour of decision to discharge and patients should leave the discharge lounge within two hours with any practical measures put in place.

¹² British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

Y Groes Goch Brydeinig

9. *Listening to what matters* found that the main reason for delayed discharge reported by patients was a delay in medication being prepared and delivered by the hospital pharmacy. Several patients also reported waiting hours for consultants to complete their discharge paperwork.¹³
10. *Listening to what matters* highlighted some impacts as a result of delays in leaving hospital after a decision to discharge, experienced by patients, their families, and their carers.¹⁴
 - Most patients that were interviewed reported no significant health consequences of this delay. Some reported that delays caused inconvenience to their friends and families who were waiting to pick them up from hospital.
 - Some professionals working for the VCS also raised issues with unreliable public transport, which was compounded by delays in discharge, making transport hard for patients to plan.
 - A couple of professionals from VCS organisations raised concerns around delayed discharge for those that needed domiciliary care, in particular when an individual is discharged at night. In some situations, carers may not be arriving until the following morning which leaves those discharged at night to meet their own needs in the meantime.
11. **In order to alleviate the impacts of delays in leaving hospital once a decision to discharge has been made, the British Red Cross recommends that:**
 - Medication needs should be communicated to pharmacists as soon as possible in order to enable timely discharge.
 - Patients are routinely asked about their patient transport needs, linking in with friends and family, with discharge coordinators arranging transport for those that need it or have nobody to do this for them, as already referenced in the Covid-19 Hospital Discharge Service Requirements.
 - Hospitals ensure no one is discharged at night where transport cannot be guaranteed.

III. The variations in hospital discharge practices throughout Wales and cross-border, and how they are meeting the care and support needs of individuals.

12. Through our operational work in Wales and across the UK, we see many examples of excellence. However, our research, highlights a lack of

¹³ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

¹⁴ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

consistency and as such too many people are falling through the gaps with unmet needs.¹⁵

Communication

13. Despite the guidance in Wales emphasising the need to provide information leaflets to all patients, both when arriving and leaving hospital,¹⁶ *Listening to what matters* found this does not always happen in practice. Most patient interviewees and 58 per cent (39 out of 67) of survey respondents said that they had not received a leaflet either on admission or when being discharged. While some participants found information in alternative ways, some health and social care professionals and VCS professionals highlighted that this was a missed opportunity to share information with patients, carers, and families.¹⁷
14. In addition, the guidance states that the information leaflet should contain locally agreed details for all patients to call about any concerns or about their care.¹⁸ Again, despite the guidance making this clear, our research *Listening to what matters* found that this requirement is not consistently being met in practice. Around two fifths (33 out of 80) of respondents to the survey reported that they were not given information about who to contact if they needed further health advice or support after leaving hospital.¹⁹
15. **In order to improve communication between health and social care staff and patients around the discharge process, the British Red Cross recommends that:**
 - All patients are provided with a leaflet about the new discharge processes on admission and on a decision to discharge, as stated in the Covid-19 Hospital Discharge Requirements.
 - Discharge teams follow the Covid-19 Hospital Discharge Requirements to provide a point of contact for all patients leaving hospital within the discharge choice leaflets.

¹⁵ British Red Cross, 'Home to the unknown: Getting hospital discharge right' (2019) redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/british-red-cross-home-to-the-unknown-full-report.pdf?la=en&hash=473A7D4C88DE5C38C48E982BE7212B9E7037C352

¹⁶ Welsh Government, (2020) 'COVID-19: hospital discharge service requirements' p7 gov.wales/sites/default/files/publications/2021-11/covid-19-hospital-discharge-service-requirements_0.pdf

¹⁷ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

¹⁸ Welsh Government, (2020) 'COVID-19: hospital discharge service requirements' p36-37 gov.wales/sites/default/files/publications/2021-11/covid-19-hospital-discharge-service-requirements_0.pdf

¹⁹ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

Variations in levels of collaboration between professionals

16. *Listening to what matters* also identified varying levels of collaboration and integrated working between hospital and community professionals. Some health and social care professionals provided examples of successful joined up approaches to discharge, and one VCS professional shared how they are embedded within a hospital discharge team which has allowed the team to identify needs earlier on. While these situations provide good examples of collaboration and communication, this wasn't the case for all professionals we interviewed.²⁰
17. **In order to ensure all sectors are involved in the discharge process, the British Red Cross recommends that:**
- Ward staff ensure that a multi-disciplinary team approach is taken to discharge planning, including working with social services, pharmacy, the VCS, and transport services where appropriate.
 - The COVID-19 Hospital Discharge Requirements should be amended to require joint working between hospital staff, social care staff and professionals in the community (including the VCS) to carry out holistic assessments upon admission which ensures opportunities for the involvement of other services and better facilitates joint working early on.

Asking about support needs

18. *Listening to what matters* found some people were assessed both pre and post discharge, while some people were not assessed at all. 32 per cent (16 out of 50) of survey respondents did not have their needs discussed at all prior to discharge. In addition, around 15 per cent of survey respondents (11 out of 70) felt that they needed an assessment after leaving hospital but didn't receive one. Support needs that were not met included health needs, somebody to talk to and help with general tasks (such as laundry or cooking).²¹
19. It is important to note according to the guidance, assessments after leaving hospital are only required for those assigned to D2RA pathways. Many of our respondents in *Listening to what matters* were placed on simple discharge, and were thus not entitled to an assessment, which suggests the importance of asking patients about their needs prior to discharge.

²⁰ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

²¹ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

20. **In order to address people's support needs, the British Red Cross recommends that**
- A five-part independence check should be included in the hospital discharge process prior to discharge or within 72 hours of going home to facilitate conversations between health professionals, patients, their families, and carers about their practical, social, psychosocial, physical, and financial needs.²²
 - The Department for Health and Social Services should rapidly explore the inconsistencies around follow up assessments to understand the extent of the problem.

Variations in implementing the D2RA model

21. Through our work across Wales, our operations staff have highlighted concerns around the different terms used in the Covid-19 Discharge Service Requirements.²³ In particular, D2RA may be known as something else in different parts of Wales, such as Home First, adding confusion to the current discharge environment. Issues were also raised by staff around practice being applied across the border, with England's D2A model missing the concept of recovery in the title, which may impact on a patient's care plan if treated in England but living in Wales.
22. *Listening to what matters* has also identified varying levels of roll out of the D2RA model, which will impact on those patients assigned to D2RA pathways. While all professionals we spoke to support the model, some health and social care professionals and professionals from the VCS highlighted issues around differences in implementation, with the development of the pathways at different stages across different regions of Wales. In addition, there is a consensus that there isn't enough knowledge of the D2RA model within the health and social care sector, which may also impact on the model's implementation.²⁴
23. **In order to address variations of the D2RA model, the British Red Cross recommends that**
- The Department for Health and Social Services clarify the hospital discharge policy to health and social care staff in Wales through training on the D2RA pathways.

²² British Red Cross, Five-part independence checklist: redcross.org.uk/about-us/what-we-do/we-speak-up-forchange/more-support-when-leaving-hospital/getting-hospital-discharge-right#Our%20recommendations

²³ Welsh Government, (2020) 'COVID-19: hospital discharge service requirements' gov.wales/sites/default/files/publications/2021-11/covid-19-hospital-discharge-service-requirements_0.pdf

²⁴ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

Y Groes Goch Brydeinig

- The Department for Health and Social Services amends the guidance or provides complementary guidance to include advice to staff in Wales on how to best determine the most appropriate pathways for patients.

IV. The main pressure points and barriers to discharging hospital patients with care and support needs, including social care services capacity.

Short term funding streams

24. *Listening to what matters* highlighted that short term funding is considered to be a barrier to providing support in the community. For example, one health and social care professional highlighted that once ward staff became aware of services available in the community and may want to refer, the service may have come to its end due to short term funding streams.²⁵
25. Indeed, this can be reinforced by our operational insights which have found that funding for VCS provision of health and social care services is not provided for on a long-term basis. Short-term funding contracts lead to high staff turnover and can shift the focus away from quality of service for users and onto recruitment. Diverted focus onto training and recruitment means that organisations are unable to provide optimum delivery standards.
26. **In order to improve funding arrangements, the British Red Cross recommends:**
 - A commitment to a shift in practice to longer term resourcing to sustainably fund integrated care programmes and preventative projects.

Staffing in hospitals

27. In our report *Listening to what matters*, a couple of health and social care professionals also identified issues around staffing shortages which resulted in health and social care staff being unable to prioritise communication with other professionals, families, and the patients themselves about a patient's care needs and wishes.²⁶
28. **In order to alleviate staffing concerns in healthcare, the British Red Cross recommends that:**
 - The Welsh Government utilises work already being carried out in this space, such as 'A Healthier Wales: Our Workforce Strategy for Health and Social

²⁵ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

²⁶ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

Care' to improve strategic workforce planning and identify areas of shortage as early as possible in order to address those quickly and effectively.

Lack of 'seven-day services' in the community

29. *Listening to what matters* has highlighted the pressures felt by health, social care and VCS organisations working in the community to respond to the demand of discharges seven days a week when a seven-day service is not always available in the community. Further, the pressure and expectation on community teams was felt to be too great and VCS organisations told us they felt that they are having to respond to the increased demand when they don't always have the necessary resources.²⁷
30. **In order to alleviate the lack of seven-day services in the community, the British Red Cross recommends that**
- There is further investment in community-based support to better meet the increased workload and this should include further investment in making community services 'seven-day services' to meet the needs of patients and carers being discharged from acute hospitals.

Barriers to effectively utilising the Voluntary and Community Sector (VCS)

31. We believe that the VCS can help relieve pressure on the health and social care sector, improve patient flow and achieve better outcomes for people. The VCS can also help to tackle fatigue within the health and social care sector and be deployed flexibly along the hospital discharge process. In our emergency department services, for example, we provide emotional support to patients, alleviating pressures on clinical staff who can focus on meeting patients' medical needs. We believe this demonstrates the potential for the VCS to complement clinical provision in providing pastoral and psychosocial support.
32. However, some of our research reports have identified barriers to effectively utilising VCS contributions as a way to relieve pressures and add capacity within the health and social care sector:
- *Home to the unknown*, highlighted that many clinical staff and some social care staff were unaware of other non-clinical services offered by the VCS.²⁸

²⁷ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

²⁸ British Red Cross, 'Home to the unknown: Getting hospital discharge right' (2019) redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/british-red-cross-home-to-the-unknown-full-report.pdf?la=en&hash=473A7D4C88DE5C38C48E982BE7212B9E7037C352

Y Groes Goch Brydeinig

- *Listening to what matters* found that best practice examples of embedding VCS professionals into discharge processes are not being carried out across the board.²⁹
33. **In order to recognise the VCS as a key health and social care partner, the British Red Cross recommends that:**
- The VCS' potential should be recognised and invested in. This includes ensuring that a Multi-Disciplinary Team approach is undertaken by ward staff, which includes opening up opportunities for VCS organisations to be embedded within hospital settings.
- V. The help, support and advice that is in place for family and unpaid carers during the process.**
34. *Listening to what matters* found that many family members and carers did not feel included in the discharge process despite emphasising that they would benefit from being involved. Four fifths of carers (20 out of 25 survey respondents) disagreed that they felt sufficiently informed and involved in decision making, and two thirds (17 out of 25 survey respondents) disagreed that they had enough information to support their friend or relative. In some situations, this was said to have led to patients being sent home with equipment that families had not been taught to use, or needs that families were not aware of.³⁰
35. **Therefore, in order to involve carers and family members in the discharge process, the British Red Cross recommends that:**
- The Department for Health and Social Services introduce checklists into the Hospital Discharge requirements guidance in Wales to support conversations with families and carers to ensure patients have the immediate support they need when they get home.
36. The current guidance notes that the majority of patients will be discharged without any further support other than that provided by their usual support mechanisms such as friends, family or neighbours.³¹ However, from our operational insight, we have found that people aren't always managing with informal support networks, or informal support networks aren't always there. This may in turn lead to people falling through the gaps within support structures. This is reinforced by *Listening to what matters* which found that two

²⁹ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

³⁰ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

³¹ Welsh Government, (2020) 'COVID-19: hospital discharge service requirements' gov.wales/sites/default/files/publications/2021-11/covid-19-hospital-discharge-service-requirements_0.pdf

Y Groes Goch Brydeinig

thirds (17 out of 25 survey respondents) disagreed that their own caring responsibilities were considered in decision making.

37. **In order to ensure that patients who may have informal support requirements have their support needs met, the British Red Cross recommends that:**
- Hospital discharge teams check what support family and carers can provide and whether plans are in place should circumstances change. This should be added to the Covid-19 Hospital Discharge Requirements guidance and apply to all patients.
38. Participants in *Listening to what matters* raised concerns around identifying informal carers in that many relatives do not often think of themselves as carers.³² Operations staff have also raised concerns around identifying carers and nominated family members, particularly for those patients living with dementia. As a result, these individuals may not take steps to access relevant support.
39. **In order to effectively identify family members who may act as a patient's carer, the British Red Cross recommends that:**
- Hospital teams work with relevant organisations, including those from the VCS, to help identify informal carers or those who intend to give care at home as soon as a patient is admitted to hospital. The carer should be provided with support links and access to information on their rights and advocacy services for the patient if needed.

VI. What has worked in Wales, and other parts of the UK, in supporting hospital discharge and improved patient flow, and identifying the common features.

Common features of what has worked in Wales to support hospital discharge

40. *Listening to what matters* highlighted that good communication is the key to successful discharge. Feedback from survey respondents suggests that where time was taken to explain and inform patients about discharge and next steps, this resulted in a positive experience for patients.³³ This reaffirms our recommendations on providing all patients with discharge leaflets, alongside conversations between healthcare professionals and patients and their families and carers.

³² British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

³³ British Red Cross, 'Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales' (due to be published in March 2022).

41. In addition, some health and social care professionals in *Listening to what matters* gave examples of successful joined up approaches to discharge. This reinforces recommendations above on ensuring multi-disciplinary approaches within wards.

Other parts of the UK

42. Through our Red Cross services in hospitals, we see how non-clinical factors can affect health outcomes when people return home. Indeed, our 2019 report *Home to the unknown* recommended a five-part independence checklist in the hospital discharge process to facilitate conversations between health professionals, patients, their families, and carers about their practical, social, psychosocial, physical, and financial needs.³⁴ The checklist was also recommended in our England report, *590 people's stories of leaving hospital during Covid-19*.³⁵
43. In recognition of this, England, have recently updated guidance to include holistic welfare checks so that everyone leaving hospital will receive a holistic welfare check to determine the level of support, including non-clinical factors, such as their physical, practical, social, psychological and financial needs.³⁶ As noted above, **we are also calling for the introduction of an independence check in Wales to facilitate conversations between health professionals, patients, their families and carers about their practical, social, psychosocial, physical and financial needs.**

VII. Other relevant insights

What matters conversations

44. The notion of asking patients what matters to them is a well-known principle in health and social care. Further, this is reflected in the guidance FAQs for

³⁴ British Red Cross, Five-part independence checklist: redcross.org.uk/about-us/what-we-do/we-speak-up-forchange/more-support-when-leaving-hospital/getting-hospital-discharge-right#Our%20recommendations

³⁵ British Red Cross and Healthwatch England, '590 people's stories of leaving hospital during COVID-19 (October 2020)' redcross.org.uk/-/media/documents/about-us/research-publications/health-and-social-care/590-stories-of-leaving-hospital-during-covid-19.pdf?la=en&hash=748707F3A43B80B00CC5D60715CEF2E23B6F6751

³⁶ UK Government, Hospital Discharge and Community Support: Policy and Operating Model assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/999443/hospital-discharge-and-community-support-policy-and-operating-model.pdf#page=37&zoom=100,93,96

Y Groes Goch Brydeinig

patients placed onto a D2RA pathway.³⁷ *Listening to what matters* found that not all patients we spoke to were being asked about this:³⁸

- Around two fifths (28 out of 71 respondents) said that they did not have a conversation with anyone about what matters to them, but that it would have been helpful.
- For some participating in the qualitative research with less complex needs, there was a feeling that what mattered to them was considered and they were broadly happy with how this impacted the discharge process as a result. However, those with more complex needs felt that ‘what matters’ to them was not considered, and the focus was more on their medical needs.

45. In order to provide patient-centred care, the British Red Cross recommends that:

- ‘What matters’ conversations should be embedded into the guidance for all patients and a checklist should be introduced to streamline the quality of these conversations.

Meeting the needs of people living with dementia

46. *Listening to what matters* found that all health and social care and VCS professionals expressed concern that the needs of patients living with dementia are not being effectively met by current discharge processes.³⁹

47. In order to meet the needs of patients living with dementia, the British Red Cross recommends that:

- The Department for Health and Social Services should work with organisations who support people affected by dementia and people living with dementia in Wales. Recommendations from the Cross-Party Group on Dementia’s report *Hospital Care in Wales*⁴⁰ should be considered.

Annex 1: Research methodology for evidence which this submission is based

In this response, we have touched on some of our research papers related to hospital discharge, the below sections detail the methodology for these reports.

³⁷ Welsh Government, Guidance ‘COVID-19: Hospital discharge service requirements: your questions’. Available at: gov.wales/sites/default/files/publications/2020-07/covid-19-hospital-discharge-service-requirements-wales-frequently-asked-questions.odt

³⁸ British Red Cross, ‘Listening to what matters: Placing people’s needs at the centre of hospital discharge practice and policy in Wales’ (due to be published in March 2022).

³⁹ British Red Cross, ‘Listening to what matters: Placing people’s needs at the centre of hospital discharge practice and policy in Wales’ (due to be published in March 2022).

⁴⁰ Contact Alzheimer’s Cymru to request access to the report.

Methodology for Home to the unknown: Getting hospital discharge right

This research was qualitative in nature.

- 13 expert interviews with professionals across health and social care, including policy makers, professionals responsible for operational delivery and stakeholders working at the British Red Cross were carried out.
- The research team also carried out site visits and telephone interviews with clinical and social care teams working in four NHS Trusts across the UK.⁴¹ The hospitals selected were a mixture of both urban and rural. It should be noted that this research was not intended to offer a meaningful comparative study across the United Kingdom, focused as it is on only four Trusts.
- 28 in depth interviews with families with a diverse range of experiences of hospital discharge and after care were also carried out. The sample was focused on people who had not received social care support, either because they were ineligible, because they were unaware of its availability or because they turned it down.

The research also used an ethnographic approach, meaning the team collected different types of data from interviews, observation of processes and interactions, written documentation, and photography.

Methodology for Listening to what matters: Placing people's needs at the centre of hospital discharge practice and policy in Wales

The research consisted of a series of in-depth interviews and focus groups with patients, health and social care staff and professionals from the VCS, and an online survey with patients and carers of patients who had been discharged from hospital since the start of May 2020.

The qualitative elements of this study comprised 16 semi-structured, in-depth interviews (10 with individuals who had been discharged from hospital, one with a carer and five with VCS professionals) and two focus groups with health and social care professionals (one group working in acute settings and one working in community settings). 15 individuals were involved across the two focus groups – eight in the hospital-based group and seven in the community-based group. All fieldwork took place in October 2021. The survey sample is not representative, as detailed below, but does provide valuable insight into the issues raised in the qualitative research findings which reflect more widespread issues.

⁴¹ East Sussex Healthcare – incl. Eastbourne District General Hospital, Ceredigion, and Mid Wales NHS Trust – incl. Bronglais General Hospital, NHS Lothian – incl. Royal Infirmary of Edinburgh and South Eastern Health and Social Care Trust – incl. Ulster hospital.

Y Groes Goch Brydeinig

In order to add breadth to the qualitative findings we ran an online survey from 10 September to 18 October 2021. Anyone who was aged 18 years or over, living in Wales and had been discharged from an acute hospital setting since the start of May 2020 (or someone who cares for/looks after someone who meets this criteria) was eligible to take part in the survey.

- In total there were 100 responses, though not all respondents answered every question. There were 64 complete responses, with drop offs at various points throughout the survey. We have analysed responses for anyone who answered up to at least Q5 in the results (100 respondents), however it should be remembered that the results to each question will be based on a different number of responses (the base number has been noted in the written evidence above). Drop-outs on self-completion surveys are not uncommon, and while we cannot be sure why respondents have dropped out, these individuals' perspectives on their discharge experience remain valuable and should not be discounted.
- In terms of the profile of respondents (the person discharged from hospital) of all 100 respondents. There was a relatively good spread in relation to certain characteristics:
 - 22 respondents were male, 43 were female. 35 did not answer.
 - 32 respondents were aged 65 years or more, 17 respondents were aged between 45 and 64 years, and 14 respondents were aged under 45 years. 36 did not answer and 1 preferred not to say.
 - Respondents include patients living across all but one of the 22 local authorities within Wales; however, it should be noted that there was a higher proportion of responses from south and mid Wales than from north Wales.
 - The month patients were discharged in is also spread well across the 18-month period from May 2020 to October 2021.

However, samples were uneven in relation to other characteristics:

- 64 respondents were White (61 White British, 3 per cent White Other) and 1 respondent was from an Asian background. 35 did not answer.
- 34 respondents reported having a disability and 31 respondents had no disability. 35 did not answer.
- 53 respondents considered themselves to have one or more long-term health conditions and 11 said they do not (35 did not answer and 1 preferred not to say) – the number of respondents to the survey with a long-term health condition is much higher than seen across the general population (Census 2011 shows 23 per cent of the population in Wales had a limiting health condition).

Methodology for 590 people's stories of leaving hospital during Covid-19

This research consisted of both qualitative and quantitative research. British Red Cross and Healthwatch England ran a national survey from 21 July 2020-26 August 2020, collecting responses to those who had been discharged between March and August 2020. We spoke to 529 people, 352 of these were patients and 177 identified themselves as unpaid or paid carers.

Alongside this, eight local Healthwatch and British Red Cross conducted interviews with 47 representatives of services involved in the discharge process, as well as 14 paid carers of people with learning disabilities.

Hospital Discharge and its impact on patient flow through hospitals

Written evidence submitted by Care & Repair Cymru: January 2022

Introduction to Care & Repair

1. Care & Repair Cymru is Wales' Older People's Housing Champion. Our aim is to ensure that all older people in Wales can live independently in safe, warm, accessible homes. We are the national body for Care & Repair in Wales, representing 13 independent Care & Repair Agencies (CRAs) operating in every county offering a wide range of home improvement services, tailored to client's needs and local circumstances. In 2020/21 we supported nearly 43,913 older people across Wales, 32% of whom lived alone. We carried out 36,371 adaptations in homes to help prevent trips and falls and reduce pressures on the NHS – more than double of 2019/20 output – whilst delivering £14.5 million's worth of repair and improvement work to improve the health, safety, and warmth in people's homes¹.
2. Our innovative *Hospital to a Healthier Home* (H2HH) service is cross-tenure and ensures that older people are discharged from hospital into a home fit for their needs. The H2HH service complements the clinical service offered by the NHS to make patients medically fit by providing a "property doctor" service, focusing on making patients' homes safe, warm, and accessible.

Key to our Hospital to a Healthier Home service are:

- a) quicker safe discharges of care
- b) improved patient flow
- c) reduced re-admission rates

Our service has expanded across Wales, now working out of seventeen principal hospitals in addition to receiving referrals from community hospitals. The service employs thirteen specialist *Hospital to a Healthier Home* caseworkers who are integrated into hospital discharge teams.

We are committed to developing sustainable services which provide support to vulnerable, older people that helps them live independently, with dignity, and supports their health and wellbeing through improved housing conditions.

¹ For more information, please see Care & Repair Cymru's 2020/21 Annual Report. Available at: https://www.careandrepair.org.uk/files/6916/3215/1992/Annual_Report_2020-21.pdf

Response

The scale of the current situation with delayed transfers of care from hospital and the impact of delayed hospital discharge, both on the individual and the patient flow through hospitals and service pressures.

In September 2021, there were 1,400 patients in Welsh hospitals who were “clinically optimised and ready for discharge, but the support they need[ed] to leave hospital [was] not available. This has the equivalent impact on bed capacity to shutting down the University Hospital of Wales in Cardiff”².

Our Hospital to a Healthier Home service has worked throughout the pandemic to support the Welsh NHS. This year we have seen unprecedented demand for our services:

- In the first six months of financial year 2020/21, the service received 1,961 referrals. In the first six months of this year, the service received 2,619, an increase of 34%. This shows the increased need for our service to help improve patient flow in hospitals. There are an increasing number of older patients in Welsh hospitals who are medically fit for discharge but cannot go home without a Care & Repair intervention due to the unsuitable or unsafe condition of their home.
- The number of home improvements using the same comparable time frame has increased during 2021/22 by 15%, but the value of these works is up by 117%. The huge increase in value of works is not just because of inflation and increase costs of labour and materials, which has a significant effect, but also because older people are requiring increasingly more complex adaptations. Wider repair, home safety and social welfare issues also need to be addressed, in order for them to be discharged safely from hospital and remain independent in their homes with lower risk of readmission.

The figures validate what our H2HH caseworkers tell us they are experiencing on the ground. When surveyed, our caseworkers said that Occupational Therapists are seeing sicker patients than they were before the pandemic: problems accessing services or reluctance to contact GPs during the pandemic has meant that patients have not sought healthcare until their conditions worsen to a more critical stage prior to admission. In the same way an older person can decondition over time, so does the condition of their home in terms of its viability for independent living. One caseworker noted that they have seen many patients throughout the course of the pandemic that had clearly suffered strokes but were too scared to contact the GP or emergency care in case they contracted Covid. The caseworker’s concern is that if this is the case for acute conditions like strokes, then it is likely that many other chronic and longer-term conditions have

² <https://www.nhsconfed.org/articles/painting-picture-update-pressures-facing-nhs-wales>

also gone unreported, which in turn has led to more patients remaining in hospital for longer periods, creating pressure on the healthcare system.

H2HH caseworkers and hospital staff agree that there is not one particular issue, but a combination of several interlinked issues from all aspects of patient care – including the above pressures, insufficient bedspace, and insufficient social and community care opportunities – resulting in significant delays to patient discharge or transfer. This also means that there are a lot of moving parts when it comes to successfully assessing patients for discharge, and a golden window of opportunity to do so quickly and comprehensively whilst the patient remains medically fit. To be successful, innovative policies such as *Discharge to Recover and Assess* must have the proper infrastructure to ensure that patients are discharged into environments conducive to recovery. The dangers of not taking full account of the suitability of properties where patients will be discharged patients include higher risks of readmissions, and insufficient opportunity to return to confident independence, potentially resulting in loss of resilience completely.

The variations in hospital discharge practices throughout Wales and cross-border, and how they are meeting the care and support needs of individuals.

We can offer comment on this from the perspective of our H2HH service. Operationally, we note that the level of integration and inclusion of our H2HH caseworkers varies across both regions and individual hospitals. For example, best practice amongst our caseworkers comes from those who are fully involved in ward rounds, discharge planning meetings and are provided a desk within the hospital amongst other inclusions which make for better partnership working that can really target earlier intervention. Where integration of H2HH is best, it is a clearly identifiable go-to service.

In some hospitals, the caseworker may not be afforded a desk in the hospital and receives most referrals remotely. Previously, we would have said that this was down to the history of the service in some areas, for example Bridgend where the service was initially piloted on a short-term visiting basis, but as relationships grew has become well integrated into the hospital. However, our service has recently expanded in ABUHB to include Ysbyty Ystrad Fawr in April 2021 and has been fully integrated. This indicates that some of the variations also come from strategic level engagement within the hospital to facilitate proper partnership working.

One caseworker noted that inequalities in funding and social provision across Wales are rife. For example, Powys does not have a General District Hospital, the lack of which makes the whole discharge process extremely difficult and contributes to problems with safe, timely discharges.

We are currently trying to secure long term, sustainable Local Health Board funding of our Hospital to a Healthier Home service. Despite the fantastic outcomes of this service and on the ground support from NHS Staff, engagement from senior level health board staff has varied across Wales. Without engagement and funding commitment from LHBs across Wales, the

service will cease to exist in some areas from April 2022. Variation will result in a postcode lottery and mean that potentially thousands of older people will experience delayed transfers of care across Wales, as well as remain in the growing pool of older patients that live under the threat of cyclical readmission.

The main pressure points and barriers to discharging hospital patients with care and support needs, including social care services capacity.

From our experience, we agree with the findings in Audit Wales' report *What's the Hold up? Discharging patients in Wales*. Discharge Planning. The discharge process relies on a number of alignments leading to overcomplexity in the system. A shortage of home carers, care home beds, and "limited capacity across community reablement services are major factors in causing delays"³. This lack of availability of care home space was also noted by our H2HH caseworkers.

One *Hospital to a Healthier Home* caseworker, who took on the role during the pandemic and has exclusively joined discharge meetings remotely, noted that there is consistent concern between caseworkers and colleagues about the lack of community support available to enable discharge.

However, we also would like to highlight an additional point regarding the condition of housing that can mean agreed packages of care are unable to be fulfilled due to delayed transfers of care, or in some cases because of health and safety of homes in such poor condition they are deemed unsafe for care staff to enter.

Those leaving hospital with care needs also need a home fit to be cared in. Only undertaking discharge assessments around limited criteria when a patient is declared medically fit for discharge often leads to delays in transfers of care or poorly organised discharge arrangements. Without *Hospital to a Healthier Home*, which completes a full Healthy Homes Check to ensure that homes are safe, warm and accessible, hospital staff can underestimate the time needed to effectively plan discharge and ensure patients are able to effectively resume independent living whilst enjoying an environment conducive to recuperation. One Occupational Therapist we interviewed from Prince Philip Hospital in Hywel Dda noted where Care & Repair are invaluable in the discharge planning process:

"The work that the Healthy Homes Check has done has given us more time and just more creative and flexible working.

She [the H2HH caseworker] is going out anyway, and that has saved an Occupational Therapist going out, it has saved the travelling, the clinical time off the wards, and we either get the measurements of the information we need straight away, or we can link up virtually

³ https://www.audit.wales/sites/default/files/discharge-planning-leaflet-2019-english_5.pdf (p.4).

with her when she's there... Rather than us learn late in the day that the home isn't great, and now that's delaying discharge"

– Occupational Therapist, Prince Philip Hospital, Hywel Dda

These issues are likely compounded by Covid-19, and now another winter with restrictions, meaning that housing conditions have gone unchecked and unresolved. Ward staff may also be unaware of the full breadth of community and social care packages available to patients awaiting discharge⁴. Again, this is where H2HH Caseworkers play an invaluable role and ensure that the right service is made available to the patient upon discharge.

The support, help and advice that is in place for family and unpaid carers during the process.

Often H2HH caseworkers take on this family liaison role to allow for NHS staff to spend more clinical time on wards. One H2HH caseworker noted that one of her clients was discharged, with little warning, to their daughter's home, where she was not ready to take on his care needs and was missing experience and basic furnishings, including a bed for him. Our H2HH caseworkers offer long term support for housing needs, long after the initial essential works to enable safe discharge have been completed.

The same caseworker noted that, due to unexpected discharge and stretched packages of care in the community, many families have no choice but to provide care they would ordinarily not be able to, due to lack of experience, or be comfortable with, including peg feeding and continence care. The fundamental role that informal and unpaid care provides for the hospital discharge process is clearly under-supported.

Audit Wales also note that the support and information available to patients and their families or carers was limited when it came to the discharge process as a whole, and the services on offer to avoid readmission or long-term residential care – our H2HH often must provide this information to families⁵.

What has worked in Wales, and other parts of the UK, in supporting hospital discharge and improved patient flow, and identifying the common features.

We believe our service works in Wales. In 2020/21, we saved the Welsh NHS 20,516 bed days, saving the Welsh NHS over £5.1 million.⁶ Already in the first six months of 2021/22 we have saved

⁴ https://www.audit.wales/sites/default/files/discharge-planning-leaflet-2019-english_5.pdf (p. 12)

⁵ https://www.audit.wales/sites/default/files/discharge-planning-leaflet-2019-english_5.pdf (p. 13)

⁶ Bed day figure based on prudent estimates using NICE guidance. Savings cost calculated using NICE [costing guidance](#), [uplifted for inflation](#), minus total H2HH service cost in 2020/21.

the Welsh NHS 13,764 bed days, helping improve patient flow and ultimately saving the local health board money. Please see appendix 1 for a full break down of our service outcomes for April 2020 - March 2021, and appendix 2 for the services' outcomes between April and September 2021, which demonstrate the continued improved performance of the service.

Quick referrals into our H2HH service leading to early intervention, result in the better outcomes for quicker patient discharge. For this to happen, third sector partners should be fully integrated into the hospital setting – areas where H2HH has been longer established and more fully embraced by health partners via co-location and integration into discharge planning teams are the areas where we receive higher volumes of referrals and are able to assist more patients and staff with safe hospital discharge.

Often, examples of best practice, such as *Hospital to a Healthier Home* are vulnerable due to short term funding and just as they start to become embedded, more efficient, and well used, suddenly cease to operate. Annualised short-term funding brings insecurity in terms of retaining trained, skilled, experienced staff (as they inevitably look for alternative employment towards the end of each annual funding round), restricts the ability of H2HH Caseworkers to become part of MDTs and lessens the ability to embed and improve the service strategically.

At the moment, Hospital to a Healthier Home will cease to exist in April in some parts of Wales due to funding ending, as is the case with many third sector services that support the health sector. The ideal scenario is embedding proven services such as H2HH long term through LHB funding. However, if this is not achieved, we will seek alternative funding sources, possibly transformation funding or ICF through Regional Partnership Boards. However, this simply prolongs the challenges associated with short term annualised funding year on year.

What is needed to enable people to return home at the right time, with the right care and support in place, including access to reablement services and consideration of housing needs.

Care & Repair's Hospital to a Healthier Home service has been funded for three years by direct Welsh Government funding and supported by the National Program for Unscheduled Care. Strong outputs and outcomes in terms of ensuring that patients homes are fit to return to, safe, warm and suitably adapted have been achieved, backed by quantitative and qualitative evaluation is being promoted across Wales for its clear contribution to the strategic Discharge to Recover and Assess model.

Care & Repair Cymru and Care & Repair Agencies have facilitated, embedded and serviced active partnerships with NHS acute secondary care services to link housing within the 'whole system' approach to addressing unscheduled care pressures. We have developed NHS protocols that place housing within pathways that support rehabilitation, re-ablement and improved discharge planning. Care & Repair has also been at the forefront of developing approaches and

funding streams that help support quicker safe discharges home, such as the unique to Wales, national and embedded Rapid Response Adaptations programme (with £3 million available in 2022/23 to support discharges through H2HH).

H2HH currently offers:

- A Healthy Home Assessment (undertaken from a standard assessment framework).
- Links to Care & Repair professional technical/surveyor services for works.
- Links to in-house practical (Home Maintenance) services for completion of works.
- Access to capital funding pots for minor/medium repairs/adaptations that are held or accessed by each Care & Repair Agency, and the £3 million WG funded Rapid Response Adaptations Programme (RRAP).
- Benevolent and charitable income sourced for works needed, where applicable.
- Prudent healthcare advice, including falls risk assessment.
- Access to Care & Repair's Hardship Fund for clients whose works cannot be funded by any other source
- Access to our bespoke Decluttering Fund exclusive to H2HH clients.
- Welfare Benefit checks and applications that increase patient's income.
- Support for patient access to Local Authority housing grants and community OT services.
- Referral-on to local statutory and third sector providers for assistance with care needs, loneliness, disabled rights, financial advice etc.
- Links to Care & Repair's Managing Better service- specialist casework support for clients with living with sight or hearing loss, dementia and for stroke survivors. This is delivered through WG Sustainable Social Services Grant, with our partner organisations Alzheimer's Wales, Stroke Association Cymru, RNIB Cymru and RNID Cymru.
- Links to our 70+ Cymru service and Home Energy Officers for expert advice and support for those living in cold homes or in fuel poverty.

A selection of case studies detailing the real-life work our H2HH caseworkers to on a daily basis to support hospital discharge across Wales is available [here](#).

Hospital to a Healthier Home has developed experience of working in busy hospital environments, built strong partnerships and has links to a wide range of community services, where it can draw on resources to address barriers to a safe and effective discharge quickly. Its role as a co-ordinator and problem-solver, when NHS staff are under enormous pressure, and its ability to act flexibly and quickly, bringing with it some funding for key solutions is a critical factor in its success.

Despite this, the continuation of Hospital to a Healthier Home is now subject to individual discussions and applications to each LHB currently taking place, and at risk of ending, at least in parts of Wales, if these applications are not successful.

Appendix 1 – H2HH outcomes for April 2020 – March 2021

Improving homes, Changing lives

Care & Repair

Hospital to a Healthier Home

Speeding up safe discharges, creating safer, warmer homes and reducing re-admissions

April 2020 - March 2021



Care & Repair Cymru

12
Hospital to Healthier Home Caseworkers, working out of

17
Hospitals



3922
patients referred by hospital teams for discharge support



2415
Healthy Home Checks of patients' homes



306
successful benefit claims, with an average of **£4,623.65** a year of extra income per patient. Total increased patient income of **£1.4m** per year

5258
home improvements completed for patients costing **£1,098,183**



3403
patients helped with work to facilitate a safer discharge



100%
of patients said the service helped them return home and live independently



20,516
bed days saved, helping improved patient flow




Appendix 2 – H2HH Outcomes for April 2021 – September 2021 (Q1 and Q2)

Improving homes, Changing lives

Care & Repair

Hospital to a Healthier Home

Speeding up safe discharges, creating safer, warmer homes and reducing re-admissions

April - September 2021



Care & Repair Cymru

13

Hospital to Healthier Home Caseworkers, working out of



17

Hospitals



2619

patients referred by hospital teams for discharge support

1199

Healthy Home Checks of patients' homes



167

successful benefit claims, with an average of **£4,456** a year of extra income per patient. Total increased patient income of **£744,180** per year



3043

home improvements completed for patients costing **£1,193,930**



2114

patients helped with work to facilitate a safer discharge

100%

of patients said the service helped them return home and live independently



13764

bed days saved, helping improved patient flow



Hospital discharge and its impact on patient flow through hospitals

CIH Cymru inquiry response

This is a response to the Senedd's Health and Social Care committee's inquiry focussing on hospital discharge and its impact on patient flow through hospitals.

1. Introduction

- 1.1 The pandemic has brought into sharp focus what the impact of having an affordable, safe place to call home can have on people's ability to remain safe and well. The pandemic has already highlighted the stark differences in people's experiences that find their roots in their housing circumstances. For some the pandemic has provided a chance to spend more time at home, save money, find a better work/life balance whilst enjoying a comfortable home environment. For others who live in poor housing conditions, in overcrowded homes or suffer domestic violence/abuse – being confined to their homes will have been a miserable experience, often making their circumstances even worse.
- 1.2 The role of housing in supporting various activities across health and social care has long been established as a vital part of meeting people's holistic needs. Whilst there is positive progress in ensuring housing is seen as a key partner in supporting patients and carers, the experiences of our members reflects that the recognition of housing's importance can be patchy, with access to the right professionals/teams, the availability of resources to support both the creation and sustainment of effective services a real challenge in practice.
- 1.3 As part of our effort to build a solid evidence base to support the creation of progressive housing policy, our Tyfu Tai Cymru (TTC) project has been operating for almost 5 years, highlighting how approaches in a number of areas relating to meeting people's housing and care needs could be improved. Two reports produced through TTC are of particular relevance to this inquiry:
 - [*Good health brought home*](#) – A study of successful collaborations between health, housing and social care identifying the common characteristics of the partnerships that increase the likelihood of success.
 - [*From hospital to home; planning the discharge journey*](#) – In-depth research based on insights from professionals, patients and carers on the positive impact housing advice can play in supporting effective hospital discharge, and the consequences when opportunities are missed to ensure patients have a suitable home environment.



1.4 Our evidence in the following sections reflects both our own evidence base and the insight gained from our membership of 900 housing professionals working across housing associations, local authorities and the private rented sector in Wales.

2. How housing advice is considered

2.1 Our 'From hospital to home: planning the discharge journey' (H2H) research published in July 2021, provided insights into how delays in patients leaving hospital could affect their ongoing care and well-being.

2.2 Our research identified a key concern being the lack of a singular definition of housing advice and that having a clear agreed definition would be a useful approach, although housing advice is provided in a number of ways. In our research, interviewees in our research agreed with a broad definition of housing advice (which has been adapted from one developed by Care & Repair Cymru) is :

"Housing advice refers to the provision of expert, comprehensive and integrated information about housing, care, financial matters and support aimed at enabling access to appropriate housing and maintaining the suitability and sustainability of a person's home."

We found that housing advice is usually dispensed across professional disciplines. That advice in the main would usually come via:

- Multi-disciplinary hospital discharge teams
- Local authority housing options staff
- Nursing staff

2.3 Whilst there was not an expectation that staff should have particularly in-depth or expert housing knowledge, there was an expectation from the respondents interviewed for necessary and timely referrals and notifications to be made that ensured that the best housing advice could be provided by the most appropriate people to patients, when they needed it.

2.4 The existence or use of a protocol or procedure was not regularly mentioned in our research interviews and where they were mentioned interviewees noted 'it wasn't really followed'. Other interviewees indicated that their approach to discharge planning was more down to an embedded practice and culture.

3. Variation in embedding housing advice/support

3.1 Our H2H research indicated that Hospitals, Health Boards and Local Authorities each took different approaches to addressing hospital discharge. Some had developed their own Social Work Hospital Discharge Teams, whilst others created a range of teams or team roles, including a First Point of Contact Team, Patient Flow Coordinators, Mental Health link workers, Discharge Solutions Officers, Occupational Therapy led discharge teams and individual specialist posts.



- 3.2 Some hospital discharge staff noted that their subsequent involvement with relevant housing bodies relied on well-established health-based professionals in a hospital setting, who often played a key role in holding the process together and in linking up the relevant community-based services in a timely manner.
- 3.3 Whilst expert housing staff were seen as highly impactful and a positive resource for teams to draw-on, there was some reflection in our work for the need to ensure housing is considered as a key area of focus by anyone involved in coordinating effective discharge.
- 3.4 These challenges focused on staff developing an over reliance on expert advice contained within a limited resource (one individual/post), or by having the knock-on effect of deskilling staff, by taking them away from regular involvement in needs assessment, advice provision or discharge planning.
- 3.5 Although not specifically mentioned by interviewees, the impact of gaps in service provision created by 'expert' professionals moving on and leaving posts (and any associated impact on effective discharge planning) was apparent to our interview team. Staff in community-based services, dealing with hospitals without dedicated teams or established health professionals coordinating discharge, reported problems of not having a known point of contact.
- 4. Barriers to effective use of housing advice**
- 4.1 The process of identifying patient needs linked to providing holistic care was considered an issue by most interviewees, causing challenges in practice, including:
- Concerns from some staff that patients may sometimes withhold or distort information in the interest of being able to leave the hospital environment (impacting arrangements for ongoing care)
 - Patients are not always well enough or have capacity to discuss their needs or situation, especially soon after admission and it was not clear in our interviews how these needs were addressed.
 - Prior to being admitted, mental health 'patients' are sometimes assessed over a period of hours/days, found not 'eligible' for treatment, and then 'discharged'. If these patients are unable to return to the home they may have left, they leave with an immediate housing need and without formal discharge planning taking place.
- 4.2 A number of interviewees noted that the 'complexity' of a patient's discharge requirements impacted on being able to achieve a timely and appropriate discharge. This may be due to there being a lack of clarity in establishing the housing circumstances, or through not having involvement or input from family or carers (whose views may not have been sought), or where patients were not previously known to health staff, or where patients may have specific



physical or mental health related conditions that impacted upon the discharge arrangements.

- 4.3 Some complex (which could result in unsafe) discharge were described by respondents as situations where:
- The patients' needs change throughout their stay in hospital meaning their previous accommodation is no longer suitable, at all, or in its previous form.
 - Special equipment such as hoists being required which in turn requires adequate space to be operated safely and effectively;
 - Cases involving hoarding or other health and safety factors, such as a property's electrical wiring hazards;
 - Family not being willing to take a patient back into their own home environment, principally on account of mental health needs, but also as a consequence of the patient's ongoing and unique psychological needs
5. **Help and advice for family and carers**
- 5.1 From the interviews we undertook through our H2H research with carers relating to the involvement of the patient and carer in assessing housing need/in the planning of hospital discharge arrangements, a consistent view was that 'discharge is always an issue.'
- 5.2 Even though the Social Services and Wellbeing (Wales) Act 2014 provides carers with a legal framework for their voices to be heard (through entitlement to a Carer's Assessment), discharge remains a 'post code Lottery', dependent on available facilities/ resources and being reliant on who may be involved in the planning process.
- 5.3 It is not clear from a carer perspective whether all needs, including housing needs are fully considered and it is arguable that COVID-19 pressures, to discharge people from hospital beds, exacerbated this.
- 5.4 Experiences from carers appear to indicate that people are often discharged from hospital to the care of family. In our survey 68% of respondents indicated that 'partner or family' were the main persons involved at the 'receiving end' of the hospital discharge arrangements, often having to lead on ensuring the housing environment was suitable for a discharge home.
- 5.5 Discharge often focuses on the patient's expectations, which is positive, but can mean that discharge planning is driven by patients being 'desperate' (in the words of one carer representative) to leave hospital. This may also be exacerbated by pressures from health services to discharge people, particularly during acute pressure points during the COVID-19 pandemic.
- 5.6 Unsafe discharge remains a concern for carers, particularly where there may be concerns around the age/physical needs of a patient, or where housing needs to be fully considered in relation to the home environment people may be discharged to. Interviewees were clear that discharge should start from



when people are admitted and that housing advice, or work to address the housing needs of the patient should form a key element of that work.

6, Ensuring effective links between staff and services

- 6.1 In our H2H research it was felt that the presence of expert staff in health settings raises both the profile and importance of providing appropriate and tailored housing advice in addressing the wider needs (above the clinical needs) that patients may have. Input from staff with housing expertise can complement and support health professionals in meeting patient needs in a holistic way and facilitate successful hospital discharge taking place.
- 6.2 Our research indicated that a multidisciplinary team (MDT) approach, with the involvement of key professionals was an important factor in ensuring that discharge took place in a safe and timely manner and in meeting patients' needs in a coordinated and holistic way.
- 6.3 Usual MDT attendees included Psychologists, Psychiatrists, Consultants, Ward Managers, Nursing staff, Occupational Therapists (OT), OT Assistants, Activity Workers, Clinical Leads, Discharge Liaison Managers, Senior House Officers, Physiotherapists, Patient Flow Coordinators, Social Workers, all of whom had a crucial role, and in linking into Social Work Hospital Discharge Teams.
- 6.4 Social Service Hospital Discharge Teams, specialist posts and dedicated 'community connector' teams were often (if not always) involved in MDT meetings, and would subsequently play a key role in linking in relevant community-based housing bodies.
- 6.5 Virtually all interviewees described the importance of and reliance on their existing network of services and resources during, but especially following discharge. Respondents described how Social Services, CMHTs, the Third Sector and especially organisations delivering services funded through the Housing Support Grant, play a huge role in meeting the physical health, mental health and ongoing wellbeing needs of patients once they are back in the community.
- 6.6 In terms of ensuring a patient's holistic care needs were captured and considered in a timely way the 'What Matters?' assessment/conversation was mentioned by some hospital-based staff as a document that addresses, amongst many things, the patient's housing situation. The use of this assessment was identified as a potential area of development for ward-based staff by one Head of Hospital Discharge.
- 6.7 It was felt that no one single measure could achieve the links needed to improve cooperation between services. Those described above reflect the role of individual staff expertise (and its availability), existing points of discussion about holistic care between professionals, patients and carers, and recognised tools for facilitating communication with patients about their needs are all of equal importance.



7. The key ingredients of successful partnerships

- 7.1 Funded through the UK Collaborative Centre for Housing Evidence's (CaCHE) Knowledge Exchange Fund our report 'Good Health Brought Home' sought to highlight the common features of successful partnerships between health, housing and social care.
- 7.2 The research looked at fifteen different projects from all over Wales, including those focused on reducing delays in returning home from hospital, lessening loneliness and isolation and providing specialist accommodation with support.
- 7.3 The report draws out six principles that underpin successful partnerships between the three sectors:
- A shared analysis of issues and solutions – providing the basis for partners to understand why change may be important and have a clear shared sense of how a solution can be achieved.
 - Person-centred services – reflecting on first hand experiences of people receiving services and utilising that insight to shape and design effective services and interventions
 - Leadership – the drive of staff (at all levels) to take forward solutions and forge new ways of working could not be emphasised enough
 - Joint budgets – given the risk associated with undertaking a partnership approach, the ability of each partner to commit any level of resource to secure a joint vested interest in the success of the work was considered important
 - Shared interpretation of legislation – cross-cutting legislation that each sector either must, or should act in line with (such as the Well-being of Future Generations Act) was often a positive driver to work together.
 - Recognition of power imbalance – with different partners coming with different levels of resource and power to effect change, effective projects would often recognise this in the interest of creating more cohesive ways of working together.
- 7.4 The report also reflects on activities that embed further joint working. This included the need to ensure sustainable long-term funding for well-evidenced projects; establish ways of holding joint-training and good practice sharing between professionals and sharing resources underpinned by a strategy where all patterns share a common interest in improving outcomes for people.

8. Actions to progress approaches both locally and nationally

A shared definition of housing advice

- 8.1 The Welsh Government should lead on ensuring that a definition of housing advice is more widely shared and disseminated among professionals and across disciplines, in order that it forms the basis for the assessment of housing needs with patients.
- 8.2 To support this, we believe the Welsh Government should develop practice guidance for all organisations involved in hospital discharge that shares



expertise and knowledge, and provides learning from good practice examples, with an emphasis on the role housing advice can play in facilitating effective hospital discharge.

Developing a protocol/procedure

- 8.3 Without a well-recognised hospital discharge protocol or procedure in place that is actively followed by hospital staff and which adopts a multi-disciplinary approach there is a challenge in ensuring how hospital and community-based services can work in the most effective way to meet patient needs during discharge.
- 8.4 Any protocol should include a focus on how the opportunity to identify housing needs and provide advice/support is prompted in a timely manner – and include how that initial discussion and subsequent plan capturing a patient’s housing needs is utilised at each point of engagement with professionals during the course of treatment.
- 8.5 Within this protocol there should be an effective notification or referral mechanism that health staff need to trigger when housing (and carer involvement) needs are identified, or where a lack of understanding of a patient’s housing situation may adversely affect their discharge.
- 8.6 The protocols should be actively monitored and reviewed, taking into account feedback from patients, carers and family members in addition to the wider spectrum of professionals involved to inform further refinement at a local level.

Coordinating the consistent input of housing expertise

- 8.7 Health Boards, relevant Housing bodies (Local Authority Housing Departments and Housing Associations) and other key partners (Social Services, Care Coordinators, ‘Community Connector’ teams) should review the assessment that is used when patients are admitted. This should include consideration of elements key to the quality of that assessment relating to housing advice including:
- A holistic consideration of people’s housing circumstances
 - The training needed to ensure staff feel confident in carrying out housing elements of the assessment
 - Agree a consistent approach to escalate the assessment if the information gathered initially is too vague to inform an approach to discharge planning
- 8.8 Area Planning Boards should take a lead in bringing all organisations involved in hospital discharge together to explore and develop solutions to address the wider social issues that patients may face.
- 8.9 Specifically focussing on carers needs - how Health Boards and Local Authorities can work together to identify or create the space for the Carers Assessment to be undertaken from ‘day one’ with carers, with housing need

forming a part of the assessment and supporting discharge planning arrangements.



**Chartered
Institute of
Housing**
Cymru

Consistent collaboration

- 8.10 We believe our ‘Good Health Brought Home’ research underpins the importance of having a consistent approach to partnership, drawing on what is more likely to produce success, longevity and impact for patients, carers and family members alike. We should not assume that partnerships are created or sustained easily and that both internal and external forces can compromise seemingly strong and well-established partnerships. There is a greater role for common principles, such as the ones outlined in our report, to play in supporting this collaboration – forming a consistent basis upon which to build success.

About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals and their organisations with the advice, support, and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org.

January 2022

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Jane Hutt MS

Minister for Social Justice

18 January 2022

Dear Minister

Legislative Consent Memorandum for the Nationality and Borders Bill

The Health and Social Care and Children, Young People and Education Committees are currently scrutinising the Legislative Consent Memorandum for the Nationality and Borders Bill, laid by the Welsh Government on 6 December 2021. To inform our deliberations, we would welcome your response to the matters set out in the annex to this letter.

To enable us to consider your views in line with the reporting deadline set by the Senedd's Business Committee, it would be helpful to receive your response no later than **Friday 28 January 2022**.

Yours sincerely



Russell George MS

Chair, Health and Social Care Committee



Jayne Bryant MS

Chair, Children, Young People and
Education Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



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Annex

To inform the Health and Social Care and Children, Young People and Education Committees' scrutiny of the Legislative Consent Memorandum ("the LCM") on the Nationality and Borders Bill ("the Bill"), we would welcome your views on the matters listed below.

To enable us to consider your views in line with the reporting deadline set by the Senedd's Business Committee, it would be helpful to receive your response no later than **Friday 28 January 2022**.

Discussions with the UK Government

1. An update on discussions with the UK Government, including details of any assurances the Welsh Government is seeking or amendments it is proposing or agreements that have been reached with the UK Government. We would also be grateful to receive copies of any relevant correspondence with the UK Government on these matters.

The Welsh Government's concerns about the LCM

The LCM notes that the Welsh Government has a number of concerns about the Bill. We would welcome further information about the Welsh Government's concerns in respect of:

2. The constitution and functions of the National Age Assessment Board, and the nature of the potential negative impact on Unaccompanied Asylum Seeker Children in Wales.
3. The anticipated implications of centralising the age assessment process on the assessment of needs and provision of care and support under the Social Services and Well-being (Wales) Act 2014 and what, if any, further functions which could be imposed on Welsh authorities.
4. The Welsh Government's concerns relating to the use of scientific methods in age assessments and regulations regarding the assessments, including:
 - a. the appeal process;



- b. any implications for the Welsh Government's implementation of the United Nations Convention on the Rights of the Child;
- c. any implications for the mental health of individuals being subject to scientific age assessment techniques;
- d. any implications for community cohesion that would directly arise as a result of subjecting individuals to scientific age assessment techniques.

Financial implications

- 5. Further information on any potential financial implications associated with the provisions in the Bill and how they will be accommodated within the Welsh Government's financial planning.





Llywodraeth Cymru
Welsh Government

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3 February 2022

Dear Russell and Jayne

Legislative Consent Memorandum on the Nationality and Borders Bill (“the Bill”)

I am grateful to you and your members for setting out the matters requiring further information as described in Annex 1 of your letter of 18 January. I write to provide a response to the points raised to aid your deliberations in respect of the Legislative Consent Memorandum on the Bill. I apologise for the delay in replying and for not meeting your deadline of 28 January.

Discussions with the UK Government

- 1 An update on discussions with the UK Government, including details of any assurances the Welsh Government is seeking or amendments it is proposing or agreements that have been reached with the UK Government. We would also be grateful to receive copies of any relevant correspondence with the UK Government on these matters.**

The Welsh Government has repeatedly raised concerns about the impact of this Bill on Wales and sought details of the clauses relating to age assessment from May 2021 onwards, without success. The main points made have been captured in our formal response to the *New Plan for Immigration (sent June 2021, with response received in September 2021)*, in the Written Statement published on 6 December which was shared with Home Office officials, and in the joint Welsh Government and Scottish Government letter sent on 9 December. Copies of these documents and replies are attached to this response as doc 1-3a respectively.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The UK Government has provided no satisfactory assurances and no amendments have been tabled to address the concerns raised by the Welsh Government. The UK Government has maintained its position that the entirety of the Nationality and Borders Bill relates to reserved areas of policy, despite the Bill making provision concerning local authority decisions as to whether and how to exercise functions under “relevant children’s legislation”.

These provisions would apply to Welsh local authority decisions about whether and how to exercise their functions under the Social Services and Well-being (Wales) Act 2014.

The Welsh Government’s concerns about the Bill

2 The constitution and functions of the National Age Assessment Board, and the nature of the potential negative impact on Unaccompanied Asylum Seeker Children in Wales.

Little information is provided on the constitution of the National Age Assessment Board (NAAB). As such devolution to Wales of services, such as social care and NHS services appear not to have been considered. There are no specific proposals about the representation of Wales (or Scotland and Northern Ireland) in the Bill.

In Wales, we treat all unaccompanied asylum seeking children as looked after children under Part 6 of the Social Services and Well-being (Wales) Act 2014 (the 2014 Act). As such they are entitled to the same care and support as all children in care in Wales. The 2014 Act also provides for a range of assessment functions and we treat the assessment of age as part of the ‘what matters’ assessment functions provided for in Part 4 of the 2014 Act.

All social services functions are fully devolved to the Senedd and as such, all legislative and policy decisions relating to social services are for the Senedd and the Welsh Ministers. The NAAB would diminish the lead, authoritative role for social workers in Wales in this function.

There are stark differences in views between UK Government and Welsh Government about how age assessments should be conducted and by whom. For example, in Wales, we have an extant policy position on age assessment¹ which does not recommend or support the use of medical examinations as determinants of age and considers such approaches morally wrong. The use of ‘scientific methods’ will potentially be a fundamental and perennial disagreement between the views of Welsh local authorities and the NAAB.

3 The anticipated implications of centralising the age assessment process on the assessment of needs and provision of care and support under the Social Services and Well-being (Wales) Act 2014 and what, if any, further functions which could be imposed on Welsh authorities.

Centralisation of the age assessment process could present a barrier to ensuring best practice, as a multi-agency holistic approach is best conducted by local authority social workers local to the age-disputed young person. This is compounded by an age assessment approach which uses “scientific methods” and determines that a person’s credibility is damaged if they do not consent to these “scientific methods” being used. In our view such an approach would conflict with existing international legal obligations (such as

¹ [42834 Age Assessment Toolkit for UASC \(gov.wales\)](https://www.gov.wales/42834)

the UN Convention on the Rights of the Child (“UNCRC”)) and social care legislation in Wales.

As referenced above, all unaccompanied asylum seeking children are treated as looked after children under the 2014 Act. Under the 2014 Act, they receive the same care and support as all looked after children in Wales. This Bill introduces an additional statutory process for age assessments for unaccompanied asylum seeking children in Wales which contradicts Welsh law, will cause confusion and potentially diminish the law as it stands in Wales.

In terms of further functions imposed on Welsh Authorities, it unclear as to whether Welsh NHS bodies will be expected to conduct the “scientific methods” assessment or whether this will be outsourced to private health providers. If the NHS in Wales is expected to provide these assessments, this would place additional workload onto health boards who are already under significant pressure and remain severely impacted by the pandemic. To note, there is the potential for conflict between health professionals, NAAB and other local authorities where health professionals do not support the use of ‘scientific methods’.

Evidence we submitted in our response to the UK Government’s ‘New Plan for Immigration’ consultation demonstrated the significant divergence in recent age assessment outcomes where the Home Office had centralised these processes.

The UK Government’s statistical release on 27 May 2021, in respect of age assessment determinations, demonstrates the potential consequences of centralising the age assessment function under the direct control of the Home Office including carrying out age assessments. Such shorter form assessments have been challenged and found to be unlawful² but still demonstrate the Home Office’s intentions in this area.

Date of age dispute	Year ending Mar 2020	Year ending Mar 2021	Change in the latest year	% change in the latest year
Age disputes raised ²	632	791	+159	+25%
Age disputes resolved ^{3,4} (Total)	679	693	+14	+2%
Under 18 (Age group of Age disputes resolved)	420	258	-162	-39%
18+ (Age group of Age disputes resolved)	259	435	+176	+68%

Our anticipated impact of centralised assessments is that children may be placed in accommodation which is meant only for adults, creating safeguarding concerns, risks of exploitation of children, and potential homelessness where children flee dangerous situations.

If those children later arrive in Welsh local authorities we anticipate a conflict between the views of social services officers who may deem the person to be a child with care and support needs and Home Office officers who deem the person to be an adult. This conflict would have financial consequences for the local authority who would be obligated to provide care and support if the 2014 Act assessments found this to be required but without the

² [Home Office age assessment policy for asylum seekers unlawful, High Court rules | The Independent](#)

funding which the Home Office would normally provide to local authorities looking after unaccompanied asylum seeking children.

Adult asylum seekers are provided with accommodation on a 'no choice' basis by the Home Office. If they 'abscond' from that accommodation (Home Office terminology), this may void their asylum case. Therefore, children placed in adult accommodation due to these centralised assessments will be at high risk of exploitation by other adult asylum seekers who they may need to share a House of Multiple Occupation with (the most common form of asylum housing).

4 The Welsh Government's concerns relating to the use of scientific methods in age assessments and regulations regarding the assessments, including:

- a. the appeal process;
- b. any implications for the Welsh Government's implementation of the United Nations Convention on the Rights of the Child;
- c. any implications for the mental health of individuals being subject to scientific age assessment techniques;
- d. any implications for community cohesion that would directly arise as a result of subjecting individuals to scientific age assessment techniques.

We are opposed to the use of medical examinations as determinants of age. The science underpinning the determining of age is inconclusive and unclear. Our view is that subjecting young people to often invasive medical examinations is morally wrong. As an example, I refer to the aforementioned response by the British Dental Association's consultation response³. The Royal College of Paediatrics and Child Health⁴ and the Royal College of Nursing have also recently expressed concerns about these proposals.⁵

Currently age assessment decisions made for immigration purposes are not binding on local authorities. However, under clause 53(5) of the Bill a determination by the First Tier Tribunal of an appeal is binding on a local authority even where the appeal concerns a decision by the NAAB for immigration purposes. This could lead to holistic and detailed assessments carried out in accordance with the Welsh Government Age Assessment Toolkit being overturned, on the basis of decisions which have been made based on evidence gathered using processes which are antithetical to the approach of the Toolkit, such as "scientific methods" which are highly contested and have wide margins of error. A Welsh local authority in such a position would be subject to two conflicting statutory duties.

The Bill will put the age assessment process on a separate statutory footing outside of the 2014 Act. A separate statutory footing which appears to be in conflict with the aims of the 2014 Act and the duty of local authorities under section 7(2) of that Act to have due regard to the UNCRC when exercising functions in relation to a child who may have needs for care and support.

It is notable in this regard that the Committee on the Rights of the Child gave guidance on age assessment in a General Comment in 2017 which included confirmation that: "States should refrain from using medical methods based on, inter alia, bone and dental exam

³ British Dental Association written response to the [Nationality and Borders Bill \(21st September 2021\) \(parliament.uk\)](#)

⁴ [Refugee and unaccompanied asylum seeking children and young people - guidance for paediatricians | RCPCH](#)

⁵ [RCN expresses concern over Nationality and Borders Bill | Royal College of Nursing](#)

analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes.”⁶

Local authorities in Wales use a trauma informed approach to carrying out age assessment. The aim is to reduce the risk of re-traumatisation and to promote positive outcomes and mental well-being. We know from research in Wales that adversity experienced by unaccompanied asylum seeking children includes parental separation and loss, child abuse and exploitation particularly on the journey, witnessing or experiencing violence and lack of social and emotional support to cope with adversity that may have been provided by parents.

As such, it is our view that locally based social workers who have established a connection with a child and/or young person are best placed to assess age. These assessments are based upon a ‘Merton compliant’ (*R(B) v London Borough of Merton, 2003*) assessment where social workers are likely have spent considerable time understanding the capacity of the young person being assessed. Although the format of assessments which the NAAB would use have not yet been explained, the recent decision that centralised Home Office age assessments were unlawful made clear that assessments were often completed within an hour with the young person.

Community cohesion impacts may arise without criminality because conflicting views of a child’s age may mean young people are left in limbo in local authority-provided accommodation (provided due to care and support needs) because the Home Office will not recognise the child’s age and therefore will not accept the type of asylum application being submitted. In such circumstances, children are likely to be increasingly isolated and have deteriorating mental health and other outcomes which will impact on community cohesion over time.

There is also a risk that young people may remain in the Home Office-provided adult asylum accommodation leaving the young people particularly vulnerable to exploitation for fear of voiding their asylum claim if they left the property.

Where the Secretary of State disputes the findings of local authority age assessments and refers the matter to the NAAB for a further age assessment, this is likely to have the effect of undermining public faith in institutions. Repeated instances of this may lead to protest.

Financial implications

5 Further information on any potential financial implications associated with the provisions in the Bill and how they will be accommodated within the Welsh Government’s financial planning.

The impact assessment conducted by the Home Office is silent on the financial implications of this Bill.

There will clearly be financial implications in relation to the proposed use of ‘scientific methods’ to assess age. It is presumed this will only be done within a health setting, either

⁶ UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, para. 4, available at:

commissioned from private healthcare or within the NHS. This could have direct costs for local authorities and consequential impacts on health service capacity.

There is a strongly likelihood of lengthy, costly legal challenge.

The Home Office provides some funding to local authorities to support unaccompanied asylum seeking children. However, they will not recompense where a Welsh local authority considers someone a child but the Home Office disagrees.

We will be seeking further information about the financial implications from Home Office if the Bill is passed.

I hope my reply is helpful.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal stroke above the first letter of "Jane".

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Welsh Government Response to the Home Office's New Plan for Immigration – June 2021

Introduction

1. The Welsh Government welcomes the opportunity to comment on proposed changes to refugee and asylum seeker policy. There is shared ground between our organisations – and many other stakeholders – that the system is currently not fit-for-purpose.
2. The following comments provide the Welsh Government's initial views on the Home Office's New Plan for Immigration consultation paper but the pre-election period in Wales which almost exactly coincided with the consultation period, has prevented us gaining a full understanding of the proposals. We would welcome meaningful engagement with the Home Office as we believe some areas of the proposals relate to devolved responsibilities, and other areas will have a significant impact upon Wales.
3. This response provides general reflections on the *New Plan for Immigration* proposals, before outlining specific proposals which the Welsh Government welcomes. This is followed by our significant concerns with the consultation paper proposals. In the final part of this paper we reflect on areas of the immigration system which are in urgent need for reform.
4. Welsh Government proposals to improve, extend or revise proposals will be written **in bold text**.

General reflections

5. The *New Plan for Immigration* sets out many proposals for reforming the immigration system but many of these are vague, and alternative options which could be considered are not explored.
6. We believe that this consultation has not followed the Gunning Principles¹ in several important ways and **the UK Government should further consider the proposals with reference to these Principles and provide a revised paper for consultation**.

¹ [Law Wales - What are the requirements for any consultation that is carried out? \(gov.wales\)](https://gov.wales/law-wales-what-are-the-requirements-for-any-consultation-that-is-carried-out/)

7. The paper uses several inaccurate claims about those claiming asylum in the UK. This includes the suggestion that asylum seekers “should be claiming asylum” in other European states, which is not a legal requirement. The paper repeatedly conflates the terms ‘illegal migration’, ‘foreign national offenders’ and ‘asylum seekers’ which are all different concepts which need a nuanced explanation (Gunning Principle 2).
8. The paper seems to overlook a major cohort of asylum seekers – those who arrive in the UK through clandestine methods but claim asylum at the first opportunity. The Refugee Convention and UK legislation recognise this type of entry and envisage circumstances where imposing penalties may not be appropriate. However, the consultation paper is silent about what provisions will be available to this large cohort. The paper claims that 62% of asylum claims are made by those entering illegally but this is false – individuals may have entered through clandestine methods but not necessarily unlawful. This misrepresentation prevents intelligent consideration and response (Gunning Principle 2).
9. The plan does not present any alternative options for consideration by stakeholders. There are many different ways which the asylum system could be reformed (we provide some throughout this paper) but the UK Government is not providing stakeholders with the information required to make their own judgements on appropriate courses of action (Gunning Principle 2).
10. The consultation paper also makes inappropriate conclusions based upon outlier data relating to 2020. The pandemic and associated travel restrictions means that the asylum estate was forced to swell in size (despite arrivals into the UK reducing) and returns of those refused asylum or foreign national offenders was also bound to reduce. The claim that there was a “rapid intake” of asylum seekers or that 42,000 refused asylum seekers living in the UK shows that the system is broken are misrepresentations of the facts (data from 2019 showed a downturn until the pandemic hit)(Gunning Principle 2).
11. The consultation paper makes frequent claims that individuals are abusing the asylum system, judicial reviews, or the Modern Slavery National Referral Mechanism, but this is only ever backed up by anecdotes. We need to be able to see the quantitative data underpinning these claims, as well as alternative proposals which could be considered, to make intelligent comment (Gunning Principle 2).
12. The lack of clarity in the proposals may suggest that these proposals are at a formative stage but Home Office officials have made clear that the Borders Bill will be introduced to Parliament before summer recess. Therefore, it seems unlikely that these proposals genuinely are at a formative stage, as required by Gunning Principle 1.

Positive aspects of *New Plan for Immigration proposals*

ILR for Refugees

13. We strongly welcome the Home Office's proposal to grant immediate Indefinite Leave to Remain (ILR) to refugees. We know that the vast majority of refugees resettled to Wales cannot return to their country of origin within 5 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 as quickly as possible in the UK.
14. We would welcome a commitment from the Home Office to **apply eligibility for this policy retrospectively to any resettled refugee already living in Wales.**
15. We would also welcome **this policy being extended to any former asylum seeker living in Wales who has been granted refugee status, as well as any future asylum seekers who are granted refugee status.**

Review of Family Reunion routes

16. We agree with the Home Office that 'safe and legal routes' to International Protection are improved. The proposal to review the refugee family reunion routes is welcome but we expected to see some firm proposals about how family reunion provisions would be strengthened.
17. It is crucial that refugees living in Wales are able to be reunited with family members who they may have been separated from for a variety of reasons. We know that where refugees are able to live in the UK as family units, their outcomes are generally better than those who are unaccompanied.
18. The European Court of Human Rights and UK courts have recognised that family unity is "an essential right of refugees and that family reunion is an essential element in enabling persons who have fled persecution to resume a normal life." Current Family Reunion rules do not reflect the diversity of family units which are likely to have formed due to the very nature of the war and persecution which refugees will be fleeing from. It is more common that dependent relationships will exist between siblings, aunts or uncles, or grandparents, due to the likelihood that parents may have been killed in the country of origin.
19. In our view, the **definition of "family members" must include (at least) a person's:**
 - (a) parent, including adoptive parent;
 - (b) spouse, civil partner or unmarried partner;

- (c) child, including adopted child, under the age of 18;
- (d) sibling, including adoptive sibling, under the age of 18;
- (e) aunt and/or uncle, where the individual's parent is no longer living or cannot seek International Protection;
- (f) grandparent, where the individual's parent is no longer living or cannot seek International Protection;
- (g) other persons the Secretary of State may determine as being an important member of the family unit who should be permitted to come to the UK in the best interests of the child.

20. The proposal to restrict family reunion rights to those granted 'temporary protection status' under these measures will also likely cause disastrous unintended consequences. Often male asylum seekers will first make dangerous journeys to the UK to seek International Protection, whilst women and children are more likely to follow on afterwards. The proposal to limit family reunion rights to those who enter the UK through clandestine methods will likely lead to more women and children making dangerous journeys into the UK, as there will be no other prospect of being reunited as a family.
21. We will talk about temporary protection status later in this paper but, at the very least, **we urge the UK Government to drop the proposal to limit family reunion rights**. We believe that this policy is incompatible with the 1951 Refugee Convention and the UK Government's own stated aim to reduce the number of dangerous crossings via these proposals.

Multi-year commitment to resettlement

22. We welcome the UK Government's proposal to develop multi-year resettlement programmes. The Syrian Vulnerable Persons Resettlement Programme was a remarkably successful project and we would welcome further similar schemes to be developed as a safe and legal route to resettlement.
23. We also support the principle of providing a route to settlement in the UK from regions where conflict is happening. Many of the most vulnerable refugees will not be able to make arduous and dangerous journeys to the UK.
24. Nevertheless, resettlement must not come at the expense of supporting the asylum system. Both routes must continue to operate in line with the spirit and letter of the Refugee Convention.
25. The consultation paper provides insufficient details about the multi-year commitment and introduces uncertainty where targets will be "guided by circumstances and capacity at any given time." Having a firm target to aim for was critical in ensuring Welsh local authorities were able to play a full part in this system under the Syrian scheme.

26. We propose that the UK Government sets an unwavering, indefinite minimum commitment for those it aims to resettle to the UK each year. The Syrian resettlement programme has shown that **the UK can support at least 4,000 people per year through this type of scheme** and we would urge the UK Government to be more ambitious than this.
27. The Welsh Government would be very happy to support the UK Government in promoting Welsh local authority participation in a scheme which had **similar financial and coordination support as the internationally renowned Syrian scheme**.

Exceptional discretionary assistance to people in country of origin

28. The consultation refers to building a more flexible system which enabled the UK Government to support those who are at very high risk around the globe. This will enable discretionary assistance to people still in their country of origin.
29. We welcome this proposal as we have seen numerous examples of persecuted minorities living in Internally Displaced People camps who are in need of support but cannot receive it. However, more details need to be provided about how this proposal would work in practice.
30. For those in this situation, there will be a time critical need for resettlement but the current resettlement schemes can take a significant amount of time for appropriate housing, medical and school needs to be assessed and catered for. The UK Government will need to ensure there is ready supply of accommodation and other services to ensure resettlement can happen quickly.
31. It is unclear whether those arriving under this method would be granted ILR or some form of temporary protection. This needs to be clarified.

Tailored support to help refugees to integrate

32. The Welsh Government strongly agrees with the principle that Government should support refugees to integrate more quickly and effectively into society. We are encouraged by the UK Government's proposal to develop tailored and flexible employment support arrangements and packages of support, such as language training and skills development, in England.
33. Responsibility for migrant integration including, amongst other things, language tuition, skills development, community cohesion, and similar integration activities, is **devolved** to the Welsh Government.

34. For several years, the Welsh Government has invested significantly in improving the integration of refugees in Wales, with a primary focus on English language tuition through the development of ESOL Hubs. Our ReStart: Refugee Integration Project has also developed employability programmes and supported the holistic assessment of refugee needs. Similar schemes would be considered by the Welsh Government if consequential funding was made available.
35. The consultation paper makes reference to the 'UK' rather than 'England' when discussing these measures, which we believe to be an oversight. **We understand from meetings with UK Government officials that the intention would be to provide this integration package in England and provide consequential funding to the Welsh Government. We would welcome this outcome.**

Problematic proposals

Temporary Protection Status

36. The consultation paper seemingly aims to redefine the interpretation of Article 31 of the 1951 Refugee Convention but without ever explicitly stating this. Article 31 prohibits the penalisation of refugees on account of their illegal entry or presence if they have come directly from a territory where their life or freedom was threatened, present themselves without delay, and show good cause for their illegal entry or presence. The proposal to introduce a 'temporary protection' status hinges on the definition of the word 'directly' in Article 31.
37. The UNHCR has made clear that the meaning of this word in Article 31 is that it was *"Refugees are not required to have come directly from territories where their life or freedom was threatened. Article 31(1) was intended to apply, and has been interpreted to apply, to persons who have briefly transited other countries or who are unable to find effective protection in the first country or countries to which they flee. The drafters only intended that immunity from penalty should not apply to refugees who found asylum, or who were settled, temporarily or permanently, in another country."*²
38. UK jurisprudence has similarly interpreted Article 31 in the same way as stated above by UNHCR.³ Reinterpreting this article with a literal or

² Paragraphs 10 (b) and 10(c), *Summary Conclusions: Article 31 of the 1951 Convention*, UNHCR, June 2003: [Refworld | Summary Conclusions: Article 31 of the 1951 Convention](#)

³ R v. Uxbridge Magistrates Court and Another, Ex parte Adimi [1999] EWHC Admin 765; [2001] Q.B. 667, United Kingdom: High Court (England and Wales), 29 July 1999, para. 18, available at: www.refworld.org/cases,GBR_HC_QB,3ae6b6b41c.html; R v. Asfaw [2008] UKHL 31, United Kingdom: House of Lords (Judicial Committee), 21 May 2008, para. 15, available at: www.refworld.org/cases,GBR_HL,4835401f2.html; R. and Koshi Pitshou Mateta and others [2013] EWCA Crim

geographical interpretation undermines the spirit and intent of the 1951 Convention.

39. The *New Plan for Immigration* does not explicitly state that the UK Government intends to reinterpret the meaning of the word 'directly' in Article 31. However, the consultation implies that those who arrive through clandestine methods and then seek asylum at the earliest opportunity will only be eligible for 'temporary protection' status and be considered to have illegally entered the UK. Current UK law recognises that individuals may have needed to travel to the UK through clandestine methods to seek international protection.
40. **If the UK Government intends to introduce a 'temporary protection' status it must only apply to those who could not be considered to have transited through other countries on their way to the UK in the manner which has been accepted as 'direct' through previous jurisprudence relating to the 1951 Convention.**
41. It is not clear whether the temporary protection status would confer any rights for recipients to work, claim homelessness assistance, social security payments or any other 'Public Funds'. **Our view is that those seeking asylum who have been granted this status should not be subject to a 'No Recourse to Public Funds' condition.** If such a condition is applied it will substantially undermine their ability to integrate with Welsh communities and undermine our ability to implement **devolved** responsibilities in this area.

Asylum Reception Centres

42. We have substantial concerns regarding proposals for 'asylum reception centres' in the UK. Whilst '*immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens*' is a reserved responsibility of the UK Government, **the integration of migrants with host communities is devolved to the Welsh Government in Wales. With the detail provided in the *New Plan* we cannot see how the proposal for reception centres is compatible with our *Nation of Sanctuary Plan* which seeks to integrate asylum seekers into Welsh communities from day one of arrival.**
43. If asylum seekers are located in facilities which prevent easy formation of neighbourly relationships with those ordinarily resident in Wales and

1372, United Kingdom: Court of Appeal (England and Wales), 30 July 2013, LJ Leveson, para. 21(iv), available at: www.refworld.org/cases,GBR_CA_CIV,5215e0214.html; Decision KKO:2013:21, Finland: Supreme Court, 5 April 2013, available at: www.refworld.org/cases,FIN_SC,557ac4ce4.html; also see UNHCR, Guidance on Responding to Irregular Onward Movement of Refugees and Asylum-Seekers, para. 39, September 2019, www.refworld.org/docid/5d8a255d4.html.

difficulties accessing mainstream services, **we would oppose the development of such facilities in Wales.**

44. The Planning system is devolved to the Welsh Government and **we would need further details of the proposed design and operation of these reception centres to understand how they would comply with our Planning Policy Wales** and associated Technical Advice Notes.
45. Our recent troubling experience of Home Office use of the Penally army training camp as asylum accommodation has given us serious cause for concern. Many individuals were inappropriately transferred into the site and welfare considerations were not given the paramount importance they merit. **Any reception centre would need to have ready and appropriate access to specialist services, from post-traumatic stress counselling, to legal advice, medical services and English language tuition, as well as internet access to connect with family and wider support services.**
46. The *New Plan* does not explain how those claiming to be children, those who have faced persecution due to their gender identity or sexual orientation, or those who claim to have experienced trauma would be considered for relocation to reception centres. **It would always be inappropriate to locate anyone where age is disputed in these centres, whilst many in the other cohorts should also not be accommodated in this way – with very carefully considered safeguards for those who are.**

Streamlining asylum claims and appeals

47. Firstly, it is important to state that the flowchart on page 25 gives an unhelpful and confusing picture which undermines any consultation responses which may have been received. The flowchart is titled '*Simplified typical asylum appeals process: at a glance*' and therefore gives the impression that this is how the Home Office intends the process to operate if *New Plan* proposals are implemented. In fact, the flowchart shows the existing system.
48. There is currently theoretically a 'one-stop' process for asylum claims but claimants' circumstances, access to good legal advice and expert evidence very often prevent full evidence being provided upfront. Though there are undoubtedly some unmeritorious or spurious claims put forward, many genuine claims are ultimately successful following submission of new evidence which could not be presented earlier. **In theory, providing more generous access to legal advice sounds positive but we need to understand what this would amount to in practice.**
49. The proposal to extend the 'Fixed Recoverable Costs' regime to immigration-related judicial reviews does not appear to be fair when it is considered that those bringing such claims are likely to be destitute. The risk of costs being

awarded against such individuals is likely to have a chilling effect on claimants and undermine the principle of an appeals process. **The UK Government should abandon this proposal.**

50. We are concerned by the proposal to introduce a “panel of pre-approved experts (e.g. medical experts) who report to the court or require experts to be jointly agreed by the parties.” It appears contradictory that the independence of experts would be put beyond doubt by the Home Office creating such a panel. If the panel of experts does not contain the necessary expertise required for a particular case, this could itself be grounds for a legal challenge, undermining the rationale for making such a change.

Inadmissible claims and removal

51. The *New Plan* proposals around inadmissible claims relate to the reinterpretation of Article 31 of the Refugee Convention, as detailed above. The UNHCR have stated that “international refugee law prohibits penalisation of irregular entry” and these proposals appear to flout this.

52. Where individuals have been considered to have inadmissible claims for UK asylum, the UK Government would seek to rapidly return them to ‘another safe country’. Part of the UK Government’s rationale for this is that those seeking asylum here could have claimed asylum in other EU Member States from where they have embarked. However, due to EU Withdrawal there are no return agreements in place with these countries and some countries have explicitly ruled this out without the UK adopting reciprocal arrangements.

53. The *New Plan* also states that ‘*we will also pursue agreements to effect removals to alternative safe third countries.*’ We do not agree with the general principle of the UK Government off-shoring our responsibilities to third countries. If this proposal was implemented, we would at least expect there to be clear connections between those seeking asylum in the UK and the third country where they may be relocated. A clear framework for when this could and could not be used would also be required. **International refugee law opposes the externalisation of international protection responsibilities without necessary safeguards.**

54. The *New Plan* proposes amending sections 77 and 78 of the Nationality, Immigration and Asylum Act 2002 to enable asylum claims and appeals to be processed outside the UK. The paper claims that this is simply to “*keep the option open, if required in the future, to develop the capacity for offshore asylum processing.*” The off-shoring of the UK’s asylum responsibilities to third countries would encourage other nations to do likewise and thereby undermine the international standing which the UK currently has in terms of providing international protection. It will be far harder for the UK to utilise ‘soft power’ in its foreign diplomacy if such policies are implemented.

55. Furthermore, we are concerned that such proposals may impact upon continuity of care or legal advice where asylum seekers who were located in Wales are transferred abroad.

56. As a general point of principle, legislation should be a last resort where other policy levers are insufficient. The consultation paper suggest that alternative levers have not been exhausted as this power would only be held in reserve for the future. If the legislative powers are not required now then statute should not be amended in such a far-reaching way now. **We urge the UK Government to withdraw this proposal, at least until such time that the evidence demonstrates that it is required and it has been developed further with alternative options put forward for consultation.**

Age assessment

57. We note the proposals to establish a National Age Assessment Board (NAAB) and the potential use of 'scientific' methods to determine age. There are references to legislating for age assessment criteria, staff who are not qualified social workers undertaking such assessments and potentially requiring social workers to refer to the NAAB in respect of age disputes. Also, for a new appeals process.

58. In Wales, we treat all unaccompanied asylum seeking children as looked after children in line with Part 6 of the Social Services and Well-being (Wales) Act 2014. The Act also provides for a range of assessment functions and we treat the assessment of age as part of the 'what matters' assessment functions provided for in Part 4 of the Act. **Social services, including social care is a devolved matter and as such, all legislative and policy decisions relating to social services are for Senedd Cymru and the Welsh Ministers.** The New Plan proposals as currently set out, do not recognise the devolved context therefore it is important for us to state that **any legislation to be made which impacts on these devolved functions would be subject to Legislative Consent Memoranda being made in the Senedd. And of course, any legislation UK Government creates is required to be informed by existing case law in this area**, not least *Merton* but also, for example, *AB v Kent County Council* (2020) EWHC 109 (Admin).

59. While we understand from our officials meeting with Home Office officials on 27 May, that the NAAB is to be an England-only body, we still feel it important to comment on the proposal. Little information is provided about the constitution and functions of the NAAB. Again, the full devolvement of social services functions to Wales appears not to have been considered in that there are no specific proposals about the representation of Wales (or Scotland and Northern Ireland). The function of assessment is a core duty for social workers and the assessment of age is part of this. **We do not support any diminution of the lead, authoritative role for social workers in this**

function and this includes legislating for officers without the required expertise, experience and skill in conducting these assessments. Over recent years, we have asked for information about the training immigration officers receive in assessing age in line with Welsh social services and UNCRC legislative requirements. This has never been provided. Overall, we are concerned about any UK Government centralising of processes which could diminish existing Welsh national duties and functions in this space. **We need to see detailed draft clauses to understand more about what you are trying to achieve and to enable a more detailed response.**

60. The UK Government’s statistical release on 27 May in respect of age assessment determinations, reveals an interesting picture. It demonstrates the potential consequences of centralising the age assessment function under the direct control of the Home Office including carrying out age assessments. We understand that such shorter form assessments are being challenged and the outcome of that challenge together with existing case law as mentioned above, will no doubt inform any future guidance you produce.

Date of age dispute	Year ending Mar 2020	Year ending Mar 2021	Change in the latest year	% change in the latest year
Age disputes raised ²	632	791	+159	+25%
Age disputes resolved ^{3,4} (Total)	679	693	+14	+2%
Under 18 (Age group of Age disputes resolved)	420	258	-162	-39%
18+ (Age group of Age disputes resolved)	259	435	+176	+68%

61. While we could consider supporting a legislative basis for guidance in respect of the age assessment function, any legislation would be made via the 2014 Act. Wales has its own Age Assessment Toolkit (first published in 2015) which is well recognised and used by social workers. An updated version is to be published imminently. In it, there are clear statements about the use of medical reports, specifically in respect of the unreliability of and lack of any evidential basis to medical examinations as a means of determining age. Such reports are not to be requested or used as part of the age assessment process unless in very narrow circumstances and then only as part of a multiagency, holistic process which draws on a wide range of factors. **We also strongly believe that such examinations are morally unjustifiable, degrading and are in conflict with individuals’ human rights.**

62. We also agree with the UNHCR’s view ‘that medical age assessment methods remain highly contested and are subject to a high margin of error.

The evidential value of such methods remains contested by UK courts and in other jurisdictions, and by medical professionals and associations. In addition to being subject to a high margin of error, medical methods used for age assessment can be potentially harmful (such as those that involve exposure to radiation through x-rays). For this reason, dental x-rays have previously been ruled out for use in assessing age in the UK by the UK Home Office citing the British Dental Association's views⁴ that they are "inaccurate, inappropriate and unethical". **The Committee on the Rights of the Child further confirmed in 2017 that "States should refrain from using medical methods based on, inter alia, bone and dental exam analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes".**⁵

63. The Royal College for Paediatrics and Child Health further state: *"there is no single reliable method for making precise age estimates. The most appropriate approach is to use a holistic evaluation... It is therefore important for paediatricians, when contacted, to explain to social workers that dental x-rays, bone age and genital examination will currently **not** add any further information to the assessment process."*⁶ The College adds *"the margin of error can sometimes be as much as five years either side with medical tests."* And the British Medical Bulletin research⁷ highlights that the influence of ethnicity, genetic background, nutrition, deprivation, previous and current illnesses - especially endocrine diseases – can all have profound effects on physical development, skeletal and dental maturity.

64. Your Equality Impact Assessment will, we are sure, have established the same and other significant concerns in all of these regards.

65. In terms of a new appeals process, any new process which is or appears to have a lesser standing or is limited in any way by comparison with JR, would not be one we would support. Again, we need to see further detail by way of draft clauses to enable a more detailed response. We do, however, **agree that introducing an appeals process where currently none exists, is a desirable proposal.**

66. In conclusion, we agree with Refugee Rights Europe that the proposals are 'too concerned with the over-publicised myth of an adult being placed in a school...' and 'dangerously exacerbates existing narratives and myths that depict asylum-seeking adults posing as children as a common occurrence.'⁸ We also agree with UNHCR's view that 'policy or legislation which allows

⁴ <https://www.ein.org.uk/news/british-dental-association-says-x-rays-should-not-be-used-establish-age-young-asylum-seekers>

⁵ [UNHCR - UNHCR Observations on the New Plan for Immigration UK](https://www.unhcr.org/uk/news/2017/04/unhcr-observations-on-the-new-plan-for-immigration-uk)

⁶ <https://www.rcpch.ac.uk/resources/refugee-unaccompanied-asylum-seeking-children-young-people-guidance-paediatricians#age-assessment>

⁷ <https://academic.oup.com/bmb/article/102/1/17/312555>

⁸ [New Age Assessment Rules for Asylum- Seeking Young People – Refugee Rights Europe \(refugee-rights.eu\)](https://www.refugeerights.eu/new-age-assessment-rules-for-asylum-seeking-young-people)

asylum-seekers to be treated as adults based on brief assessments of physical appearance and demeanour by immigration officials creates a considerable risk of children being subjected to adult procedures and of a violation of their rights under the Convention on the Rights of the Child and the 1951 Convention.⁹

67. Finally, we wish to remind you that the Rights of Children and Young Persons (Wales) Measure 2011 brought into Welsh domestic a requirement to have regard to the UNCRC. Welsh Ministers were clear in their Senedd election manifesto that they will ‘continue to uphold the rights and entitlements of unaccompanied asylum seeking children.’ We are proud to take a ‘child first, migrant second’ approach which upholds the best interests, rights and entitlements of children in Wales. **Any policy proposal which appears to diminish this statutory position is not one which we would support.** This includes the large majority of those set out in the New Plan.

Supporting victims of Modern Slavery

68. We do not oppose the proposal to consult on a definition of “public order grounds”. However, we urge the UK Government to reconsider the proposal to focus on “*serious criminality (specifically, where there is a prison sentence of 12 months or more) or risks to national security.*” Given that trafficking victims are likely to have been forced to participate in serious criminality in many cases, this seems wholly inappropriate.

69. The *New Plan* cites the example of Germany as an inspiration for consulting on a new definition of “public order grounds” but Germany chose to define this as “*the continued stay of the foreign national would be detrimental to public safety and order or other substantial national interests.*” **We would urge the UK Government to consult on a similar definition, rather than create an unfair barrier to victims who have committed serious criminality through duress.**

70. It is positive that temporary leave to remain will be possible for modern slavery victims and survivors who are helping the police with prosecutions but **we would urge UK Government to offer ILR instead to enable victims and survivors to finally rebuild their lives after the trauma they have experienced.** This will also likely undermine the ability of perpetrators to control victims by encouraging further victims to come forward.

⁹ [UNHCR - UNHCR Observations on the New Plan for Immigration UK](#)

Removal of failed asylum seekers

71. The *New Plan* states that the Home Office will be “*working with local authorities and partners [to] seek to enforce returns – including removing asylum support for individuals who fail to comply with our attempts to return them.*” It is unclear how local authorities are expected to support this objective but many functions undertaken by Welsh local authorities relate to devolved responsibilities – including community cohesion, homelessness and social services. **We need further information about how the Home Office intends Welsh local authorities to support their intention to remove refused asylum seekers.**
72. We agree that the current system too often leaves refused asylum seekers (who are appeal rights exhausted) in a limbo situation in Welsh communities, leaving them vulnerable to exploitation and destitution. However, **our suggestion would be for enhanced support for voluntary returns packages with increased funding support available.**

Opportunities for improvements which should not be missed

Asylum seeker Right to Work

73. The Immigration White Paper (2018) included a commitment to review the right to work for asylum seekers whilst they await a decision on their claim. **The Welsh Government fully supports a proposal to extend the right to work for all asylum seekers from 6 months of arrival in the UK, regardless of Shortage Occupation List roles or any other requirements.** It makes good economic, social and well-being sense to make this alteration – as articulated by the Lift the Ban campaign.
74. This Right to Work would extend until an individual has become Appeal Rights Exhausted or been removed from the UK. After three years, there appears no sign of the review promised in 2018. However, this legislative vehicle provides a golden opportunity to make this positive change. If UK Ministers are concerned about potential unintended consequences, **we propose that a sunset clause is added to the Borders Bill which enables this change to be reversed after 5 years or the sunset clause removed by secondary legislation if enacted before then.**

Case management system for asylum seekers

75. A major obstacle for a well-functioning asylum system is that many asylum seekers simply do not understand what the status of their case is. Many voluntary organisations devote substantial time and effort to help increase understanding and resolve issues but the job is difficult and time-consuming. **We propose the development of an accessible case management system which asylum seekers can utilise (along with their case workers**

with consent) to enable them to track the progress of their case and more easily understand if any actions are required.

British citizenship for children born to migrant parents

76. The *New Plan* includes a section seeking to end anomalies and deliver fairness in British Nationality laws. **The most significant improvement which we believe the UK Government should make – but which is missing from this paper – is to bestow a clear right to British citizenship to any child born in the UK to migrant parents.** From Windrush to the EU Settled Status system (and many other examples along the way), the current lack of a right to UK citizenship for children in these circumstances has led to unfair and unforeseen hardship.
77. ‘Birthright citizenship’ (also known as ‘*jus soli*’ citizenship) exists in many other countries (including the USA and Canada) but has not existed in the UK since the British Nationality Act 1981. Growing up in the UK without the guarantee of citizenship (or at least Settled Status) is not in the best interests of children and these members of society should not be penalised by any choices which were made before they were born.

‘Public Funds’ regime

78. It is clear that prohibiting access to specified ‘Public Funds’ in the Immigration Rules is a cornerstone of UK Government immigration policy and the principle is likely to be retained. We understand the policy intention behind the use of ‘No Recourse to Public Funds’ (NRPF) conditions but we urge the UK Government to revise the way it implements this concept.
79. The current system creates confusion because the list of Public Funds includes both specific funds and general areas of prohibited support. **We urge the UK Government to only feature specific funds in this list and make it clear that any support which is not listed is permitted.**
80. We have been prevented from exercising our powers sufficiently to fully implement our *Nation of Sanctuary Plan* (devolved integration strategy). This is because our strategy is to support integration from day one of arrival in Wales, regardless of immigration status. Although we have general legislative powers to support the well-being of anyone living in Wales, the (sometimes vague) prohibitions listed in the Immigration Rules make positive interventions sometimes incompatible with UK Government policy. Therefore, **we urge the UK Government to consult with Devolved Administrations to seek agreement before adding a specific Public Fund to the list in the Immigration Rules.**

81. The current NRPF regime creates negative outcomes which we do not believe was the UK Government's policy intent when drafting these rules. **Where an individual cannot be returned to their country of origin for no fault of their own, we do not believe that it is ethical or conducive to public health and community cohesion for these individuals to be subject to NRPF conditions.**

82. It is also imperative that children from migrant families living in Wales are not disadvantaged because of NRPF conditions. The Welsh Government has enshrined the United Nations Convention on the Rights of the Child in law and acting in the best interests of children guides all our work. NRPF conditions which prevent children accessing Free School Meals, Healthy Start vouchers or similar initiatives are opposed by the Welsh Government. **We urge the UK Government to ensure that such prohibitions are outlawed in future.**

Respect for Devolved Administrations

83. Immigration control is a reserved responsibility to the UK Parliament but migrant integration is not (the former is listed in Schedule 7A to the Government of Wales Act 2006¹⁰ but the latter is not). Unilateral UK Government decisions to add public funds to the NRPF regime or to spend funds on integration activities in Wales undermine the Welsh Government's devolved responsibilities.

84. The Welsh Government already spends considerable amounts to support the integration of migrants in our communities but sometimes the UK Government suggests it will fund potentially duplicate or contradictory schemes in Wales. In recent times, we have successfully managed to explain to Home Office colleagues that **this undermines the devolution settlement** and ensured that instead, consequential payments are made to the Welsh Government relating to integration activities implemented in England. Nevertheless, **the UK Government should ensure that their officials adopt this approach as standard.**

85. The UK Government will often refer to a 'tripartite relationship' in the delivery of its migration initiatives. This is intended to mean: (1) the Home Office; (2) Home Office-funded partners (e.g. Clearsprings Ready Homes); and (3) Local Authorities. Though we do not dispute the central importance of these partners, there is a fundamental lack of recognition of the Welsh Government's devolved responsibilities and support services provided to address shortcomings in the existing system.

86. We are very often not involved in the way we would expect. For example, we will be told of major policy changes via the Wales Strategic Migration

¹⁰ Paragraph 29 of Schedule 7A to the Government of Wales Act 2006 "Immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British Citizens".

Partnership rather than through Inter-Ministerial engagement between UK and Welsh Governments.

87. The Home Office will also develop policies with England-only departments (such as the Department of Health, Department for Education or Ministry for Housing, Communities and Local Government), before sharing these policies and expecting them to apply to Wales, despite divergent legislation, policies and structures operating in Wales. The Welsh Government should be involved at an earlier stage on policies and guidance which include or impact on devolved responsibilities.
88. When we request Home Office data to support the Welsh Government to develop policies and initiatives which we believe are necessary for migrant integration in Wales (a devolved responsibility), we are never provided with this in a timely manner. We are currently awaiting anonymised data on the demographic characteristics of asylum seekers in Wales and this process has so far taken well over a year.
89. In recent times, the Ministry of Housing, Communities and Local Government has been given inappropriate responsibilities to coordinate migrant integration initiatives in Wales. These are devolved responsibilities and the role of the MHCLG is not needed or understood.
90. **We request and expect a fundamental improvement in the way the UK Government engages with the Welsh Government in relation to migrant integration.** Initially we expect the issues above to be resolved and then to see improved timely collaboration between our two Governments.

Asylum accommodation

91. The quality of asylum accommodation is one of the most negative aspects of the asylum system at present. An inspection of asylum accommodation in 2018 by the Independent Chief Inspector of Borders and Immigration (ICIBI) showed serious inadequacies in the quality of accommodation in Wales and the implementation of new Asylum Accommodation and Support Contract (AASC) does not appear to have improved things in any meaningful way.
92. **We recommend that the UK Government transfers responsibility for routine inspections of asylum accommodations to either the ICIBI or the soon to be established Office of Migrants' Commissioner.** Such a transfer will need to be accompanied with sufficient resources to enable more regular inspections which includes photographic evidence of findings. Publication of findings should be made via the Home Affairs Select Committee, rather than the Home Secretary.

93. **We also recommend that the Office of Migrants' Commissioner be transferred the resources and operation of the 'independent complaints process' which is currently operated by Migrant Help under the AIRE contract.** The current process is not seen to be independent and the service has so far failed to live up to expectations in terms of service standards and applying accountability to the operation of the AASC contract.
94. **We further recommend that Clearsprings Ready Homes are required to submit photographs to the Home Office showing property conditions before and after asylum seekers have been living in each property and these should be made available on request where complaints are lodged.**
95. The Welsh Government was initially heartened with UK Government confirmation that the new asylum accommodation contracts would comply with the Welsh Housing Quality Standards. These standards make it clear that forced room sharing of adults is not acceptable (amongst other standards). However, despite several attempts to draw attention to this breach of the contract, forced room sharing remains a feature of asylum accommodation in Wales. **The UK Government must ensure Clearsprings Ready Homes discontinue the policy of forced room sharing of adults.**
96. The current arrangements make insufficient provision for asylum seekers who are likely to be exceptionally vulnerable. This particularly includes those who are LGBTQ+ and are forced to share properties with those who have discriminatory views on the basis of sexual orientation or transgender identity. It also includes those who have experienced domestic or sexual abuse, either in the UK or on the journey to the UK. Those with physical or mental impairments may also be disabled by the Home Office's failure to centrally consider these impairments in selecting the location of accommodation. Those who may have been forced to seek asylum due to apostasy or non-traditional religious beliefs may also be placed in a vulnerable position if forced to share properties with those who do not share their beliefs.
97. **We urge the UK Government to overhaul the policy for allocating accommodation – putting the well-being of asylum seekers at the heart of its allocation policy.** Ensuring a better compatibility between those living in shared properties will help the general well-being of all involved.
98. This would mean ensuring there are **LGBTQ+-only properties** available in each area, as well as ensuring **dedicated domestic or sexual abuse counselling and bedspaces** are made available as required. It means ensuring **reasonable adjustments** are made – not only to properties themselves, but also to the location of those properties – to ensure disabled people are properly supported. It also means **ensuring the situations which led to someone fleeing their country of origin are not replicated here in**

Houses of Multiple Occupation, by carefully considering the compatibility of religious views.

Widening asylum dispersal

99. The asylum system has long been founded on the principle of local authority cooperation and consent. Recent experience with the Penally army training camp in Wales was a concerning departure from this long-accepted principle. **We urge the UK Government to recommit to the importance of local authority consent for the placement of asylum seekers in their boundaries.**

100. The Welsh Government is actively involved in seeking to widen asylum dispersal to new areas in Wales. However, we have been clear with UK Government colleagues that the availability of funding to ‘pump-prime’ new areas to receive asylum seekers is essential. Funding would enable the local authority to build internal expertise and professional capacity, to build required partnerships with relevant local stakeholders, to assess gaps in key services and to bridge these gaps as quickly as possible. **We recommend that the UK Government creates a new fund which local authorities can access for at least the first few years of asylum dispersal to their area.**

The ‘Move On’ grace period

101. The UK Government provides a continuation of asylum support when someone is granted refugee status for a 28 day period. **We urge the UK Government to extend this period to ‘up to 56 days’, which would align with Homelessness legislation in both England and Wales.**

102. The current situation means that many recognised refugees fall into destitution and homelessness soon after leaving asylum accommodation. In turn, this undermines the ability of individuals to integrate into Welsh communities.

103. The Welsh Government specifically funds a ‘Move On’ service with comparable services missing in many parts of England, yet we still see these negative outcomes too often. This is a perverse situation where the UK Government recognises an individual’s right to international protection after many months of consideration but then expects them to rebuild their lives within 28 days.

104. **We believe that in most cases the full 56 day period will not be required** – newly granted refugees will be motivated to move onto Universal Credit or into employment at the earliest opportunity as asylum support rates are so low. However, 56 days will provide the necessary breathing space to find sustainable solutions for individuals.

Asylum support rates

105. Asylum support rates are set at an exceptionally low level which intends to meet “essential living needs.” Whilst the Home Office follows a methodology accepted by the Court of Appeal as lawful in setting these rates, that judgement was made in 2014. Since that time, there has been an inexorable change in the needs of all members of society to access online services – particularly but not exclusively during the Covid-19 pandemic.
106. The current setting of rates does not adequately address this fundamental change in circumstances. It seems impossible to claim that access to the internet for asylum seekers during the pandemic was not an essential living need – how else would individuals have accessed translated public health messaging, kept in touch with families, and been able to heed Covid-19 control measures through staying inside?
107. Despite a £20 top-up provided to Universal Credit claimants, this top-up was not provided to asylum seekers. The Welsh Government has intervened to provide free unlimited internet access in all asylum accommodation in Wales for the next stage of this pandemic, in the absence of Home Office provision.
108. The *New Plan* and other Home Office policies are also making a default move to remote hearings and reporting requirements for many situations. Without internet access delivery of this change will be difficult to achieve.
109. **We urge the UK Government to look again at the asylum support rates methodology – to add additional funds to ensure access to internet services and also to consider funds to support the integration of individuals in our communities (e.g. increased transport costs).**
110. The Immigration Act 2016 introduced a provision to enable the cessation of asylum support for families with children who had been refused asylum. A new Section 95A was introduced as an alternative form of support but had to be applied for within 90 days. Thankfully, this change has not been implemented but **we urge the UK Government to abandon it altogether at this opportune moment. We will not tolerate children sleeping rough in Wales** and should Home Office support stop, it is likely that Welsh Social Services duties would be engaged instead. However, this will incur costs on Welsh public services which are avoidable and are only necessary to abide by basic children’s rights requirements.

Data and information sharing

111. It is **imperative that where asylum seekers are transferred to a local area, the Home Office provides relevant information to the local authority and local health board** (Welsh principle local structure responsible for healthcare)

to ensure appropriate considerations can be made for care, well-being and integration support.

112. Information must be shared quickly on a confidential and secure platform to ensure this support is put in place quickly. Where the Home Office needs to move an individual to another area, they should update all relevant partners in both the receiving area and the area of departure – facilitating continuity of care.
113. Where individuals receive refugee status, the local authority housing team will need to be made aware urgently to start the move on process as quickly as possible. Similarly, where an individual is refused asylum local authority social services teams need to be made aware as they will need to consider whether alternative accommodation must be provided under the Social Services and Well-Being (Wales) Act 2015.
114. The Welsh Government does not need to receive details relating to personally identifiable individuals but **we do expect to receive anonymised data on asylum seeker demographics and trends in support required**. As yet, we have not been provided with the information we have been requesting for over a year.

Quality of decision-making

115. The *New Plan* does not discuss a crucial change which needs to be made to improve the asylum system – the quality of decision-making. In the year ending December 2020, 38% of appeals were allowed, demonstrating the high number of initial decisions which were not as robust as it should have been.
116. We acknowledge that focusing on a ‘one-stop’ legal process is intending to increase the availability of relevant evidence at the initial decision stage but the process of evidence gathering cannot be rushed. There is a dearth of good immigration legal advice in many parts of the UK, including much of Wales, and this needs to be enhanced to ensure the evidence at initial decision stage is improved.
117. **We recommend that the UK Government works with the Legal Aid Agency and Office of the Immigration Services Commissioner to increase the supply of immigration legal advisors and relevant Legal Aid to support better quality decision making in future.**
118. **We further recommend that the UK Government adopts a less adversarial approach to asylum interviewing.** LGBTQ+ individuals, those sexually assaulted and torture survivors have all previously expressed views

that interviews re-traumatised them and undermined the objective of building a complete case history at this initial stage.

John Davies
Head of Inclusion, Cohesion and Brexit Coordination
Communities Division
Welsh Government

By email:

[REDACTED]

XX August 2021

Dear John,

Welsh Government Response to the Home Office's New Plan for Immigration

Thank you for your email of 22 June, which contained the Welsh Government Response to the Home Office's New Plan for Immigration. I apologise for the delay in replying.

I begin by thanking you and colleagues in the Welsh Government for the constructive discussions we have been having on the New Plan for Immigration and the Nationality and Borders Bill. I look forward to further discussions as the Bill moves through the UK Parliament.

The New Plan for Immigration policy statement and consultation

The New Plan for Immigration policy statement, which was published on 24 March, set out in detail proposals for controlling both legal and illegal migration to the United Kingdom. It contained multiple sources of analysis and evidence.

The Home Office considered carefully how to conduct the consultation and a detailed and thorough consultation exercise was conducted. In total, there were 8,590 respondents to the online consultation questionnaire, which included 7,399 individuals who identified themselves as members of the public and 1,191 who identified themselves as stakeholders. There were also extensive engagements, with stakeholder groups, with public focus groups and with groups of those with lived experience of seeking asylum in the UK and with those who were victims/survivors of modern slavery. The consultation was run in line with established principles, and legal duties. [The UK Government response to the consultation was published on 22 July.](#)

The Plan included evidence for particular proposals, including sufficient data, to allow those consulted to give intelligent consideration and an intelligent response. We do not agree that the Plan contains any misleading statements or inappropriate conclusions. We also do not agree that the Plan overlooks the position of those who enter the country illegally. Our intention is indeed to reduce the number of individuals who illegally enter the United Kingdom.

The Plan was published when policies were at a formative stage. The objective of the consultation was to listen to a wide range of views to further inform the proposals set out in the New Plan for Immigration, to enable us to reach a decision on the

content of legislation to be introduced to Parliament. Our consideration of all consultation responses took place before the introduction of the Bill.

The Bill was introduced into the House of Commons on 6 July and passed its Second Commons Reading on 20 July. Commons Committee Stage will commence following summer recess in the autumn. Those interested in the proposals contained in the Bill will of course be able to make representations on the detailed provisions in the Bill in the usual way as the Bill progresses through the UK Parliament.

ILR for Refugees

From October, refugees arriving through the UK Resettlement Scheme will be granted indefinite leave to remain upon their arrival to the UK. Once this change takes place, anyone resettled under the UK Resettlement and Community Sponsorship Schemes from March 2021 will have the option to benefit from the change, free of charge. This will only apply to resettled refugees.

The previous Vulnerable Persons Resettlement and Vulnerable Children's Resettlement Schemes both closed in February 2021. Refugees resettled through these schemes were granted five years' leave to remain, after which they can apply for indefinite leave to remain, free of charge.

Review of Family Reunion routes

The UK family reunion policy has seen over 29,000 family reunion visas issued in the last 5 years, with more than half issued to children. Our policy makes clear that there is discretion to grant visas outside the Immigration Rules, which caters for extended family members in exceptional circumstances – including young adult sons or daughters who are dependent on family here and living in dangerous situations. There are separate provisions in the Rules to allow extended family to sponsor children to come here where there are serious and compelling circumstances.

The UK Government committed to review safe and legal routes to the UK and had a statutory duty to conduct a public consultation on family reunion for unaccompanied asylum-seeking children (UASC) in the EU. This consultation was completed as part of the wider consultation on the New Plan for Immigration. We have carefully considered the responses. [A report on the outcome of the review of safe and legal routes was laid in Parliament on 22 July](#). This includes details of the UK Government's ambition to strengthen our existing policy by providing additional clarity in the Immigration Rules on the exceptional circumstances where we would grant leave to a child seeking to join a relative in the UK.

We will continue to allow those arriving in the UK via safe and legal routes to reunite with family in the UK. The UK Government's position is that reducing family reunion entitlements for those granted temporary protection status is a proportionate way of encouraging people to claim asylum in the first safe country they reach and not to undertake dangerous journeys to the UK. But importantly, these individuals will still be able to reunite with family where refusal would breach our obligations under Article 8 of the European Convention on Human Rights. These proposals comply with the 1951 Refugee Convention.

Multi-year commitment to resettlement

We are committed to continue welcoming refugees through resettlement in the years to come. This commitment will ensure we continue to offer safe and legal routes to the UK for vulnerable refugees in need of protection.

This is a multi-year commitment with number of refugees we resettle every year dependent on a variety of factors, including local authorities' capacity for supporting refugees and the extent to which Community Sponsorship continues to grow.

We are grateful to Welsh local authorities for their contribution to the success of our previous resettlement schemes and welcome your offer of help promoting future participation in the new UK Resettlement Scheme.

Our Afghanistan Citizens' Resettlement Scheme aims to welcome 5,000 Afghans in year one, with up to a total of 20,000 in the long-term. We are working urgently to open this route. Further details will be announced in due course.

Exceptional discretionary assistance to people in country of origin

Resettlement programmes provide protection in the UK to those who have been recognised as refugees outside their country of origin. But there can be circumstances whereby someone faces immediate danger whilst in their country of origin and is therefore not eligible under our refugee resettlement programmes. This proposal is designed for such circumstances. In truly exceptional and compelling cases, the Home Secretary will be able to act swiftly to allow internally displaced persons into the UK, using their discretion under Section 3 of the Immigration Act 1971 to grant leave outside the rules to enter the UK. More details regarding subsequent entitlements once in the UK will be set out in due course.

Tailored support to help refugees to integrate

We recognise that integration is devolved in Wales, and we are grateful for the work the Welsh Government has been undertaking over the past few years. We believe there is much that we can learn from each other. We note your comments about funding and look forward to further discussions.

Temporary Protection Status

In line with Article 31 of the Refugee Convention, we will pursue differential treatment of those who do not come directly to the UK, do not claim asylum without delay, or fail to show good cause for their illegal entry/presence in the UK. This is aimed at deterring dangerous journeys and upholding the first safe country principle.

A person granted temporary protection status will not be provided with recourse to public funds unless they are destitute or at risk of destitution.

Asylum Reception Centres

Clause 11 of the Bill would allow the Secretary of State to take account of the stage an individual's asylum claim has reached in deciding the particular type of accommodation that might be suitable for their needs. It also allows the Secretary of State to take account of their past compliance with bail conditions and other conditions attached to the provision of support. Full-board accommodation centres are already used to provide housing and other support to asylum seekers and failed asylum seekers who would otherwise be destitute. Expansion of their use will help to increase efficiencies within the asylum system, for example through onsite case working. Faster decisions are in the interests of those with a genuine claim for asylum and help to facilitate their integration into UK society. Individuals accommodated at the centres will have appropriate access to the services they need, either on site or locally.

Plans for accommodation centres are at an early stage of development. At present, however, there are no plans for couples and families to be accommodated at the centres. We welcome further dialogue with the Welsh Government as the proposals develop.

Streamlining asylum claims and appeals

We do not accept that the flowchart on page 25 of the policy document is misleading.

The current appeals system can be slow. As of May 2020, 32% of asylum appeals lodged in 2019 and 9% of appeals lodged in 2018 did not have a known outcome.

The Bill will seek to prevent sequential or unmeritorious claims, appeals or legal action, while maintaining fairness, ensuring access to justice and upholding the rule of law.

There will be expanded access to civil legal aid for those in receipt of a Priority Removal Notice. There will also be expanded access to civil legal aid for potential victims of modern slavery, to enable advice on referral into the National Referral Mechanism (NRM) to be provided as 'add-on' advice where individuals are in receipt of civil legal services for certain immigration and asylum matters.

Proposals around Fixed Recoverable Costs will look to create certainty of costs for all parties, including claimants and their representatives. This will therefore also fix at a reasonable rate the amount of costs that the Home Office can potentially claim from other parties when it successfully defends litigation. The proposals are designed to create a fairer and more reasonable costs schedule for all parties involved in immigration litigation.

It should also be noted that most immigration Judicial Reviews are brought by legal representatives on behalf of claimants, rather than litigants in person, so the notion that the majority of litigants in Judicial Review proceedings are destitute or are without legal representation is not accurate.

We are also now giving further consideration to proposals regarding experts and can confirm that these proposals are not being taken forward through the Nationality and Borders Bill.

Inadmissible claims and removal

We remain committed to upholding our international obligations. The UK Government is clear that asylum seekers should claim in the first safe country they reach – that is the fastest route to safety and it is compliant with the 1951 Refugee Convention.

The UK Government expects our international partners to engage with us, building on our good current cooperation. We will continue to highlight the importance of having effective returns agreements to stop people making perilous crossings.

The UK and EU agreed a joint political declaration which made clear the UK's intention to engage in bilateral discussions with the most concerned Member States, to discuss suitable practical arrangements on asylum, family reunion for unaccompanied minors or illegal migration. We continue to engage in discussions with other countries.

In respect of proposals to permit the processing of claims outside the UK, the UK Government's position is that we must explore every option to tackle illegal migration. We will continue to work with our international partners to meet this joint challenge.

Age assessment

There are very serious safeguarding risks if people over 18 are treated as children and placed in settings with children. Local authority 'Merton' age assessments demand a significant amount of time and resources. Even when completed, assessments are frequently subject to costly legal challenges. In light of this we are committed to supporting local authorities to better achieve swift and sustainable assessment outcomes – including through the establishment of a National Age Assessment Board (NAAB).

The NAAB will be able to undertake age assessments upon the request of local authorities and will work with local authorities to set out the criteria, process and requirements to be followed to assess age.

Welsh colleagues will have noted the recent Supreme Court judgment in the case of *BF Eritrea* regarding initial age assessments carried out by immigration officers on the basis of a 'significantly over 18 threshold'.

The UK is one of very few European countries that does not currently employ scientific methods of age assessment. Assessing someone's age is an extremely challenging task and it is only right we explore how the current system can be improved by harnessing scientific evidence alongside existing methods.

Regarding the proposed introduction of a statutory right of appeal, we welcome the positive response from Welsh colleagues.

On the detailed substance of the proposed measures, Home Office officials have already initiated further discussions with Welsh counterparts and look forward to continued constructive engagement over the coming weeks and months.

Our current devolution analysis, which is set out in the explanatory notes to the Nationality and Borders Bill, is that the age assessment clause contained in the Bill as introduced deals with reserved matters. However, as the Home Secretary noted in her letter to the First Minister of 6 July, we intend to replace this clause with substantive clauses in due course, as policy is finalised. We will continue to engage with you on this, noting your comments about a Legislative Consent Memorandum.

Supporting victims of Modern Slavery

We welcome your engagement on the public order measure and note your concerns. We would like to reassure you that the circumstances of each case will be carefully considered when making decisions about withdrawing support or protections. We are conscious that potential and confirmed victims of modern slavery may be suspected or accused of committing criminal offences as part of their exploitation. The UK Government will continue to engage with partners when operationalising this measure.

We also welcome your positive views on the temporary leave to remain measure. This clause ensures that all confirmed victims without immigration status will be considered for a grant of temporary leave to remain in line with specific criteria. The provision provides for a grant of leave for those victims with ongoing recovery needs stemming from their exploitation, those assisting the authorities with investigations and prosecutions relating to their exploitation and those seeking compensation linked to their exploitation. Temporary Leave to Remain is one form of leave and individuals may be entitled to Indefinite Leave to Remain through other routes.

Removal of failed asylum seekers

We recognise that rough sleepers are some of the most vulnerable people we encounter, and therefore our approach to rough sleepers with insecure immigration status is firstly to engage with them and encourage their compliance with Immigration Rules, through either regularisation of their stay or to voluntary return.

We will indeed continue to signpost individuals to the Voluntary Returns Service (VRS) where support can be provided for their return home. VRS introduced an enhanced reintegration provision in April this year, increasing funding for those who are eligible to between £1500 and £3000. The support differs based on whether the returnee is returning to a country in receipt of overseas development funding or whether they have additional assistance needs. Both failed asylum seekers and those identified as rough sleepers are entitled to reintegration support. Rough sleepers should be referred to VRS by their support worker wherever possible.

The enforced return of rough sleepers would be pursued only as a last resort. The Department is keen to work with local authorities that are engaged with non-UK rough sleepers to work collaboratively in addressing their situation in the UK.

I understand you have an ongoing dialogue with the Home Office Homelessness team regarding the interaction between Welsh local authorities and Immigration Enforcement with regards to rough sleepers. We will be consulting with local authorities and look forward to further discussion with the Welsh Government and Welsh local authorities.

Asylum seeker Right to Work

Asylum seekers are allowed to work in the UK if their claim has been outstanding for 12 months or more, through no fault of their own. Those permitted to work are restricted to jobs on the Shortage Occupation List, which is based on expert advice from the independent Migration Advisory Committee.

It is important to distinguish between those who need protection and those seeking to work here, who can apply for a work visa under the Immigration Rules. Our wider policy could be undermined if migrants bypassed work visa rules by lodging unfounded asylum claims here. Unrestricted access to employment could act as an incentive for more migrants to choose to come here illegally, rather than claim asylum in the first safe country they reach.

The policy remains under review. We thank you for your suggestions and our findings will be communicated in due course.

Case management system for asylum seekers

The Home Office is currently undertaking significant changes to its case management system. This includes a transformation programme. We have no plans at the present time to develop a user interface along the lines you suggest, but the outcome of this programme of work – and the other changes we are making through the Plan – will be a streamlined asylum system with quicker outcomes for claimants.

British citizenship for children born to migrant parents

A child born in the United Kingdom will only be a British citizen if either parent is a British citizen or settled in the United Kingdom (or from 13 January 2010, a member of the armed forces). “Settled” is defined in the British Nationality Act 1981 as being ordinarily resident in the United Kingdom and not subject to an immigration time restriction on their stay. This effectively excludes those whose parents only have limited leave to remain or are here illegally. This means that children whose families have an ongoing connection with the UK can acquire citizenship, and will be able to pass that status on to their own children born overseas, but those whose parents are here temporarily will not.

However, a child born in the United Kingdom who is not a British citizen at birth has an entitlement to register as a British citizen if their parent becomes a British citizen

or settled, or the child lives here for the first 10 years of their life. If a child does not have an entitlement to registration, an application could be made under Section 3(1) of the Act, which is at the Home Secretary's discretion. Whilst we would normally expect one of the parents to be a British citizen, the child could be registered if there were compelling circumstances. In addition, there are provisions for children born in the UK who would otherwise be stateless to acquire citizenship, which enable us to meet our obligations under the Convention on the Reduction of Statelessness. The UK Government has no plans to amend this. Citizenship should be acquired by those with an ongoing connection with the UK. This is the approach taken by many European countries and Australia and New Zealand.

'Public Funds' regime

It is a well-established principle that migrants coming to the UK should be able to maintain and support themselves and their families without posing a burden on the welfare system. Successive UK Governments have taken the view that access to benefits and other publicly funded services should reflect the strength of a migrant's connections to the UK and, in the main, only become available to migrants when they have become settled here with indefinite leave to remain (ILR).

These restrictions are an important plank of immigration policy designed to ensure public funds are protected for the residents of the UK and assure the public that immigration brings real benefits to the UK.

The Home Office has published detailed guidance in respect of public funds at [Public Funds guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672122/public-funds-guidance.pdf). This provides clarity that benefits and services considered to be public funds are those listed at Section 115 of the Immigration and Asylum Act (1999) or Rule 6 of the Immigration Rules.

The Home Office is committed to consulting widely in understanding how No Recourse to Public Funds (NRPF) policy impacts different migrant groups, including all four nations. We have therefore set up a national NRPF stakeholder forum to work constructively and collaboratively with stakeholders in developing and reviewing policy. This forum includes representatives from the Welsh Local Government Association, other devolved administrations, central government, the NRPF Network, and other third sector organisations with a specific interest in the subject.

Free school meals are not listed as public funds under immigration legislation and the Home Office does not prevent migrants from accessing them. Rather, eligibility for free school meals policy is the prerogative of the Department for Education in England and of the devolved administrations in Wales, Scotland and Northern Ireland.

Respect for Devolved Administrations

We are committed to working with Welsh Government. Our dedicated Wales Team in Cardiff provides the strategic interface between Wales and Whitehall, so that due account is taken of the Welsh context in policy development and implementation, strategy and operations. As you will know, to ensure there is continued meaningful

engagement around immigration matters, the Deputy Director of the team is represented at your Ministerial Refugee and Asylum Seeker Taskforce and Wales Strategic Migration Partnership's Executive Board. The team also meets with you on a monthly basis. If you have any suggestions as to how to further strengthen our interaction, our Wales Team is happy to pick up with you.

Asylum accommodation

Planning to establish a Migrants' Commissioner is at an early stage and we welcome your views, both about the role of the new Commissioner and their relationship with the Independent Chief Inspector of Borders and Immigration. An independent working group is considering next steps and we will put you in touch with them so that you can feed in your views directly.

Clearsprings Ready Homes work with Rainbow International to support people who are LGBTQ+ and currently there are 6 such specific properties in Wales, with more being sourced. We do not currently room share anywhere in Wales, including initial accommodation and have no plans to do so. If you believe this is being breached, then we would welcome examples of where this is the case.

Widening asylum dispersal

The UK Government recognises the importance of working with local authorities in respect of asylum dispersal

We are grateful to local authorities in Wales for their response to the launch of the new National Transfer Scheme (NTS). Local authorities in Wales have committed to accepting a fair proportion of UASCs and have successfully delivered the necessary care placements for vulnerable new arrivals, since the launch of the new scheme on 26 July, in accordance with the new UK wide rota mechanism.

The 'Move On' grace period

The UK Government has no plans to increase the "move-on" period from 28 days to 56 days, but will consider any practical ideas to ensure those granted refugee status are able to access mainstream benefits if they need them and assistance to secure alternative housing.

We have already implemented a number of such changes over the past few years. Most importantly, Migrant Help were awarded the Advice, Issue Reporting and Eligibility (AIRE) contract, under which they are required to contact newly recognised refugees at the start of the move-on period to provide practical assistance. As your letter indicates, this service is arranged via the Refugee Council in Wales and our understanding is that it is working effectively.

Newly recognised refugees also receive their Biometric Residence Permit (BRP) before the 28-day period starts. The BRP provides evidence of their eligibility to apply for benefits and take up employment and the National Insurance Number, an issue in the past, is also printed on the back of the BRP. Further, integration loans can be applied for, which can be used for essentials to help people integrate into UK

society. For example, such a loan can be used to assist with access to housing, education or work.

Asylum support rates

The UK Government does not accept the support rates are set at an exceptionally low level. Last year, the standard allowance provided to each member of a supported household increased from £37.75 per week to £39.63 per week, an increase of around 5%, which was well over inflation.

Officials have commenced this year's review of the asylum support rate and as a first step have reached out to the main voluntary sector groups representing asylum seekers for their views. The costs of meeting needs related to travel and communication will be taken into consideration in the normal way. Currently, the £39.63 rate includes provision for the cost and maintenance of a mobile phone that provides access to the internet.

We plan to consult later this year on implementing the support provisions of the Immigration Act 2016 and will consider the impact on local authorities carefully. However, it is important to recognise that any failed asylum seekers who would otherwise be destitute, including those with children, will be able to obtain Home Office support if there is a genuine obstacle that prevents them from leaving the UK.

Data and information sharing

The Home Office are working on a data sharing agreement which will see Realtime move-on (departure following a grant of leave) data shared with Local Authorities via the secure Move IT portal.

Uploading data across circa 150 participating Local Authorities across the UK is challenging so we are developing an automated platform to do so.

In relation to demographic data, that is shared on a monthly basis with the Strategic Migration Partnership for Wales who should share that with Welsh Government and brief on developments.

Quality of decision-making

We know that some people who make a protection claim or who are identified as potential victims of modern slavery have complex needs and histories. Case Workers who interview individuals have guidance and the training required to assist them conducting interviews which makes it clear that trauma and other factors may be relevant in conducting the interview. We ask individuals before interview if they would be more comfortable talking to an interviewer / interpreter of the same gender, and where possible these wishes will be accommodated.

Under the new Bill, as noted, there will be expanded access to civil legal aid for those in receipt of a Priority Removal Notice. There will also be expanded access to civil legal aid for potential victims of modern slavery to enable advice on referral into the National Referral Mechanism (NRM) to be provided as 'add-on' advice where

individuals are in receipt of civil legal services for certain immigration and asylum matters.

I hope this letter has been helpful. I would welcome further discussions.

Yours sincerely,

**Dan Hobbs,
Director, Asylum, Protection and Enforcement Directorate
Migration and Borders Group
Home Office**



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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.

Ein cyf/Our ref MA/JH-/4169/21

Rt Hon Priti Patel MP
Home Secretary

By email only.

09 December 2021

Dear Home Secretary,

We write jointly following the tragedy which occurred in the English Channel on 24 November, where 27 people lost their lives seeking to cross to the UK. Whilst this is the biggest loss of life in one incident this year we know that there are numerous reports of other individual deaths, with the International Organisation for Migration, reporting that 166 people have been recorded as dead or missing after undertaking this perilous journey since 2014.

Our three Governments agree that we must ensure people do not attempt to make the English Channel crossing by small boats and that the influence of people smugglers must be curtailed. However, we do not believe that increased marine or beach patrols, diversion, criminalisation, changes to legal status or reduced support to those who arrive in the UK, that the UK Government proposes will solve this issue.

We therefore want to offer to work together constructively with you on proposals which can seek to end any further tragic waste of human life and ensure a humanitarian solution and seek an urgent meeting to fully discuss.

Safe and legal routes

People do not make dangerous journeys to the UK because they believe our welfare system will support them. They arrive because of existing family or kinship ties in the UK, their ability to speak English or as a consequence of cultural connections linked to former British colonialism. The UK has moral and international legal obligations to uphold the 1951 UN Refugee Convention, to which the UK was a founding signatory. The UK must recognise our moral duty to enable people to seek safety and also help ease pressure in countries of initial displacement with the highest numbers of refugees.

It is therefore clear that the UK Government must reconsider its hostile environment strategy and, vitally, develop sufficient safe and legal routes for asylum seekers to claim asylum from outside the UK, negating the need for perilous journeys and disrupting the business model of people smugglers. As Zoe Gardner from the Joint Council for the Welfare of Immigrants told the Home Affairs Committee “until we provide people with a regulated alternative means of travel to the UK, every round of security spending we throw at this and every attempt at this failed model of

deterrence and pushbacks will be celebrated by the smugglers, because it simply lines their pockets.”

The ‘Dubs Scheme’ was one such legal route which closed a number of years ago and we urge you to reopen – with an expanded offer to ensure the scheme is seen as accessible for those who need it. Properly funded successor schemes must support many thousands per year, as opposed to the 480 people who were accommodated through the previous scheme. Those considered to have meritorious claims can and should be brought safely to the UK, avoiding any further loss of life.

The Dublin Regulations also provided a safe and legal route for people seeking asylum to be reunited with family members they had become separated from and for their asylum application to be considered in the country their family were already living in. Home Office data shows that 882 people were transferred into the UK under Dublin Regulations in 2020. As the UK is no longer subject to Dublin regulations this safe route to be reunited with family and have an asylum claim considered here in the UK has been lost and a replacement is urgently required.

EU Withdrawal has made it harder to return migrants to France and other European countries. This was confirmed when the UK Minister for Immigration, Compliance and Courts told the Home Affairs Committee on 17 November that only five people have been returned so far this year compared to several hundred the previous year. As yet, no returns agreements have been made between the UK and other Member States. Progress requires a joint UK-EU response and we urge the UK Government to do more to work effectively with our European neighbours.

National Transfer Scheme

We recognise the pressure which various parts of the asylum system are currently operating under and note your recent decision to mandate local authority participation in the National Transfer Scheme to try to alleviate pressure to support unaccompanied asylum seeking children. We have unresolved concerns about the way the Scheme will operate but with Ministerial willingness, we believe that suitable compromises can be made to ensure the Scheme works effectively across the UK. Our governments and local authorities are keen to ensure our Nations play a full part, but we urgently need clarity that adequate funding and flexible arrangements will be put in place to ensure the operation of the Scheme works in a devolved context.

Asylum dispersal

We are extremely concerned by the Home Office’s recent approach to procuring contingency accommodation for asylum seeking adults and families without consultation with our Governments or local authorities. We understand the time pressures involved but there is ample time for proper consultation if these conversations are prioritised in the Home Office operational delivery. In Wales, we were recently able to avert a disaster, where the Home Office wanted to open a hotel very close to the office of a far-right organisation which would have caused major disruption and safeguarding risks. We can offer this local knowledge if involved early enough but this is not happening at present.

The current approach will undo all of our good work in the last year in bringing new local authorities into the asylum dispersal system and we urge you to take action to prevent this. Similar significant concerns about the procurement of hotels as contingency initial asylum accommodation in Scotland were set out in 21 October correspondence. The offer for our three Governments to have meaningful discussions on asylum dispersal with the Convention Of Scotland's Local Authorities (COSLA), the Welsh Local Government Association (WLGA) and our combined 54 local authorities remains.

Nationality and Borders Bill

Finally, we have far-reaching concerns about the impact of the provisions included in the Nationality and Borders Bill on our Nations. Although we understand that you have different policy intentions to our Governments, we also believe the current provisions will have a counter-productive effect in achieving the aims you have outlined. People seeking asylum should be accommodated within communities and have access to the support and services they need to rebuild their lives.

- The UK government claims that this legislation contains measures that will prevent migrants crossing the English Channel in small boats, including the barbaric suggestions for "push-back" exercises involving enforcement officials seeking to repel small boats. Rather than help matters, these measures will delay rescues and endanger lives. It is an obligation under maritime laws and conventions to guarantee people's safety. As reported by the UK Parliament's Joint Committee on Human Rights a "policy of pushbacks fails to comply with the obligations to save those in distress, contrary to the right to life and international maritime law." Our governments wholeheartedly support the Joint Committee's position and call again for this policy to be urgently reviewed.
- Provisions which penalise Group 2 refugees will inevitably lead to more illegal working and exploitation of refugees (other Home Office priority areas to tackle) in our communities, a point reinforced by a range of experts who presented to the Public Bill Committee.
- Differentiation between refugees based on how they arrived rather than their protection needs is entirely counter to integration. Focus should be on improving the asylum system, not finding new ways to make the system more challenging and prolonged for people seeking safety.
- Restrictions on Family Reunion rights will lead more family members to attempt the Channel crossing.
- The provisions aimed at ensuring asylum seekers put their full case together at the first opportunity will lead to increased litigation for the Home Office if asylum seekers are dispersed to immigration legal advice 'deserts' unless there is a radical increase in Legal Aid support.
- Provisions relating to the operation of accommodation centres will lead to the rise in far-right extremism (another Home Office priority to address), as we saw in Penally in West Wales.

Our officials and ministers have repeatedly sought engagement on the matters raised in the Nationality and Borders Bill, the impact that they will have in our nations and the possible need for legislative consent. This includes key considerations on

issues relating to unaccompanied asylum seeking children and human trafficking but meaningful engagement on these matters has not been forthcoming. Welsh Ministers have now decided that a Legislative Consent Memorandum will be required to be laid at Senedd Cymru in relation to the age assessment clauses in the Bill, whilst Scottish Ministers still require urgent clarity from the Home Office to ascertain whether similar legislative competence issues need to be addressed in Scotland.

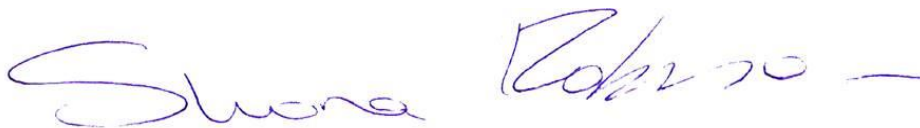
We further note that, on 1 December, less than a week before report stage, the Home Office have tabled some 80 amendments, again, without any advanced notice or meaningful engagement. This approach makes cooperative working virtually impossible and we would urge the UK government to engage constructively to address our real concerns.

Next steps

Scotland and Wales have always played their part in providing sanctuary to those fleeing conflict and persecution and we stand ready to do so again. We are committed to working with you to build cross-party support around revisions to the Bill which could make it workable and effective in achieving your policy aims whilst also ensuring effect integration of all arrivals within our Nations.

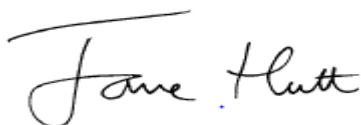
It is notable that we have had no Ministerial meetings in relation to these matters and we urge you to meet with us before the end of the year to discuss how we can work together on these vitally important issues.

We are keen to follow a Four Nations approach to this issue so we are also copying this letter to the First Minister and Deputy First Minister of Northern Ireland and we urge you to include us all when the meeting is convened.



Shona Robison MSP

Cabinet Secretary for Social Justice, Housing and Local Government
Scottish Government



Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice
Welsh Government



Shona Robison MSP
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Scottish Government

Jane Hutt AS/MS
Minister for Social Justice
Welsh Government

DECS Reference: MIN/0220001/21
Your Reference: MA/JH-/4169/21

18 January 2022

Dear Shona and Jane,

Thank you for your joint letter of 9 December to the Home Secretary about asylum and immigration. I also thank Shona for her letters of 4 November and 25 November, and Jane for her letters of 18 November and 10 December. I am replying as the Minister for Safe and Legal Migration.

Last November's tragic loss of life is yet another reminder of how lethally dangerous journeys across the Channel are, and why they must be stopped. The criminals who facilitate these journeys have no regard for life, and we will use every tactic in our disposal to break their business model. We must also recognise illegal immigration from safe and democratic countries in Europe undermines our efforts to help those most in need who are in the first safe country they can reach. Controlled resettlement via safe and legal routes is the best way to protect such people and disrupt the organised crime groups who exploit migrants and refugees.

This is a complicated issue and there is no simple fix. The Nationality and Borders Bill and the New Plan for Immigration are both essential elements in finding a multi-pronged solution to a long-term problem which successive Governments have faced over decades.

Safe and legal routes

The UK has a proud history of welcoming refugees through resettlement, and this will continue to be the case. Yet with worldwide displacement now standing at around 80 million people, we cannot help everyone. However, we will maintain clear, well-defined routes for refugees in need of protection. When they arrive in the UK, we will ensure refugees have the tools to properly integrate and contribute to society. The number of refugees we can resettle has to be based on the UK's capacity to support them.

Since 2015, we have resettled over 25,000 men, women and children seeking refuge from persecution across the world. This is more than any other European country. Our doors

remain open to the people who most need our help through our commitment to resettlement.

Following the successful completion of the Vulnerable Persons Resettlement Scheme in February 2021, we have launched the new global UK Resettlement Scheme. This builds on the success of previous schemes and sees the UK continue to welcome refugees in need of protection. Equally, the UK will continue to work closely with international partners such as the United Nations High Commissioner for Refugees to target those in greatest need of our support. This includes people requiring urgent medical treatment, survivors of violence and torture, and women and children at risk. We also continue to resettle refugees through our Community Sponsorship and Mandate Resettlement Schemes.

We have also relocated over 7,000 people under the Afghan Relocations and Assistance Policy (ARAP), with many more continuing to arrive. ARAP offers relocation to current or former staff, and certain others who worked alongside or in partnership with the UK Government. They are assessed to be at risk because of this work. In addition, on 6 January, the Afghan Citizens Resettlement Scheme (ACRS) formally opened. It will provide up to 20,000 women, children and others at risk with a safe and legal route to resettle in the UK.

The scheme will prioritise those who have assisted UK efforts in Afghanistan and stood up for British values such as democracy, women's rights, freedom of speech and the rule of law. Furthermore, we are also prioritising vulnerable people such as women and girls at risk, and members of minority groups (including ethnic/religious minorities and people who are LGBT+). The ACRS is a clear demonstration of the Government's New Plan for Immigration in action, as we expand and strengthen our safe and legal routes to the UK for those in need of protection.

In very exceptional circumstances, the Home Secretary can use her discretion to allow someone whose life is at direct risk to come to the UK, where the unique facts of the case merit this. As we committed to in the New Plan for Immigration, those coming to the UK through resettlement routes now receive immediate indefinite leave to remain.

It is also worth noting over 88,800 British Nationals (Overseas) (BN(O)) status holders and their family members have now applied for the BN(O) route we created in January 2021. It reflects the UK's historic and moral commitment to those people of Hong Kong who choose to retain their ties to the UK. The route offers a choice which affords long-term safety and stability for these individuals and their families via settlement in the UK.

Dubs Scheme

I note your comments about the Dubs Scheme. The Government met its one-off commitment to transfer 480 unaccompanied asylum-seeking children from Europe to the UK under the Dubs Scheme. We have no plans for a new transfer scheme specifically from countries in Europe, which are all safe and democratic nations, for unaccompanied asylum-seeking children (UASC), reflecting our new global approach to the Immigration system.

In addition to our resettlement schemes, since 2015 we have issued over 39,000 visas under the Refugee Family Reunion Rules. Around half of these were issued to children. Separately, we have already committed to provide additional clarity in the Immigration Rules on the exceptional circumstances where we would grant leave to a child seeking to join a relative in the UK.

Dublin Regulation and returns agreements

I also note your comments about the Dublin Regulation and about returns agreements with EU states.

All countries have a moral responsibility to tackle the issue of illegal migration. We expect our international partners to engage with us, build on our good current co-operation, and continue to highlight the importance of having effective returns agreements to stop people making perilous crossings.

The UK and EU have therefore agreed a joint political declaration which makes clear the UK's intention to engage in bilateral discussions with the most concerned Member States to discuss suitable practical arrangements on asylum, family reunion for unaccompanied minors and illegal migration. We also continue to work with other international partners to meet this joint challenge.

National Transfer Scheme (NTS)

A new voluntary National Transfer Scheme rota was launched on 26 July 2021 and was initially successful in enabling us to transfer children into the care of local authorities. However, the high number of UASC arrivals over recent months, particularly as a result of small boat crossings, alongside limited local authority participation, placed the scheme under unprecedented pressure. The NTS was unable to keep up with the demand and pace of new arrivals. Out of necessity, with the children's best interests in mind, we therefore accommodated UASC on an emergency and temporary basis in hotels whilst placements with local authorities were vigorously pursued.

Whilst many local authorities provided support under the voluntary scheme, this is a national issue which requires all local authorities to play their part. The Government therefore decided to direct local authorities to participate in the NTS, as a measure to address this current crisis. On 14 December 2021, participation in the scheme therefore became mandatory for the majority of local authorities in the UK with children's services.

We are continuing to consider remaining representations made by local authorities, including from those local authorities in Scotland and Wales, and expect to issue the outcome of those shortly. The scheme will be kept under review and the length of time it will remain mandatory will be determined by a range of factors, including intake levels and how long it takes to end the use of hotels for UASC.

We are very grateful to local authorities in Scotland and Wales, as well as the Convention of Scotland's Local Authorities (COSLA) and the Welsh Local Government Association (WLGA), for their commitment to the scheme and for providing vital care placements for UASC.

Wherever possible within the mandatory framework, we will support any nation or region wishing to make alternative local operating arrangements where it is in the best interests of the children. We have previously shown flexibility in this area and aim to continue discussions to ensure the best outcome for vulnerable children.

I recognise the importance of funding in this area. We have significantly increased the additional funding which the Home Office pays to local authorities in each of the past three years. In particular, from April 2021 local authorities receiving a child transferred under the NTS receive the higher rate of £143 per day for the child, to recognise the contribution made by the authority. In addition, I have made available a £3 million exceptional costs fund, to which I have invited local authorities to apply in relation to any additional costs they might incur.

Pack Page 113

Details of the application process are included in the UASC funding instructions to local authorities and available at:

<https://www.gov.uk/government/publications/unaccompanied-asylum-seeking-children-uasc-grant-instructions>

Asylum dispersal

I agree we need to limit the use of contingency accommodation such as hotels and the importance of local areas participation in accommodating asylum seekers and their dependants to help us do this.

It is therefore very disappointing only 1 out of 32 local authorities in Scotland currently participates in the national dispersal scheme. Whilst I am extremely grateful to Glasgow City Council for their immense work in this area, others need to step up and play their part.

It is further disheartening how some local authorities in Scotland are picking and choosing who they will support by taking in those resettled from Afghanistan, but not those resettled via other safe and legal routes. I hope we can in future ensure a more balanced approach.

Cessation of asylum support

It is important any support provided to those who receive a negative asylum decision is conditional on the individuals concerned taking reasonable steps to leave the UK or show there is a practical or legal obstacle which prevents their departure. This is why the legal framework means support is stopped ('negative cessations') if the individuals concerned are able to leave the UK but choose not to. Negative cessations were paused across the UK for most of the period since March 2020 because of COVID-19 factors, but have now resumed in England. It is important the same system is applied in the rest of the UK as soon as possible, but before any final decision is made, we will advise the devolved administrations.

Access to work

We allow asylum seekers to work if their claim has been outstanding for 12 months or more, through no fault of their own.

Those permitted to work are restricted to jobs on the Shortage Occupation List (SOL), which is based on expert advice from the independent Migration Advisory Committee. It is important to distinguish between those who need protection and those seeking to work here, who can apply for a work visa under the Immigration Rules. It is crucial to prevent our wider policy from being undermined by migrants seeking to bypass work visa Rules by lodging unfounded asylum claims.

Asylum seekers are provided with accommodation and support to meet their essential living needs if they would otherwise be destitute whilst their claim is considered. We strongly encourage all asylum seekers to consider volunteering, so long as it does not amount to unpaid work. Volunteering provides a valuable contribution to their local community and may help them to integrate into society if they ultimately qualify for protection.

Relaxing our right to work policy is not the correct approach as this would simply encourage more people to make dangerous journeys across the Channel in order to undercut our visa routes and gain unfair access to our labour market. We have been clear those in need of protection and who wish to come to the UK must do so through safe and legal routes, such as our resettlement schemes. Where reasons for coming to the UK include family or economic considerations, applications should be made via the relevant route; either through the new points-based migration system, or via the refugee family reunion rules. Otherwise, asylum seekers should claim asylum in the first safe country they reach, which is their fastest route to safety.

Finally, comparing different jurisdictions is unhelpful. Our policy responds to circumstances unique to the UK and must complement our wider asylum and immigration system. The same goes for other European states, and looking more closely at European countries is instructive. Austria allows asylum seekers to work after three months, but they are restricted to seasonal roles on six-month visas in forestry, tourism, and agriculture. Meanwhile in France, the right to work is permitted after six months but is contingent on having a work permit, which itself requires a job offer. In practice, this means many asylum seekers in France cannot work.

Nationality and Borders Bill

The Nationality and Borders Bill has now been passed by the House of Commons and is before the House of Lords. The principle behind the Bill, and the wider New Plan for Immigration, is simple. Access to the UK's asylum system should be based on need, not on the ability to pay people smugglers to leave safe countries like France and Belgium. Those in genuine need will be protected, while illegal migration will be prevented and those with no right to be in the UK should be removed.

Differentiation

We are creating powers to differentiate entitlements between those refugees who came directly to the UK, claimed asylum without delay, and, where applicable, showed good cause for their illegal entry or presence, and those who did not. This is intended to deter migrants from undertaking dangerous journeys from safe countries facilitated by criminal smugglers and to uphold the first safe country principle. This policy complies with our international obligations under the Refugee Convention and the European Convention on Human Rights.

You say provisions in the Bill will “inevitably lead to more illegal working and exploitation of refugees”. All recognised refugees, regardless of whether they are in Group 1 or Group 2, will have the right to work in the UK. More broadly, I hope you would agree with me the best way to tackle illegal working and the exploitation of refugees is by tackling the criminal gangs who are doing the exploiting, which is exactly what we are doing through our New Plan for Immigration.

I would also like to clarify family reunion for refugees in Group 2 will be permitted where a refusal would breach our international obligations. Policy will be set out in guidance and in Immigration Rules in due course.

Accommodation centres

The Government has a statutory obligation to provide safe and secure accommodation whilst meeting the essential living needs of asylum seekers who would otherwise be destitute. Hotels are currently being used to meet some of these duties, but this is not sustainable in the longer term. Part of the solution is to increase the stock of dispersal accommodation (flats and houses), but accommodation centres are also a key part of our on-going work to build capacity in the asylum estate.

Those accommodated at the centres will receive support to cover their essential living needs – generally through ‘in-kind’ provision but supplemented by some cash where appropriate. People who are resident at the centres will also have the same access to services in the local community as those in other existing accommodation.

There are no plans to require all asylum seekers and failed asylum seekers to live in this type of accommodation. Those who can obtain accommodation with friends or family will continue to be able to so. Individuals who require accommodation because they would

otherwise be destitute will have the opportunity to provide information and supporting evidence as to why they should not be housed in accommodation centres because of their particular circumstances. The normal 'dispersal accommodation' will be available for these cases.

I note your comments seeking to link the operation of accommodation centres with a rise in far-right extremism. I deplore the possibility there would be any attacks on those housed in the centres, and I reiterate the accommodation will be safe and secure, as has been seen in other European Countries.

Priority Removal Notices and legal aid

It is often the case those facing removal or deportation from the UK raise late protection or human rights claims which could have been made at an earlier juncture. This causes unnecessary delay and expense to the taxpayer.

We will therefore strengthen the existing one-stop process by establishing a Priority Removal Notice (PRN) which may be issued to a person who is liable to removal or deportation from the UK. The PRN will require a person to raise any new or additional grounds for why they should remain in the UK before the date specified in the notice. This includes information relevant to whether the person is a victim of modern slavery or trafficking. Any supporting evidence must be provided at the same time.

I note your questions about legal aid, which is devolved in Scotland and Northern Ireland. I would therefore respectfully suggest these are questions for the Scottish Government and the Northern Ireland Executive. I can, however, advise all recipients of a PRN in England and Wales will receive an additional provision of between 3-7 hours of legal aid advice, which may cover advice on anything relating to their immigration status and also include advice on the National Referral Mechanism process. This will ensure all claims can be considered sufficiently in advance of the person's removal, reducing the extent to which removal can be frustrated, and allow those in need of international protection to be identified and supported as early as possible.

The Legal Aid Agency monitor the legal aid market regularly and take concerns about capacity seriously. However, at the moment, to say there are not enough legal aid lawyers is simply not correct. Each procurement area in England and Wales has immigration legal aid providers, which in June 2021 totalled 263 offices.

Assisting people at sea

We are clear the Bill does not change the UK Government's approach to existing obligations under international maritime law, including the duty to protect lives at sea.

We tabled an amendment to the Bill at Commons Report Stage to make clear organisations such as HM Coastguard and RNLI will be able to continue to rescue those in distress at sea as they do now. I understand our officials are picking up your specific questions about the interaction of the Bill with the Human Trafficking and Exploitation (Scotland) Act 2015, and the further questions your officials have raised about the meaning of the term "danger and distress" as used in the Bill.

Maritime tactics

Our priority first and foremost is to save lives. This is why every action Border Force take is safe and in accordance with domestic and international law obligations. However, clearly it is important we have a maritime deterrent in the Channel. We are therefore strengthening Border Force maritime powers in response to the increased threat posed by

cross-Channel illegal migration over the past few years. Consequently, Border Force will gain additional powers to intercept vessels in international waters as well as UK seas.

If Border Force suspect a vessel is entering UK seas to facilitate the entry of illegal migrants, they are able to stop the vessel to investigate. Border Force would have the option to divert the vessel out of or away from UK seas or to return the vessel and those on board to the country they had left, subject to the country agreeing to their return.

Vessels used to facilitate illegal entry by sea to the UK will be liable to be seized and be quickly disposed of, including through donation to charities if appropriate.

Age assessment

The new National Age Assessment Board – with expert social workers specialising in age assessments – will improve the quality and consistency of decision making.

I did note your comments about scientific methods, yet we are one of the very few European countries which does not currently use such methods of age assessment. The Home Secretary will seek scientific advice directly from the Home Office Chief Scientific Adviser, and determine whether a method, or combination of methods, is appropriate for the purposes of an age assessment. The Home Office Chief Scientific Adviser will consult a wider group of experts on the accuracy and reliability of various scientific methods.

I note on 6 December 2021, the Welsh Government tabled a legislative consent memorandum before Senedd Cymru in respect of some of the age assessment provisions in the Nationality and Borders Bill. It remains our position the legislative consent of the devolved parliaments is not required, but I have asked my officials to write to you to provide more detail.

Working in UK waters

All foreign nationals require permission to work in UK territorial waters unless they are covered by an exemption.

The Bill clarifies the legal framework requiring foreign national workers to obtain permission to work in UK waters, therefore the effect of this clause should be negligible as this has always been the UK Government's position. Foreign nationals intending to work in UK territorial waters will need to apply for the appropriate visa under the points-based system, in the same way as when coming to work on the landmass. I

I note your comments about transit visas, particularly in respect of fisheries, and would reiterate our longstanding position. This position stipulates foreign nationals require permission to work in our territorial waters, including those working in fisheries. Transit visas do not give someone permission to work in the UK either on the landmass or within UK territorial waters. They can be used, however, to transit the UK to work outside of the UK.

Visa penalties

The UK accepts returning nationals who lose the right to be in a foreign country, and we expect other countries to do the same for their nationals. This is part of a functioning migration relationship between countries.

The Bill makes it clear when determining whether to impose visa penalties, the Secretary of State must consider factors relating to the lack of co-operation and "matters as the Secretary of State considers appropriate. If appropriate, this could also include matters raised by the devolved administrations.

Electronic Travel Authorisations

I welcome Shona's support in principle for the new Electronic Travel Authorisation scheme, which will strengthen our borders and enhance our ability to prevent the travel of those who pose a threat to the UK.

I agree we need to carefully consider how to operationalise the scheme and this work is making progress.

Engagement

I know our officials have been engaging regularly on the New Plan for Immigration and the Nationality and Borders Bill, most recently to address detailed questions your officials have had on age assessment and modern slavery.

The Minister for Justice and Tackling Illegal Migration has also been sending written updates on Government amendments to the Bill to the First Minister of Scotland, the First Minister of Wales and the First Minister and Deputy First Minister of Northern Ireland.

Legislative consent motions

The Bill does not require the legislative consent of the Scottish Parliament, the Welsh Parliament or the Northern Ireland Assembly, and so we will not be seeking legislative consent motions.

Next steps

We stand by our moral and legal obligations to help innocent people fleeing cruelty around the world. Our long-term plan will prioritise bringing over the most vulnerable people currently living in refugee camps around the world through safe and legal routes. However, we must take action to address long-term pull factors and to smash the criminal gangs which treat human beings as cargo. We must send a clear message using dangerous, illegal routes is not the way to come to our country.

I note your letter of 9 December was copied to the First Minister and the Deputy First Minister of Northern Ireland, and so I am copying this letter to them as well. I am also copying this letter to the Secretary of State for Scotland, the Secretary of State for Wales, the Secretary of State for Northern Ireland, the Chancellor of the Duchy of Lancaster and the Secretary of State for Levelling Up, Housing and Communities.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Foster', with a large flourish at the end.

Kevin Foster MP
Minister for Safe and Legal Migration