

Nationality and Borders Bill: many of the proposals will negatively affect children, not just those concerning them directly



Ilona Pinter writes that various proposals in the Nationality and Borders Bill put children at risk and make the system even more punitive and damaging for their long-term prospects.

Hadia (22), Mubin (16), and Hasti (7) along with their mother Khazal were among the 27 people who died in the Channel in November 2021, trying to reach the UK. Other children and young people like them have attempted the dangerous crossing or have made it across the Channel, though we don't know how many. While not the majority, children do make up a significant proportion of the asylum-seeking population. Between 2010 and 2020, 86,533 [children claimed](#) asylum in the UK, while children made up almost a quarter (23%) of UK asylum applicants and dependents during that time. Most (62,321) claimed asylum with their families, making up 17% of asylum seekers overall. The remaining 6% claimed asylum on their own as unaccompanied asylum-seeking children.

Recent debates around the UK's asylum system have focused on the [Nationality and Borders Bill](#) currently going through Parliament. Some of the proposals contained in the Bill, particularly plans to 'offshore' asylum seekers and Channel 'pushback' policies, have been widely criticised including by senior MPs. Former Brexit minister David Davis MP [warned](#) of creating a 'British Guantanamo Bay' while former Development Secretary Andrew Mitchell MP [warned that](#) 'threatening to send desperate women and children to a detention centre on foreign soil will simply shame our nation and prove toxic for the Conservative Party'. Meanwhile, the union representing Border Force staff has joined several charities in their [legal challenge](#) to prevent the 'pushback' plans from going ahead.

What has received less public attention are provisions that may make the system even more punitive, including for children. Had Hadia, Mubin, and Hasti and their mother arrived in the UK safely, they would have been subject to the new rules on ['inadmissibility'](#) in place since January 2021. Under these rules, the Home Office can decide to deem a family's claim inadmissible on the basis of their 'earlier presence in or connection to a safe third country'. Families can be issued with a 'notice of intent' while the Home Office decides on whether they consider their claim to be inadmissible making them liable for 'removal to any safe third country that will take them'.

According to figures provided by the Home Office through an FOI request, of the 6,598 individuals including main applicants and dependents served with notices of intent between January and September 2021, 491 (7%) were children. Unaccompanied children are currently not subject to the inadmissibility process, so it is assumed that all of these are children claiming asylum with their families. [Published figures](#) show that only a small proportion of those initially served inadmissibility notices during this time – 10 in total – were returned and 2,126 (32%) were subsequently admitted into the asylum process for their asylum determination, leaving families in limbo for longer.

Individuals and families [already wait many months](#) for their asylum claim to be processed. During this time, asylum seekers are not permitted to work or access mainstream benefits because they have 'no recourse to public funds'. Those who are destitute can access support provided by the Home Office through dispersed accommodation and subsistence payments of £5.66 per person per day. Despite some additional in-kind services and extra payments, this income still places families below the poverty threshold and well below the [minimum income standards](#).

[Data provided by the Home Office](#) reveals that there were 16,186 children aged under 18 living on such 'Asylum Support' at the end of December 2019, before the pandemic, making up over a third (34%) of the 47,353 individuals supported by the Home Office at that time. Of those, 15,363 children were on Section 95 support – the main form of support for those awaiting their claim including families with dependent children. Most families with children (71%), had been on Section 95 support for over a year at the end of 2019, while 16% of families had been on support for over five years.

Living on a low income, [as research has shown](#), has causal effects on children's educational, development, and health outcomes, as separate to other factors like parental education. For children's development, time is critical and though even short periods of extreme poverty and deprivation can have lasting consequences, the risks are higher when [poverty exposure](#) is persistent.

Most of the measures contained in the Bill are likely to affect children and young people, not only those targeting them directly, such as the [age-assessment](#) and [statelessness](#) clauses. For example, [plans](#) to treat newly recognised refugees differently depending on how they arrived in the country would apply to children, including those who face brutality and violence at the hands of people smugglers while crossing the Channel. Under proposed measures, children and families will be granted a new temporary protection status with 'no recourse to public funds' conditions which means they will continue to be ineligible for social security support for many years. Although the government has said that those on Section 95 Asylum Support already deemed destitute [would not have this](#) condition applied at their initial grant of the temporary status, it is unclear whether no recourse to public funds – which is currently applied to all cases unless the family can show they are at risk of destitution – could be reapplied at each subsequent grant of leave when families are already working. Current [practice shows](#) that this approach knocks families off benefits and childcare support, plunging them back into poverty and homelessness and dependent on local authority support.

Currently, refugees can apply for Indefinite Leave to Remain after being granted refugee status worth five years of leave to remain without additional fees, but new measures will mean that uncertainty and exclusion from social security protection could continue for at least 10 additional years beyond asylum determination, where families are required to make retraumatising applications to prove their need for protection every 30 months.

Numerous [studies](#) have already highlighted the detrimental consequences of no recourse to public funds conditions on children. Exclusion from most income-based social security benefits means that families are unable to access benefits such as Child Benefit and Universal Credit; those with additional needs or a disability are unable to access Disability Living Allowance or Personal Independence Payments, which is likely to be significant given the [prevalence](#) of disability, mental health problems, and long-term health conditions among this population.

Children made up almost a quarter of all asylum applicants and dependents over the last decade – almost 8,000 children on average each year. The majority of these are children seeking protection with their families. Almost 500 children were deemed inadmissible in the first three quarters of 2021 and will likely face the punishing measures contained in the Bill. The Secretary of State has a [duty to safeguard and promote](#) the welfare of all children affected by asylum and immigration policy. Yet there are no safeguards for children on the face of the Bill nor has there been a comprehensive child rights impact assessment to show how children's welfare and rights will be protected under each clause. Without adequate safeguards in place, many more children are likely to suffer throughout their childhood.

About the Author



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