

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

First Sitting

Thursday 27 February 2025

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 3 March 2025

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The Committee consisted of the following Members:

Chairs: † DAWN BUTLER, DAME SIOBHAIN McDONAGH, DR ANDREW MURRISON, GRAHAM STUART

† Bool, Sarah (<i>South Northamptonshire</i>) (Con)	† Murray, Chris (<i>Edinburgh East and Musselburgh</i>) (Lab)
† Botterill, Jade (<i>Ossett and Denby Dale</i>) (Lab)	† Murray, Susan (<i>Mid Dunbartonshire</i>) (LD)
† Eagle, Dame Angela (<i>Minister for Border Security and Asylum</i>)	† Stevenson, Kenneth (<i>Airdrie and Shotts</i>) (Lab)
† Forster, Mr Will (<i>Woking</i>) (LD)	† Tapp, Mike (<i>Dover and Deal</i>) (Lab)
† Gittins, Becky (<i>Chwyd East</i>) (Lab)	† Vickers, Matt (<i>Stockton West</i>) (Con)
† Hayes, Tom (<i>Bournemouth East</i>) (Lab)	† White, Jo (<i>Bassetlaw</i>) (Lab)
† Lam, Katie (<i>Weald of Kent</i>) (Con)	† Wishart, Pete (<i>Perth and Kinross-shire</i>) (SNP)
† McCluskey, Martin (<i>Inverclyde and Renfrewshire West</i>) (Lab)	Robert Cope, Harriet Deane, Claire Cozens, <i>Committee Clerks</i>
† Malhotra, Seema (<i>Parliamentary Under-Secretary of State for the Home Department</i>)	† attended the Committee
† Mullane, Margaret (<i>Dagenham and Rainham</i>) (Lab)	

Witnesses

Enver Solomon, Chief Executive, Refugee Council

Daniel O'Malley, Policy and Public Affairs Specialist Manager, Scottish Refugee Council

Mubeen Bhutta, Director of Policy, Research and Advocacy, British Red Cross

Zoe Bantleman, Legal Director, Immigration Law Practitioners' Association

Dr Peter William Walsh, Senior Researcher, Migration Observatory

Dame Rachel de Souza, Children's Commissioner for England

Public Bill Committee

Thursday 27 February 2025

(Morning)

[DAWN BUTLER *in the Chair*]

Border Security, Asylum and Immigration Bill

11.30 am

The Chair: We are now sitting in public and the proceedings are being broadcast. Before we begin, I remind Members to please switch electronic devices to silent, and that tea and coffee are not allowed during sittings.

We will first consider the programme motion on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication,

Date	Time	Witness
Thursday 27 February	Until no later than 12.10 pm	Refugee Council, Scottish Refugee Council, British Red Cross
Thursday 27 February	Until no later than 12.40 pm	Immigration Law Practitioners' Association, Migration Observatory
Thursday 27 February	Until no later than 1.00 pm	The Children's Commissioner for England
Thursday 27 February	Until no later than 2.40 pm	National Police Chiefs' Council, National Crime Agency, Crown Prosecution Service
Thursday 27 February	Until no later than 3.20 pm	Migration Watch, Tony Smith, former Director, UK Border Force, Centre for Policy Studies
Thursday 27 February	Until no later than 3.40 pm	David Coleman, Emeritus Professor of Demography, University of Oxford
Thursday 27 February	Until no later than 4.00 pm	Professor Brian Bell, Professor of Economics, King's College London
Thursday 27 February	Until no later than 4.20 pm	Home Office

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 40; Schedule 1; Clauses 41 to 47; Schedule 2; Clauses 48 to 57; new Clauses; new Schedules; remaining proceedings on the Bill;

4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 20 March.—(*Dame Angela Eagle.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Dame Angela Eagle.*)

The Chair: Copies of the written evidence that the Committee receives will be made available in the Committee Room.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Dame Angela Eagle.*)

11.31 am

The Committee deliberated in private.

Examination of Witnesses

Enver Solomon, Daniel O'Malley and Mubeen Bhutta gave evidence.

and a motion to allow us to deliberate in private about our questions before the oral evidence session. In view of the time available, I hope we can take these matters formally, without debate. The programme motion was discussed yesterday by the Programming Sub-Committee for the Bill.

Ordered,

That—

1. the Committee shall (in addition to its first meeting at 11.30 am on Thursday 27 February) meet—

(a) at 2.00 pm on Thursday 27 February;

(b) at 9.25 am and 2.00 pm on Tuesday 4 March;

(c) at 11.30 am and 2.00 pm on Thursday 6 March;

(d) at 9.25 am and 2.00 pm on Tuesday 11 March;

(e) at 11.30 am and 2.00 pm on Thursday 13 March;

(f) at 9.25 am and 2.00 pm on Tuesday 18 March;

(g) at 11.30 am and 2.00 pm on Thursday 20 March;

2. the Committee shall hear oral evidence in accordance with the following Table:

11.34 am

The Chair: We are now sitting in public again, and the proceedings are being broadcast. Before we start hearing from witnesses, do any Members wish to make a declaration of interest in connection with the Bill?

Susan Murray (Mid Dunbartonshire) (LD): I want to let the Committee know that I know Daniel O'Malley from Scotland through the Liberal Democrats.

Kenneth Stevenson (Airdrie and Shotts) (Lab): I have previously met Daniel O'Malley as well.

Chris Murray (Edinburgh East and Musselburgh) (Lab): I did too.

The Chair: Very popular. If any interests are particularly relevant to a Member's questioning or speech, they should declare them again at the appropriate time. We will now hear oral evidence from the Refugee Council, the Scottish Refugee Council and the British Red Cross. We must stick to the timings that the Committee has agreed in the programme motion. For this panel, we have until 12.10 pm. Could the witnesses please briefly introduce themselves for the record?

Enver Solomon: Thank you very much, Chair. My name is Enver Solomon, and I am the chief executive of the Refugee Council.

Mubeen Bhutta: Good morning; I am Mubeen Bhutta, the director of policy research and advocacy at the British Red Cross. I think you have all been told that I am a hearing aid user; I am just having an issue with one of my hearing aids, so I need to step out and step back in, if that is okay.

The Chair: Yes, that is okay.

Daniel O'Malley: I am Daniel O'Malley, policy and public affairs specialist with the Scottish Refugee Council.

Q1 Matt Vickers (Stockton West) (Con): First, what are your views on the functions and objectives of the Border Security Command, as set out in the Bill?

Enver Solomon: I am happy to take that one. Our view is that this legislation is rightly seeking to disrupt the criminal gangs—the smuggling gangs. The trade is heinous; it is very damaging to people and it needs to be stopped. In that context, the Border Security Command is an understandable response. I think the issue that we have with it is that it is very difficult to simply rely on enforcement to tackle what is a complex and challenging situation.

The Bill is putting multiple eggs in the basket of enforcement, not just through the Border Security Command but by introducing a number of new offences. Our view, based on our frontline practice and work over many decades with people who have come to this country from war zones, having fled persecution or having been victims of modern slavery, is that that strategy will fundamentally fall short, because it is very difficult to change behaviour by adopting a primarily enforcement approach, which is primarily driven by further prosecution and creating new laws.

Essentially, new laws, such as the offences created in the Bill, are pretty much a blunt instrument to deal with behaviour that drives people to seek protection in other countries and to come here seeking asylum. I think that the evidence, from the offences created in previous legislation, demonstrates that they have not acted as a deterrent.

To sum up, enforcement is an understandable and legitimate approach, but it is only one approach, and it needs to be combined with other approaches that focus on international diplomacy and co-operation, and, critically, on additional legal routes. If you look at the evidence, particularly from the US under the previous Administration, the combination of those three can have a demonstrable impact on reducing irregular arrivals.

Despite the intention that this Bill has set out, our concern is that it will not deliver the outcome—the understandable and credible outcome—that the Government are trying to achieve, which is to stop the people smugglers and to stop people making dangerous crossings. It is focusing too much on an enforcement-driven agenda.

Q2 Matt Vickers: What provisions would you like to see in the Bill—you talked about a broader approach—that are not in there?

Enver Solomon: We would have liked to see more provisions that look at opening up targeted, additional humanitarian pathways, additional legal routes, and additional mechanisms for people to seek humanitarian protection and make applications for asylum without

necessarily having to take dangerous journeys. We have advocated for a targeted humanitarian visa to be piloted for specific nationalities where there is a high grant rate.

We would also have preferred to see the full repeal of the Illegal Migration Act 2023—not all provisions have been repealed. It is very positive that a significant number have been repealed, and that the Government have started to clear the backlog and essentially end the meltdown of the asylum system under the previous Administration, with the failed implementation of the Act. That is positive, but we think that retaining other provisions in the Act, particularly the provisions on inadmissibility, and not repealing the differential treatment provisions in the Nationality and Borders Act 2022, contribute to greater dysfunction in the system.

The Government's laudable and correct intention to bring greater efficiency and competence to the system is absolutely right, but having multiple pieces of legislation that just create greater dysfunction will not ensure that you get an effective end-to-end system. You do that by ensuring that you have reliable, speedy decision making on asylum; that decisions are right first time; that if people are granted protection, they can move through the system effectively with appropriate support; and that if people are not granted protection, the right steps are in place to support them. The focus needs to be much more on getting the asylum system to function, with a clear vision of its purpose, than on layering more and more legislation on to an already incredibly complex legislative system, which actually just creates further dysfunction.

The Chair: Before I go to the Minister, can I just check with Mubeen that you can hear us okay?

Mubeen Bhutta: Sorry?

The Chair: If we speak louder, is that better?

Mubeen Bhutta: Yes, that is helpful. I do apologise; it is a technical thing.

Q3 The Minister for Border Security and Asylum (Dame Angela Eagle): I will try to speak louder so that everybody can hear. I must say, I am having trouble hearing some things because of the acoustics in this room, and it is quite full. Perhaps if our witnesses could speak a bit louder as well, that might help everybody.

Enver, thank you for your evidence. You welcomed the repeal of the Safety of Rwanda (Asylum and Immigration) Act 2024 and the majority of the Illegal Migration Act, which this Bill accomplishes. Could you talk about your experience of trying to live with those Acts on the statute book? Some argue that those bits of legislation were the only deterrent that we could have had. Can I have your thoughts on whether they worked?

Enver Solomon: Absolutely. In short, they were a disaster. They were a disaster in terms of the lived experience of people who had come from places such as Sudan; we know about the civil war there. They created huge uncertainty and anxiety. Through our work, we saw a rise in levels of great mental distress, and even in suicide ideation, as a consequence of those pieces of legislation, which led to what we described as a system meltdown. That was a fundamental meltdown that resulted in the system pretty much coming to a standstill. The system slowed down, with productivity in asylum decision

making at its lowest level since the height of the covid pandemic. It is absolutely right that steps were taken to address that and to ensure that the asylum system is functioning effectively.

The asylum system has to deliver integrity. It has to ensure that the public have trust in a system that functions. It functions by ensuring that decisions are fair—the great British value of fair play—by ensuring that decisions are taken in a timely fashion and by ensuring that taxpayers' money is well spent. That means you do not have billions being wasted every year on housing people in hotels that become flashpoints for community tensions. The system also works effectively when it ensures that people are supported to integrate and to go on and contribute to communities across the country in the way that generations of refugees have done. Critically, you must also ensure that if people are not granted protection, there are appropriate pathways to support them to return to the countries they have come from.

Q4 Dame Angela Eagle: There are those—I would like the other witnesses to comment if they wish—who say that the only way of getting any coherence back into our system is to leave the European convention on human rights and disaggregate ourselves from all the human rights legislation. Do you think that that is an appropriate way forward?

Enver Solomon: I will let my colleagues come in.

Daniel O'Malley: In relation to the European convention on human rights, frankly, coming out will not help anyone—it will not make the system any more efficient. For example, when it comes to the human trafficking provisions in the Illegal Migration Act, we want to see more of those repealed because they undermine human trafficking protections in Scotland.

The broader repeal that has happened of the Illegal Migration Act and the statutory instrument laid down to alter that Act has aided, for example, the guardianship programme in Scotland, which gives a guardian to unaccompanied minors in Scotland and was put on to a statutory footing in Scotland under the Human Trafficking and Exploitation (Scotland) Act 2015. It helps that programme because asylum claims were previously just not being made under the IMA, so that programme had thousands more people in it. The programme was operating, but it was getting overloaded with more and more people.

The wider point is that there are protections that we are signed up to—for example, the UN convention for refugees. Continuing with those is absolutely right; the repeal of them will not make the system any more efficient and it will not be a deterrent to anyone.

Q5 Dame Angela Eagle: Mubeen, do you have a comment?

Mubeen Bhutta: I do not have anything more to add to the important points that Daniel made.

Q6 Mr Will Forster (Woking) (LD): I want to broaden this out. Enver highlighted the Refugee Council's view on the Bill being too narrow. What is the view of the Scottish Refugee Council and the British Red Cross on that? What do you think of safe, legal routes?

Mubeen Bhutta: I did not quite catch the first bit of your question, but I think you are asking about safe and legal routes. I endorse some of the comments that my colleague Enver has already made. We welcome the Bill. We welcome the intention of the Bill around reducing the loss of life in the channel, but that is only half of the story.

It is really important that we look at the reasons why people are putting their lives in the hands of people smugglers in the first place. It is often because there is no other choice—there is no route that they can take. We would like to see more safe and legal routes, whether that is new routes, such as enabling people to apply for a humanitarian visa in the country that they are in to come directly to the UK and then be able to claim asylum, or expanding existing routes such as family reunion, so that there is more eligibility for people to use those routes.

It is really important to look at both sides of the coin. In a way, you could consider this Bill to be looking at the supply of this sort of activity, but it does not do anything about the demand. People will still need to make those journeys if no other routes are available.

Daniel O'Malley: For us, this is another migration Bill on top of many migration Bills. The system that people seeking asylum currently face is convoluted and arbitrary, and it is founded on hostility. As Mubeen rightly said, it is about the enforcement and stopping people crossing, rather than creating a more efficient asylum system. For us at the Scottish Refugee Council, that is what we are concerned about in the Bill. You talked about the Bill being quite narrow, but there are aspects of it that are far too broad and that can be applied in too broad a manner.

For the Scottish Refugee Council, the asylum aspects of the Bill do not address an updating of the asylum system. There are points on integration that should be considered as well. Nothing in the Bill talks about the integration of people seeking asylum while they are in the system. We commend the Government for speeding up the clearing of the backlog, which is great, but work needs to be done to help people who are in the system to integrate into the country. About 75% of people in the system will typically be granted refugee status, so work needs to be done to help them to integrate into communities, rather than having them in asylum accommodation or hostile environments.

The Government are rightly looking at asylum accommodation and the Home Affairs Committee is also doing an inquiry into it, so we know the work is being done. We would have liked to see the Bill contain a point about integration. The work in Scotland on this is the “New Scots Refugee Integration Strategy”, with an approach to integration from day one of arrival. We would like to see that extended to the UK level as well, mirroring what has also been done in Wales.

Q7 Mike Tapp (Dover and Deal) (Lab): We have met previously, Mr Solomon, and I want to declare that I have worked for the National Crime Agency in the past and in a counter-terror role. I understand the points you made on enforcement, but what are your views on the fact that the Bill also includes strong disruptive measures, which is of course pre-enforcement, such as search and seizure?

Enver Solomon: I think those measures are legitimate. As I said, it is important to take steps to disrupt the activity of gangs that are causing huge harms to the lives of individual men, women and children, who are often extremely vulnerable. Attempts such as the powers you referred to are important and have a role to play—I am not disputing that. What I am saying is that they need to be used proportionately and to be clearly targeted at the individuals behind the criminal gangs and the trade of the criminal gangs.

Our concern is that, by broadening criminal powers in the Bill and specifically by introducing new offences, individuals will be caught up in that process. People who are coming across in very flimsy and dangerous vessels will end up being criminalised through no fault of their own. We are also concerned that using further laws—as has been seen across a whole range of different areas of public policy—is a blunt instrument to try to change the behaviour of people.

People will not stop getting into flimsy dinghies and coming across the channel or the Mediterranean because of new offences that they might face. They will probably know very little about the nature of those offences. They will know very little about the new rules that mean, if you get refugee protection, you will no longer be able to go on and gain British citizenship. We know that from our experience: they will know nothing about that, so it will not change behaviour or provide the deterrence that I think it is hoped it will provide.

That is why you need to use these powers in a very targeted, proportionate way that deals with the prosecution of the criminal behaviour but does not result in, in effect, punching down on those vulnerable people who are getting into the boats because they want to seek safety. It will not change their behaviour. That is our experience from having worked with refugees and people seeking asylum over many decades.

Q8 Pete Wishart (Perth and Kinross-shire) (SNP): Welcome; thank you for coming along and giving your evidence, and for your written evidence. I think you are absolutely right to focus on the new criminal clauses that are included in the Bill, and to comment on how invidious they may be in how they might be broadly applied to asylum seekers. Do you agree that, if we could find some provision or series of amendments that removed asylum seekers from the focus of these new criminal laws, that might be a useful development? One of the clauses I would like you to comment on is the one that introduces an offence of endangering another person during sea crossings. You are experienced in working with asylum seekers and refugees—do they have any cognisance of the hardening of immigration and asylum laws in the UK when they are trying to get their family to safety from a war-torn region?

Enver Solomon: I would say not. I will come to clause 18 in a second, but I encourage the Committee to look at clauses 13 and 14. In our submission, we proposed that they should be amended to ensure the focus of the new offence is on people smugglers and not on those seeking protection in the UK. We also said that clause 15 should be amended to include other items that are important for reducing the risk that people face when attempting to cross the channel, and that the Government should consult widely to ensure the list is as extensive as is necessary.

On endangering others, given that, as Committee members will know, many of the boats now used are barely seaworthy and overcrowded, and that the numbers crammed into them are increasing, clause 18 could cover many more people than those whom the offence is apparently targeted at—that is, the people smugglers. On Second Reading, the Home Secretary gave some useful examples of the types of behaviour that could result in people being prosecuted, including physical aggression, intimidation, the rejection of rescue attempts and so on. We think the wording should be amended to reflect specific actions to ensure that the offence is very clearly focused.

We argue overall that these new offences are an extremely blunt instrument to change behaviours, and they will not have the desired effect of changing behaviours and stopping people getting into very dangerous, flimsy vessels.

Daniel O'Malley: To add to what Enver says, yes, it is a blunt instrument. We operate a refugee support service across the whole of Scotland, and when people come to our services they do not talk about the deterrence or anything like that; they talk about what they see once they get here. The environment that is created around people seeking asylum and refugees does not deter them from coming here, but once they are here, they feel that there is a threat to their protection and that their status here is under threat.

The language in these deterrents does not deter anybody from coming here; it just causes a hostile environment. That was the situation created by the previous Bills under the previous Government. We hope that will not be continued with the new Bill and other changes the Home Office is making. At the end of the day, when people come to our services and talk about stuff like this, they talk about how it makes them feel when they are in the country, not about how it deters them from coming here.

Q9 Chris Murray: I should probably declare that I used to work on refugee and asylum issues in Scotland, including with the Scottish Refugee Council. Enver, you talked a bit about the fundamental system meltdown, and the disfunction that the IMA and the Rwanda Act caused. I want to ask you a bit more about that. Would I be right in saying that those Acts basically caused a complete stop, or a complete slowdown, in any processing of asylum applications? What impact does that have on the communities where asylum seekers are placed, and on the people who serve those communities—the councils and charities? Does it make it hard for them to do their job? Does it cause local tensions? If we are repealing those components of the IMA and the Rwanda Act, would that address some of the challenges those communities are facing as a result of migration?

Enver Solomon: In short, what happened with the system meltdown that I referred to is that processing did pretty much come to a standstill. You had a huge and ever-growing backlog, and people were stuck in limbo indefinitely in the system. The number of people in hotels—asylum contingency accommodation, as it is called—reached record numbers. Hotels were being stood up in communities without proper prior assessments with relevant agencies of the potential needs—health, the NHS, and tensions vis-à-vis the police.

We work in Rotherham, where a hotel was brutally attacked and refugees were almost burned alive in the summer. My staff were in contact with people in the hotel who were live streaming what was happening. They thought that they were going to get burned alive. That hotel in Rotherham should never have been opened. It was always going to be a flashpoint. It was located in an incredibly isolated area, there were not appropriate support services, the local services were not properly engaged with in advance and there was no appropriate planning and preparation. That story, I am afraid, was repeated across the country because of the dysfunction and the system meltdown that the previous pieces of legislation resulted in. It is absolutely critical that we learn the lessons from that and do not repeat those mistakes.

There is no need to use asylum hotels. As I understand it, there are roughly 70,000 individual places within the asylum dispersal system today. If we had timely decisions being made in a matter of months, people moving through the system, a growing backlog in the appeal system dealt with by ensuring the decisions are right first time, and people having good access to appropriate legal information and advice from representation, which is a huge problem, you would begin gradually to fix the system.

It will take time to fix the system and create efficiencies, but it is absolutely vital that plans to move away from the use of hotels are taken forward rapidly, and that the current contracts in place with the three private providers to provide dispersal accommodation are radically reformed, because they just create community tensions. They are pivoted towards placing people in parts of the country where accommodation is usually cheap and where there are going to be growing tensions, often without support in place for people in those communities.

Mubeen Bhutta: I did not fully catch your question, Chris—I apologise.

Chris Murray: It was about the impact on local communities of the dysfunction created by the Illegal Migration Act and the Rwanda Act, and how much you attribute that dysfunction—especially the growing use of hotels for asylum seekers—to those Acts, which we are proposing to repeal.

Mubeen Bhutta: I probably do not have a huge amount more to add to what Enver just said, but it goes back to what was said earlier about the speed of decision making, the time that people are left in accommodation, the suitability of that accommodation, the impact on their wellbeing—certainly in terms of what we three see through our services—and the need for a comprehensive strategy. It comes back to what we said at the beginning about what is in the Bill, and what needs to go alongside it that is not in the Bill, around integration.

Q10 Jo White (Bassetlaw) (Lab): How might the new offences impact individuals and organisations such as charities or non-governmental organisations that provide support to migrants? For example, if a Vietnamese woman who works in a nail bar comes to one of your services, what mechanisms do you have in place to investigate and report any illegal working?

Mubeen Bhutta: We do not fully know what the impact of that new offence will be, because it is not enforced yet. It is helpful to see that there is provision in the

drafting around charities and their role, but it is not certain how that will play out. Our concern is also that new offences could impact the overall aims around the focus on seeking protection. It could influence behaviour or the ways that people offer support if there is concern that they might be caught.

Daniel O'Malley: On the point about the new offences and the deterrent aspect on human traffickers and smuggling gangs, there are aspects of the Illegal Migration Act that have not been repealed that apply to human trafficking. For example, a provision about disqualification from human trafficking protection in section 29 of the IMA has been kept. We would like to see that removed because an individual who has been in a nail bar and might have been human trafficked, as tends to be the case, might not come to any services due to fear of being disqualified from human trafficking protection because they may have engaged in criminal activity. If you have been human trafficked, you are likely to have engaged in criminal activity by virtue of that. That is the problem with the aspects of the Illegal Migration and Nationality and Borders Acts that have been left in.

The Nationality and Borders Act still contains section 60, which raised the threshold for referral to the national referral mechanism. Someone from a legal organisation in Scotland said that before the Nationality and Borders Act—he had been a lawyer for a couple of years by then—he had done one judicial review on the national referral mechanism. Since the Nationality and Borders and Illegal Migration Acts, he has done more than 50 judicial reviews. That keeps in the Act a freezing factor. Gangs and human traffickers can scare people who have been human trafficked by saying, “You might not get this protection because these offences could be applied or your protection could be taken away.” That is the aspect we would like to see removed to make sure that any offences are not disproportionately affecting victims of human trafficking.

The Chair: The next question will be the last. Witnesses, if there is anything that you have not yet said but would like to say, please do so.

Q11 Tom Hayes (Bournemouth East) (Lab): Part of the aim of the Bill is to minimise opportunities for crossings, which involves targeting the criminal smuggler gangs that are enabling small boat crossings to take place. Do you agree that enforcement activities against those smuggler gangs will have a deterrent effect—that enforcement activity has value in its own right, but minimising the number of crossings by disrupting the business model will have a deterrent effect? On Enver's point about the asylum hotel that was at risk of burning down, would you agree that those Government policies directly and gravely put the lives of vulnerable asylum seekers at risk?

Enver Solomon: The system meltdown that came about because of the fantastical Rwanda policy and the full provisions of the Illegal Migration Act left people in a state of permanent limbo, in inappropriate accommodation, in very vulnerable situations, in communities where there were high tensions. As a consequence of that, people's wellbeing was potentially compromised. There is no question about that. We saw that through our work. We saw the rise in stress and in suicidal ideation.

There was very clear evidence from our practice about the impact of what was, as we described, a system meltdown.

On your point about enforcement, enforcement has a role to play but it has to be one strategy combined with others—one side of a multi-pronged approach. Similarly to the evidence from dismantling drug trafficking, often when you dismantle one set of smugglers or gangmasters, others will reappear and take over that part of the trade. It is very difficult to enforce and prosecute your way out of this challenge. Multiple strategies have to be adopted—

The Chair: Order. Sorry to interrupt, but we are in our last minute. Mubeen and Daniel, would you like to come in quickly?

Mubeen Bhutta: Thank you—my hearing aid has magically started working.

On disrupting the business model, going back to what we said at the beginning about this being the other half of the safe routes story, clause 34 is about taking biometrics and introduces flexibility so that biometrics can be taken outside visa centres. We would like to see that extended to people required to submit their biometrics for family reunion visas, because we know that people are making dangerous journeys to visa centres. Often there are multiple journeys, often in conflicts, and people often have to use smugglers to get across the border if the visa centre in their country is closed. There is a real opportunity to strengthen that existing safe route by extending the flexibility in clause 34.

The Chair: That brings us to the end of the time allocated. On behalf of the Committee, I thank our witnesses for their evidence.

Examination of Witnesses

Zoe Bantleman and Dr Peter Walsh gave evidence.

12.11 pm

The Chair: We will now hear oral evidence from the Immigration Law Practitioners Association and from Migration Observatory. Again, we must stick to the timings in the programme motion that the Committee has agreed. For this session, we have until 12.40 pm. Could the witnesses please briefly introduce themselves for the record?

Zoe Bantleman: Good afternoon. I am Zoe Bantleman and I am the legal director of the Immigration Law Practitioners Association.

Dr Peter Walsh: Good afternoon. I am a senior researcher at the Migration Observatory at the University of Oxford.

Q12 Matt Vickers: Do you think the new endangerment offence will make any difference to channel crossings?

Dr Peter Walsh: Evidence from academic research shows that the impacts of deterrence policies are fairly small. The main reason for that is that migrants often do not have accurate or detailed knowledge of policies in destination countries. Their understanding of those policies is often lacking in detail and wrong, and it is often influenced by what they are told by their smugglers or handlers, who have a vested interest, of course, in downplaying risks.

There is also some statistical evidence that looks more broadly at what drives unauthorised migration and asylum applications around the world. That has found that domestic policy is not statistically one of the more important factors. Instead, geopolitical developments, conflict—civil, ethnic or international conflict—ecological disaster and regime change are all statistically much stronger drivers of unauthorised migration and asylum applications in particular countries.

Finally, rounding out the picture, when an asylum seeker decides which destination country to move to, that calculus is influenced not just by policy—policy is one of the things that they take least account of—but by things like the presence of family members, members of the community, friends, language and in some cases, in the context of small boat arrivals, escaping the Dublin system. Individuals may have claimed asylum in other EU countries—maybe those claims are outstanding or have been refused—and they understand that if they move to the UK they cannot be returned to the EU, because we are no longer a part of the EU and of the Dublin system that facilitated that.

Q13 Dame Angela Eagle: Dr Walsh, you have just argued that deterrence does not really work, yet one of the big arguments on Second Reading was that somehow by repealing the Safety of Rwanda Act and most of the Illegal Migration Act we had thrown away the only thing that would work. Would you care to comment on that?

Dr Peter Walsh: Because under the IMA the Government proposed not to process people's claims, they would not have known whether returning those individuals to countries of origin would be safe or not. That is where Rwanda came in.

There were always questions about the deterrent effect of the Rwanda policy. For my part, whatever deterrent effect it would have had would have depended fundamentally on how many people were actually sent to Rwanda. You can imagine that if it was a large share of people arriving by small boat, that might make people think twice, but if it were a small share—only thousands a year when we have tens of thousands of small boat arrivals—that would imply that the chance of being sent to Rwanda was fairly small. You can imagine that the people then making the trip would view that risk as just one risk among many much greater risks—risking their lives, for example—so there were always real questions about the deterrent effect of the Rwanda policy and how many people would in fact have been sent there.

The last Government said that the scheme was uncapped, and the Rwandan Government said, “We can take as many people as you can send.” But there were logistical challenges there, not least among them where people would be detained. At that time we had about 1,800 people in immigration detention in the UK, with a capacity of 2,200. You would have to detain people if you were threatening to remove them to Rwanda, so that was a very big initial stumbling block, putting aside whatever the capacity of those Rwandan facilities would have been, and more broadly the capacity of the Rwandan asylum system to process large numbers of claims. Typically it processed only a few hundred a year, not 10,000 or 20,000, so there were real questions there.

The big risk was what to do with people who are neither deterred from arriving nor able to be removed to Rwanda. That would be a sub-population in the UK without legal status who would be here indefinitely, so they would for ever have no legal right to remain in the UK, but we would be required to provide them with asylum accommodation and support at great cost. That was the risk when it came to Rwanda and the IMA.

Q14 Dame Angela Eagle: You said something really interesting in your first comment: that you felt some of the people arriving on small boats are doing so because we are out of the Dublin system—in other words, because of Brexit. Were you surprised, perhaps, that in the withdrawal agreement there was no provision to try to opt into Dublin III and a half or whatever it might have been called?

Dr Peter Walsh: I was not surprised, because I think that was consistent with the attitude at the time on the part of the Government. I did note that they did decide not to pursue a similar kind of agreement, which hampered them in a certain sense because there was no longer a mechanism to return asylum seekers arriving by small boat to the EU. It is true that in the last five years or so that we were a part of Dublin, we were actually a net receiver of asylum seekers under the system: we received more than we sent out. That is for various reasons, including administrative ones. But yes, it was striking that a similar kind of agreement or remaining a part of the Dublin system was not pursued because that appeared to hamper the Government in that aim—namely, to remove people arriving without authorisation to the EU.

Q15 Dame Angela Eagle: Zoe, what is your view on the idea that has gained traction in certain areas of this debate—that the Human Rights Act and the ECHR are effectively preventing us from having a reasonable system, and that the only way to have an asylum system that works is to pull out of those international agreements?

Zoe Bantleman: As the witnesses in the previous session have already said, those are not the only international legal agreements by which we are bound. The UK has voluntarily agreed to be bound by a great many international legal agreements, including in relation to the rights of children, the convention on action against trafficking and the conventions on the rights of stateless persons. There are a whole host in addition to the refugee convention and the European convention on human rights.

One of the hallmarks of the new Government has been this new-found commitment towards our international legal obligations, and also restoring the UK's position as a leader in the international rules-based order, which all three of the previous Acts—the Safety of Rwanda Act, the Illegal Migration Act and the Nationality and Borders Act before it—eroded. I think it is fundamental to retain our commitment towards our international legal obligations. But there was also a case in the High Court in Belfast, brought by the Northern Ireland Human Rights Commission in relation to the Illegal Migration Act, that found that it was not only the convention on human rights that was breached by the Illegal Migration Act, but also the Windsor framework itself.

At a time when His Majesty's Government are trying to reset the relationship with Europe, it seems a very strange thing to do—to try to back out of our human

rights obligations. Again, the Good Friday agreement and the trade and co-operation agreement with the European Union are both based on our compliance with the European convention on human rights.

Q16 Mr Forster: If I may, I will turn away from these historic strategic issues back to the wording in the Bill. I would welcome your thoughts on clauses 13, 14 and 16 about the new offences. How effective do you think they would be? Zoe, what do you think of the drafting? Dr Walsh, how commonly do you think they would be used given that so much of the preparation is done abroad?

Zoe Bantleman: The offences are drafted in quite broad terms and the defences are quite narrow. There is a real concern, particularly on behalf of the legal professions, as to what would constitute a defence. For example, one of the defences is where a person was

“acting on behalf of an organisation which—

- (i) aims to assist asylum-seekers, and
- (ii) does not charge for its services.”

Would a legal aid firm charging the legal aid fund for services come within the scope of this defence? That is a real question.

We could also imagine the much more practical question of someone who is, for example, in Calais with their family member, and their family member wants to get on to a small boat and they are saying, “No, don't get on to the small boat. Look here—this is what the weather is going to be today” and they show them on their phone what the weather is going to be. That could be useful to that person in helping them to prepare for their journey to the UK, and it would be the collection, recording and viewing of that information. It is not clear that such a person would have a defence if they were to reach the UK by a safe route, if a safe route was available to them. Even though that was done in France rather than the UK, they could potentially be prosecuted once here because of the extraterritorial scope of the offences, subject of course to prosecutorial discretion.

There is a very large scope to the offences and the defences are potentially not sufficient and holistic enough to account for all situations in which persons should not be prosecuted and should not be criminalised for their behaviour.

Q17 Chris Murray: Dr Walsh, you said something fascinating that the Minister picked up on about the Dublin system and the driver of people getting on small boats. Could you say a little bit more about that? First, what is the evidence for that? Secondly, we know that people getting on to a small boat on the French side of the channel are part of a long stream of networks, illegal organisations and people fleeing. They are travelling through multiple countries. Could you give us a bit more detail on how those networks are functioning now, how they have evolved over the last couple of years in response to various conflicts and drivers, and the routes that people are taking?

Dr Peter Walsh: The Dublin system provided a mechanism for asylum seekers to be transferred between EU member states and prioritised the idea that people should have their claim processed in the first state in which they arrived. There are other things that the

decision can be based on—one might be having family members in the country; that could also be the basis for a transfer.

There is emerging evidence from when researchers have spoken with migrants in and around Calais. They ask them, “Why have you taken this dangerous journey to the UK?” They talk about family, the English language and perceptions of the UK as being safer. Often they have experienced harsh treatment at the hands of the French police. Increasingly, they specifically mention Dublin.

What we can infer from that is that these people have an outstanding or rejected claim—or claims, potentially in a number of EU member states, even though there are rules and processes to prevent that. They have exhausted what they view as the opportunity to receive a successful asylum claim in the EU. That leaves the UK. They understand that because the UK is no longer a part of Dublin, we are effectively not able to return them to the continent. That is fairly recent evidence we have found.

On the smuggling networks and how they work, one of the big challenges is that they operate transnationally, so they are beyond the jurisdiction of any single authority. That, by its very nature, makes enforcement more difficult because it requires quite close international co-operation, so the UK would be co-operating with agencies that operate under different legal frameworks, professional standards and norms and maybe even speak a different language. That challenge applies with particular force to the senior figures, who are often operating not only beyond the UK’s and EU’s jurisdictions but in countries where there is very limited international law enforcement co-operation with both the UK and the EU. I am thinking of countries such as Afghanistan, Syria and Iran.

More generally, the smuggling gangs have become more professionalised. They are very well resourced and are highly adaptable. There is a sense that law enforcement is constantly having to play catch-up. The gangs are decentralised, and there are quite small groups of, say, eight to 12 individuals, spread out across the continent, who are responsible for logistics—for example, storing equipment like motors and engines in Germany that are imported to Turkey from China and then transported in trucks to France. Those networks stretch out across the continent. That is why it is so hard for law enforcement to fight them.

Q18 Pete Wishart: I would like to pick up on that point, because it is very important. I think I saw somewhere that you commented that there is a lack of evidence about the long-term effects of prosecuting people smugglers, because they will just be displaced. It strikes me that given that there are no other means or safe routes to get to the UK and the people-smuggling gangs effectively have a monopoly on the irregular migration business, surely all they are going to do with all the legislation that the Government are bringing forward is adapt the models to accommodate what the Government are introducing. It always seems that they are a few steps ahead of Government.

Unless we tackle the demand, surely there will not be anything we can effectively do to tackle the illegal gangs, particularly if we are going to be cutting international

aid budgets, which will exacerbate the problem and drive more people into the hands of the gangs. Ms Bantleman, you have written to the Government urging them to amend the good character guidance to ensure compliance with the UK’s international obligations. Could you expand on that and elaborate on what you are intending from the Government? You are right to remind the Government of the range of their commitments and international obligations. I will come to you first, Dr Walsh.

Dr Peter Walsh: It is true that there is a real lack of evidence on what the likely impact of specific policies to disrupt smuggling networks will be, but the policies could assist in disrupting smuggling activities. If you invest more resources in enforcement and agencies have greater power of seizure, search, arrest and investigation, then you would expect that more smugglers would be brought to justice. The bigger question for me is: will that reduce people travelling in small boats? There is the separate question of whether this will eliminate the market for smuggling.

What we do know is that a lot of people are willing to pay a lot of money for the services that smugglers provide. If the effect of the policies is to disrupt smuggling operations, that could conceivably raise the cost of smuggling—a cost that would be passed on to migrants. It may be the case that some are priced out at the margins, but I suspect that demand is fairly inelastic. Even with an increase in price, people will still be willing to pay.

Another challenge is the people most directly involved in smuggling operations on the ground—the people who are tasked with getting the migrants to shore, the boats into the water and the migrants into the boats. It does not require substantial skill, training or investment to do that job. You can apprehend those individuals, and that requires substantial resource, but they can quickly be replaced. That is why it has been described as being like whack-a-mole. I think that is one of the real challenges.

Zoe Bantleman: I would like to add to that point, before I address the second question. I completely agree with what Peter says about how the most fundamental challenge in breaking the business model of smugglers is that, simply, smuggling will exist for as long as there is demand. There will be demand for it as long as there are people seeking safety. For as long as we fail to have accessible, safe, complementary routes for people to arrive here, and for as long as carriers are too fearful to allow people on to safe trains, ferries and planes to the UK, people will feel that they have no choice but to risk their lives, their savings and their families’ savings on dangerous journeys.

The focus of the Bill is not on tackling trafficking or the traffickers, or on protecting the victims of trafficking; it casts its net much wider. It is really about tackling those who assist others in arriving here, as well as those who arrive here themselves.

That leads me on to the second point, which is in relation to the good character guidance. There was a recent change, on the day of Second Reading, that also resulted in a change to the good character guidance, which is a statutory requirement that individuals must meet in order to become British citizens. The guidance says that anyone who enters irregularly—it actually uses the word “illegal”, which I have substituted with

“irregularly”—shall “normally” not have their application for British citizenship accepted, no matter how much time has passed.

Fundamentally, article 31 of the refugee convention says that individuals should be immune from penalties. It is a protective clause. It is aimed at ensuring that exactly the kind of person who does not have the time or is not able to acquire the appropriate documentation, who has a very short-term stopover in another country on the way to the UK, and who is allowed to choose their country of safety can come here and is immune from penalties. There is also an obligation under the refugee convention to facilitate the naturalisation of refugees.

We also mentioned many other conventions, including the convention on the elimination of discrimination against women, and the convention on the rights of the child. Children have a right to obtain citizenship, so stateless children should not be barred from obtaining British citizenship. In addition, they should not be held accountable for things that were outside their control. Children placed on small boats may have had no control or understanding of their journey to the UK, so arriving here in a way outside their control, in a way that the Government consider to be illegal but is not illegal under international law, is not a reason for them to be barred from citizenship. That is the substance of what we have said.

The Chair: This may be the last question, unless anybody else has indicated that they wish to ask one.

Margaret Mullane (Dagenham and Rainham) (Lab): In his evidence, Enver Solomon spoke about the “meltdown” of the immigration system—that it is chaotic. I think we all heard that. I am on the Home Affairs Committee, and we are also looking into that. Quite a few people from different groups have given evidence, and their evidence was slightly more optimistic than what has been said today.

We are all in mass communication, so I think word will get around when this starts rolling out. If the system had been chaotic and everything had ground to a halt, the gangmasters running the boats would have got to grips with it as time went on, and that would have seeped through. It therefore would not necessarily be the case that people would want to risk the boats and the gangs.

Dr Peter Walsh: On communication, many of these individuals who are travelling receive information from their handlers, agents and smugglers. Sometimes it comes from people who have already made the trip and are in the UK, but that has the effect of emboldening them. I am not sure what the prospects would be for them learning about the reality of the UK’s asylum system more broadly. We see that knowledge of the system—whether it is chaotic or functioning well—is always filtered through their agents, smugglers, handlers and those they know in the community who are making the trip or have already successfully made it.

The Chair: We have two quick questions to squeeze in.

Q19 Tom Hayes: We hear that, because the so-called Rwanda deterrent never actually happened, it is hard to assess whether or not it was a deterrent, but in a Q&A you published on 25 July, Dr Walsh, you said:

“The deterrent impact of the policy would likely have depended on the number of people sent to Rwanda.”

You estimated the probability of people crossing the channel in a small boat being sent to Rwanda to be about 1% to 2%.

You also said:

“There is no evidence that political discussions surrounding the Rwanda policy deterred small boat arrivals.”

In fact, from the day the policy was announced to the day it was scrapped, we saw 84,000 people cross the channel. Do you want to say anything about the efficacy of the so-called deterrent? Relatedly, do you agree that it is hard to make emphatic assessments of the fiscal burden of immigration owing to the quality of the available data?

Dr Peter Walsh: Yes, I would agree with that last point.

The Rwanda policy was never implemented, so it would be unfair to say that it did not have a deterrent effect. Policies of that kind typically have the bulk of their effect once they have been implemented. I cannot remember the source for the 1% to 2% figure. This is a somewhat old research paper, but at the time it was the best estimate we could point to. It was not an estimate that I or colleagues made. Can you see what the source is?

Tom Hayes: I can. It says:

“If only a few hundred asylum seekers were sent to Rwanda each year (as suggested by the Deputy Prime Minister and the Home Office’s modelling) and unauthorised arrivals had continued at rates similar to those seen in 2022 and 2023”—

the paper was published in 2024—

“then the probability of a person crossing the Channel in a small boat being sent to Rwanda would have been small—around 1-2%.”

Dr Peter Walsh: I now recall the Home Office’s modelling, and it was subject to a whole range of caveats. The Home Office was actually quite cautious about the estimates. That was the best available figure it had at the time. It was in part based on Rwanda’s capacity to process claims. The number could have gone up, but we never found out.

The Chair: Can I quickly get Kenneth’s question in?

Q20 Kenneth Stevenson: We have heard from Dr Walsh about how the small gangs operate. They are very difficult to work against. What engagement have you had to better understand the Government’s position? Would you outline your evidence directing us to an alternative approach?

It has been very interesting to hear about what does not deter people from coming across, but it would also be very interesting to hear about anything that does deter them. Could you outline that too?

The Chair: There is less than a minute left, and I wonder whether Zoe wants to quickly come in too.

Dr Peter Walsh: Strong deterrents do not necessarily operate on a psychological level. They include the physical interception of boats in the water, and the case of Australia demonstrates that quite clearly. It had an offshore processing plan, but the huge decrease in numbers arriving by unauthorised boats happened once Australia was physically intercepting those boats in the water and returning them to the countries of departure.

Kenneth Stevenson: Can you answer my original question about the engagement you have had with the Government? You are saying that small gangs are very flexible, but obviously the Government are saying that they are going after those gangs—

The Chair: Order. That brings us to the end of the time allocated for the Committee to ask questions. I thank our witnesses on behalf of the Committee for their evidence.

Examination of Witness

Dame Rachel de Souza gave evidence.

12.40 pm

The Chair: We will now hear oral evidence from the Children's Commissioner for England. Once again, we must stick to the timings in the programme order. We have until 1 pm for this panel. Could the witness please introduce herself for the record?

Dame Rachel de Souza: Good afternoon. I am Rachel de Souza. I am the independent Children's Commissioner for England. It is my job to protect and promote the rights of children. Since I took up the role, I have made working with illegal immigrant children who arrive in Kent one of my top priorities. I go down to the Kent intake unit. I talk to all the children who are in hotels. My independent advocacy body has supported hundreds of these young people. I have used my entry powers to go in and look at their situation, and I have used my data powers to track safeguarding issues. It has been really thoroughgoing work for the past four years.

Q21 Dame Angela Eagle: What is your general opinion of the changes that would be introduced to the current immigration law structures with the repeal of the Safety of Rwanda Act and the vast majority of the Illegal Migration Act? What is your opinion on strengthening the powers of the Border Security Command, which are a central part of the Bill?

Dame Rachel de Souza: I do not want to see any child crossing the channel in a small boat. I have sat in those small boats myself. I have talked to children who have come across on them. I have seen eight-year-olds, blind children and children with Down's syndrome come across on them. The crossings are dangerous. One case that sticks in my mind is that of a young Iranian lad who saw his parents killed in front of him. He was taken by smugglers and did not know where he was going, but he came across on a small boat. Anything to stop these wicked traffickers is good in my book, as long as we are protecting and safeguarding children.

You will know that I was very vocal about the Illegal Migration Act, particularly the bits that conflicted with the Children Act 1989. When a child is on this soil, up to the age of 18, the Children Act has authority over them. I was very worried about the Home Office accommodating children, and I am pleased to see that has now been changed. Every Home Office official was working hard to do their best by those children, but the Home Office accommodation and the hotel accommodation were not suitable. Children were languishing without proper safeguarding in inappropriate places. Children's social care must look after unaccompanied children, so I am pleased to see that change.

From a children's perspective, I am pleased to see the Rwanda Act repealed. Children told me that it would not have stopped them coming; they were just going to disappear at 18. It would have ended up putting them at more risk. I had concerns about that. I also had concerns about children who had been settled here for a number of years then, at 18, being liable to be moved to Rwanda, so I am pleased to see that changed.

In general, I am really supportive of this Bill. There are some things that I would like to see it go further on, and I do have some concerns, but in general I am very supportive.

Q22 Mr Forster: What are the things that you would like to see the Bill go further on? We just heard from the legal director at the Immigration Law Practitioners' Association that they have some concerns at least about the Government's rhetoric, if not some of their actions, against the international law, particularly on children. Could you comment on that as well?

Dame Rachel de Souza: Because I see so many of these children and work with them directly, I am often thinking practically about what their lives are like and how to ensure that they are okay, so I tend to come at your questions from that approach. One of the things that I am worried about is the potential for getting the scientific age assessment wrong.

There was a fantastic debate in the other House, where Lord Winston and others talked about the British Dental Association and the lack of clarity and slight vagueness around age assessment procedures. What I will say is that the social work team down at the Kent intake unit are fantastic and they have developed a strong approach to and knowledge about how to get those age assessment decisions right, with an understanding of school systems and other things about young people. I think we need to be really careful on the age assessment side.

You know that I am also going to be worried about safe and legal routes. Let me give you two examples two young ambassadors out of my large group. One is from Ukraine. She came under the Ukraine scheme, managed to complete her Ukrainian education and her UK education at the same time, and is going to King's College. She has had nothing but support. The other is from South Sudan and, with no safe and legal route, came as an illegal immigrant. Female genital mutilation was an issue; there were some really serious issues. She found it hard to find somewhere to live and hard to get a job. She is now at Oxford University, because we have supported her and she is brilliant. Those are just two completely contrasting cases.

I stood and welcomed off the boat the first child who came from Afghanistan, who spent his nights weeping because he did not know whether his parents were alive. There is that safe and legal routes issue, particularly for children we know are coming from war-torn areas—we know that they are coming. We really need to think about that and think about support for them. That perhaps answers your tone question as well.

Q23 Chris Murray: We heard from the previous panels about how the Illegal Migration Act and the Rwanda Act caused wholesale dysfunction in the immigration system and especially in asylum. I want to ask you

[Chris Murray]

about the impact that that dysfunction had on children. As we were moving unaccompanied asylum-seeking children from Kent around the rest of the UK, how dysfunctional was that system? What was it like for local authorities that were trying to support them and the local communities? They have statutory obligations about child protection.

Dame Rachel de Souza: Down in Kent, because needs must, hotels were set up, so I visited the hotels that children were in. The situation was wholly inappropriate. Many children were languishing there for months, without English teaching. Kent county council was doing its best. Some of the best provision that I saw for children who were just arriving was put on by Kent, which had managed to get school going and get interpreters in, but it was overwhelmed.

What I will say, to pay tribute to local authorities around the country, is that whenever there was a very young child or a disabled child, they would step up and help. But it was hard to get the national transfer scheme going and the children were confused by it as well. The Highland council offered a range of places to some of the children, and they were like, “Where is the highlands and what are we going to do there?” It felt discombobulated at best. It was really tricky.

Of course, let us not forget that a lot of those children were older teenagers, and a lot of the provision that they were going to was not care, but a room in a house with all sorts of other people—teenagers and older people. They were left to fend for themselves, which was incredibly disorientating. We have a problem with 16 and 17-year-olds in the care system. There was a massive stretch on social care. Every director of children’s social care who I spoke to said that it is a massive stretch on their budgets, and that they do not know what to do with those children.

I think we could be more innovative. Again, there is massive good will out there in the country. We should be looking at specialist foster care, and not sticking 17-year-olds in rooms in houses on their own. There are so many things we could be doing to try to make this better, such as settling children in communities with proper language teaching.

The No.1 thing that children tell me that they want, given that they are here, is to learn—to be educated—so that they can function well. For me, particularly with some of the children who I have seen, they do not in any way mirror the stuff that we read in the media about freeloading—coming here for whatever. Most of them are really serious cases, and given that they are here, they want to try to learn and be good productive members of our communities. There is much that we can do.

Q24 Pete Wishart: I commend you for the work you do. I think what you do is amazing, and I pay tribute to that. You are absolutely right to raise some of the issues about the age assessment procedures, and their almost quasi-scientific applications. You are right to reference the debate in the House of Lords, because I think it captured that quite well. Why do you think there is an increasing trend to try to label quite obvious children or teenagers as adults?

We are keeping parts of NABA, so that will be a feature of the Bill. There are concerns about modern slavery and the impact on children with that. Are there any amendments that we could bring to the Bill that would help to deal with that and meet some of those concerns, so that we can get to a much better place with how we deal with children in our asylum system?

Dame Rachel de Souza: Obviously, both of those issues are concerns of mine—age assessment and the modern slavery provisions not being allowed to be applied. On age assessment, it is important that we know how old children are. I have seen 14-year-olds in hostels with 25-year-olds, which is totally inappropriate. I have seen girls who say that they are not 18 be age assessed as 18 and put in adult institutions with adult men. We do not want people masquerading as children to be put in with younger children. We need to do everything we can to determine age.

The technology around scientific age assessment is going to be difficult, not least because when you are dealing with an international population—as Lord Winston talked about—it is really difficult to be precise. Being precise matters. When children arrive in Kent, they get their new clothes, then if they are sick, they are put into a shipping container until they are not sick any more. They maybe then have to sleep a bit on a bench, and then they are age assessed. That age assessment is the most important thing about the rest of their journey here. If that goes wrong, that is it; if you get that wrong, they are an adult. It is a really important and tricky thing, and it is often not supported.

There are things we can do—I always look for solutions. Maybe we ought to be saying, “This is obviously a child. This is obviously an adult.” But there is a group where there are questions and perhaps we should be thinking about housing people in that group and spending a bit more time to work out how old they are and try to get the evidence, rather than making these cut-and-dry decisions that will change people’s lives. As I said, I found a 14-year-old boy in Luton who was there for years with 25-year-olds and was really upset.

On the modern slavery provisions, all I would say—I hope this is helpful—is that I have seen with my own eyes a 16-year-old Eritrean girl arriving at Kent with an older man who was her boyfriend. She obviously said, “It’s fine—I’m 16. We can come in.” She had lost her parents. It was obviously going to be trafficking. We need parts of the Bill to pick that up. That is real, so we need to be really careful about these things.

The Chair: We have only two minutes left, and three questions to go.

Q25 Jo White: I will be quick. Thank you for the work that you do. My biggest concern is those children who come into the UK who we do not even know are coming in, because it is hidden. They are clearly victims of modern slavery or child sexual exploitation. It is important, as you said just now, that we stop the gangs that are bringing them across. How confident are you that the new Border Security Commander with his anti-terrorism powers will be able to track those gangs down and smash them?

Dame Rachel de Souza: That is the first question I asked the National Crime Agency when I came into the role. I asked, “Could you find every child in this country?”

I was told that, “With enough resource, we could pretty much do it, apart from some of the Vietnamese children who are trafficked into cannabis factories and things like that.” With resource, and with this new Border Security Command, we will get a lot nearer, and we need to do that.

Q26 Tom Hayes: Thank you for all of your work. In April 2023, you wrote to the then Home Secretary requesting information about children accommodated in hotels. Seven months later, when you received the information, you then said that it was seven months past your deadline and that the quality of the information itself was deeply troubling. Can you comment on how difficult or easy it was for you to discharge your statutory duties as Children’s Commissioner when working with the last Government to safeguard children?

Dame Rachel de Souza: The Home Office was the only Department that failed to answer my data request in time and that gave me imperfect data, but I did not stop and I kept going. I have to say: it is much better now. I was able to speak to and did have access to Ministers, and I was always able to make my case. I did not get that information in a timely manner, but I did get that information in the end. I am worried about what has happened to those children.

The data we were after was safeguarding data that showed all the concerns, and the reason I asked for it was because I knew that the safeguarding in the hotels was not as it should be. We got the data on children who had been victims of attempted organ harvesting, rape and various other things, as well as the number of children who were missing. We still do not know where many of those children are, and that is not good enough. The whole tone has changed, and I hope that the Government will still want to stop the small boats, while also being much more pro-children.

The Chair: We will squeeze in one last question.

Q27 Becky Gittins (Clwyd East) (Lab): We heard earlier about the Rwanda Act and the IMA, and their impact on the massive escalation in the use of asylum

hotels. Do you believe that it was actually our children and young people who were disadvantaged the most? You have talked a lot about not wanting to see a single child come across the channel in small boats, but we also need to focus on what is happening when the asylum hotels are unsuitable. When they are unsuitable, those young people are much more vulnerable to people outside of those asylum hotels—criminals who operate in the UK and seek to do them harm.

Dame Rachel de Souza: Absolutely. The number of tales and stories from children about how virtually the entire rest of the hotel had been picked up and driven off by gangs was really not good. They would just walk outside and be picked up, and they would go. Some of those children made their way back to Kent because they were being exploited so badly. It was really terrible. There were not proper safeguards.

One of the reasons I do not want the Home Office to accommodate children is that, while it is great at many things, it should have nothing to do with children. Children’s social care should be looking after children. The Home Office was never able to put in appropriate safeguarding. Despite its best efforts, it did not manage to structure children’s days. It did not have the personnel to deal with this.

Children were going missing regularly; some are still missing. Kids were there for months who were not learning English. What were they doing? Whereas, when they went straight into Kent’s care, they were put in school, learning English, learning what it is like to be in England, learning to understand their rights and getting used to the country they were in, but I fear that many of those children came to terrible ends—

The Chair: Order. I am afraid that brings us to the end of the time allocated and allotted for the Committee to ask questions. I thank the witness for her evidence.

1 pm

The Chair adjourned the Committee without Question put (Standing Order No.88).

Adjourned till this day at Two o’clock.

