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Ms Buffy Williams MS
Chair
Children, Young People and Education Committee
Senedd Cymru

Via Email

Dear Ms Williams

RE: Border Security, Asylum, and Immigration Bill LCM

Thank you for your letter dated 20th March 2025. We welcome the opportunity to provide views on behalf of local government to support the scrutiny and deliberation of the Legislative Consent Motion (LCM) in relation to the Border, Security, Asylum, and Immigration (BSAI) Bill. This is a joint response submitted by the Welsh Local Government Association (WLGA) and Wales Strategic Migration Partnership (WSMP).

The Bill in general

Overall, the WLGA welcomes some of the provisions outlined in the BSAI Bill, particularly the introduction of Border Security Command to give wider tools to address the issue of smuggling gangs exploiting vulnerable people. Furthermore, the WLGA welcomes the intention to repeal the Safety of Rwanda (Asylum and Immigration) Act 2024 which looked at processing asylum seeking claims in Rwanda. We are of the view that sections of the Illegal Migration Act 2023 the Act are not fully compatible with the European Convention on Human Rights (ECHR), such as the power which prevented asylum claims from being processed based on how individuals had arrived in the UK.

Croesawn ohebiaeth yn y Gymraeg a'r Saesneg a byddwn yn ymateb i ohebiaeth yn yr un iaith.
Ni fydd defnyddio'r naill iaith na'r llall yn arwain at oedi.

We welcome correspondence in Welsh and English and will respond to correspondence in the same language. Use of either language will not lead to a delay.

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However, the WLGA has concerns in relation to the inappropriate use of detention powers beyond 24 hours, the age assessment processes at port of arrival, which mean children may be moved through the adult asylum process, and continuation of the use of age assessment provisions.

The remaining provisions in the Illegal Migration Act 2023, including whether they have any concerns about existing arrangements for unaccompanied children.

Technically, all the IMA measures currently remain in the statute books, although some of the sections that raised some specific concerns are not currently in force. We also welcome the fact that previously inadmissible asylum claims are now being processed.

The Border Security, Asylum and Immigration Bill currently going through Parliament intends to repeal the IMA apart from the following sections: 12, 29, 52, 60, 62-65.

In relation to the sections of the Act that will not be repealed, in relation to children and young people, we have the following concerns:

- **s12** (extended powers to detain, including children) amends the detention powers so the Home Secretary has greater powers to detain people who are or appear to be subject to the duty to remove. While exceptions are made for pregnant women and unaccompanied asylum-seeking children (UASC), the Home Secretary has the discretion to detain them for such period the Home Office (not the courts) deem is necessary.

It has been well documented that detention can have severe psychological and emotional impacts on children, affecting their development and well-being.

- **s62** (credibility - applies to everyone) This section increases search powers conferred upon immigration officers but also states that failure to comply with search powers can negatively impact on a person's credibility and their asylum claim, as credibility is a crucial factor in the decision-making process. Children who do not comply with search powers may face legal consequences, which can further complicate their asylum process. The exercise of these powers could involve a substantial interference with the right to privacy ensured under the ECHR and the UNCRC and can be particularly distressing for children, affecting their mental health and well-being.

Whether the Bill is compatible with the Rights of Children and Young Persons (Wales) Measure 2011, including what impact it would have on the 'child first, migrant second approach' which underpins the delivery of support to child asylum seekers in Wales.

The Border Security, Asylum and Immigration Bill raises a number of concerns regarding its compatibility with the Rights of Children and Young Persons (Wales) Measure 2011. This Welsh Measure mandates that Welsh Ministers must uphold the rights outlined in the UN Convention on the Rights of the Child (UNCRC) when making decisions affecting children. These rights include promoting the best interests of the child, non-discrimination, the right to life and development, and the right to be heard.

The Committee will be aware that the Bill, which aims to enhance border security and reform the asylum system through new powers and data-sharing measures, has drawn criticism for

its potential incompatibility with human rights conventions, including the UNCRC, views which are reflected in the Senedd Committee [Report](#) into the LCM in June 2023.

In Wales, the principle of "child first, migrant second" emphasizes children's welfare above their immigration status. This is embedded in legislation such as the Social Services and Well-being (Wales) Act 2014. Stricter immigration measures proposed by the Bill could undermine this approach and conflict with the principles of the 2011 Measure. The Welsh Government has expressed serious concerns regarding the potential impact on the rights and support of child asylum seekers, a view which councils share.

We believe the Border Security, Asylum and Immigration Bill could have several significant impacts on unaccompanied asylum-seeking children, including:

1. **Criminalization:** The Bill will create new powers to strengthen law enforcement's ability to identify, disrupt and prevent serious and organized crime, including organised immigration crime, through new criminal offences. Methods of irregular entry can be dangerous and leave migrants open to exploitation by organized crime groups. Unaccompanied asylum-seeking children may be subject to these new offences, having been 'recruited' by traffickers due to their age and vulnerability, and end up being prosecuted as criminals and smugglers.

Children who are wrongly assessed as adults are at risk of being wrongly convicted of crimes of illegal entry or facilitating illegal entry. The criminalization of unaccompanied asylum-seeking children conflicts with the principles of treating them as "children first, migrants second," which emphasizes their rights and welfare over their immigration status. It is imperative that the well-documented and ongoing issues with the age assessment process are addressed.

2. **Detention:** While extended child detention powers in the IMA have now been scrapped, the Bill retains expanded detention powers from previous legislation, allowing for the detention of children in certain circumstances. Furthermore, the Children's Commissioner for England has [highlighted](#) that children, who had just arrived in the UK after difficult and often traumatic journeys, were frequently being held at the Kent Intake unit for extensive periods of time. 1 in 5 unaccompanied children were detained for over 24 hours between April and September, even though detention over 24 hours is banned under the Immigration Act 2014, and longer detention is only permitted in 'exceptional circumstances' following Home Office Secretary of State authorization. It is well-evidenced that detention can have severe psychological and emotional impacts on children, affecting their development and well-being. The use of detention for children raises serious legal and ethical concerns, particularly regarding their rights under the UN Convention on the Rights of the Child (UNCRC) and the Rights of Children and Young Persons (Wales) Measure 2011.
3. **Age Assessments:** the repeal of the age assessment provisions in the Illegal Migration Act 2023 is welcome and the UK Government have been [urged](#) to take further steps to repeal those currently in force from the Nationality and Borders Act 2022, which erode the rights of children and young people and must be dismantled to ensure full protection under UK law. The Bill *continues to apply* age assessment provisions from the Nationality and Borders Act 2022, including the use of scientific age assessments-which is reflected in current [Home Office guidance](#). These assessments can be invasive and stressful for young people, and there are concerns

about ethics and their accuracy and fairness. The British Medical Association has strongly expressed their concerns on the use of scientific processes to establish the age of a young person, with particular emphasis on the accuracy and ethical concerns and the impact on Children's Rights. They recommended that age assessments should be conducted using holistic, multi-disciplinary approaches that consider the child's physical, psychological, and social development. The WLGA has raised similar concerns previously in consultation responses.

Alongside the British Medical Association, the [Refugee Children's Consortium](#) has recommended that the Home Office end the failed exploration of inaccurate 'scientific' methods of assessing age and the Consortium asks UKG to repeal section 52 of NABA. which would force children to undergo scientific tests or risk their credibility being undermined.

4. **Support Services:** Incorrect age determinations can result in children being treated as adults (or adults treated as children), affecting their access to child-specific support services and impacting their access to education, healthcare, and social services. A previous [WLGA response](#) highlighted the extent of the problem of incorrect age assessments, citing evidence from an Freedom of Information request to councils, which found that in 2022, 70 councils reported at least 867 children being identified in adult asylum accommodation as a result of inaccurate age assessments at port. Further evidence of systemic issues with age assessments and issues with the Home Office-led National Age Assessment Board is available [here](#).

The potential criminalization of children and young people, the inappropriate use of detention for periods beyond 24 hours, and the age assessment provisions in the Border Security, Asylum and Immigration Bill risk undermining the principles enshrined in the Rights of Children and Young Persons (Wales) Measure 2011. By prioritizing immigration enforcement over children's rights, we believe the Bill conflicts with the "child first, migration second" approach, central to protecting the welfare and interests of unaccompanied asylum-seeking children in Wales regardless of their immigration status. Our concerns around the diminishment of this 'child first' approach have been set out in a previous [response](#).

Those arriving in the UK to seek sanctuary, including children and young people are likely to have experienced adversity and traumatic events throughout their migration journey, it is essential that the safety, well-being, meeting of care and support needs and safeguarding Best Interests of all children, including asylum-seeking children must be at the heart of any legislation or decisions made. It is also important that we better understand and learn from their experiences to date.

Yours sincerely,