



Consultation Response

Health and Social Care and Children, Young People and Education Committees' scrutiny of the Legislative Consent Memorandum ('the LCM') on the Nationality and Borders Bill

27 January 2022

About The Fostering Network

The Fostering Network is the UK's leading fostering charity. We are the essential network for fostering, bringing together everyone who is involved in foster care. We support foster carers to help transform children's lives and we work with fostering services and the wider sector to develop and share best practice. We work to ensure all children and young people in foster care experience stable family life and we are passionate about the difference foster care makes. We champion fostering and seek to create vital change so that foster care is the very best it can be.

The Fostering Network's response

Owing to the short timescale for responses to this consultation, we are not in a position to answer all questions.

However, our views for your consideration are as follows:

- **The establishment of a National Age Assessment Board (NAAB) and the making of Regulations by the Secretary of State in respect of procedures to be followed in the age assessment process**

The Fostering Network understands that the NAAB is to be an England-only body. Limited information is provided about the constitution and functions of the NAAB. The full devolvement of social services functions to Wales appears not to have been considered, in that there are no specific proposals about the representation of Wales. We would hope that these factors are addressed to ensure alignment with Welsh social services powers and UNCRC legislative requirements.

- **Our view on whether the proposals will undermine compliance with the UN Convention on the Rights of the Child to act in the best interests of children.**

When the 2014 Act brought into Welsh domestic law compliance with the UNCRC, Welsh Ministers were clear in their Senedd election manifesto that they will 'continue to uphold the rights and entitlements of unaccompanied asylum-seeking children'

The 'child first, migrant second' which upholds the best interests, rights and entitlements approach to providing care and support to children in Wales must be upheld. Any policy proposal which appears to diminish this statutory position is not one which we would support.

The safety and best interests of asylum-seeking children must be at the heart of any reforms.

- **The extent to which it could undermine the requirements placed on Welsh local authorities, set out in the Social Services and Wellbeing (Wales) Act 2014, which determines whether children have care and support needs which need to be met?**

Local authorities, within children's services strategic plans, should recognise these tensions and consider policies and procedures which ensure that unaccompanied young people have the same opportunities as any other care experienced young person. Social work with unaccompanied young people does not happen in isolation. Social workers and local authorities need to understand the impact of immigration control on young people they are looking after, and ensure this is acknowledged and addressed at both practice and strategic levels.

There is a role for Welsh Government in developing policy and good practice guidelines to address tensions between immigration legislation and policy, and child welfare legislation and policy. It is essential that these are developed further, along with opportunities for learning and development. We would also raise the need for greater investment to ensure sufficiency of placements and staff in children's services. This will support services in Wales to fulfil the functions set out in SSWBA 2014 and ensure that every child in receipt of 'corporate parenting' thrives and fulfils their potential.

- **The use of use of 'scientific methods' to determine age**

Determining the age of an unaccompanied child is extremely important as it governs a child's access to education and support. It also affects the way in which their asylum claim is processed and, in turn, can be the decisive factor in a claim for asylum. The Fostering Network believes that age is central to each child's and young person's identity. However, the proposed age assessment process can be traumatic and damaging for children whose age is challenged. We are of the view that age assessments should only be carried out where there is significant reason to doubt the child's or young person's age.

Age determination cannot be regarded an exact science to determine an individual's fate - the margin of error can sometimes be as much as five years either side, especially around the time of puberty - and, at best, scientific methods can only be regard as an estimate. There is no single reliable method for making precise estimates, and no conclusive medical test. We question there is a 'scientific' test that will tell precisely the age of individuals claiming to be children.

Ongoing commitment from The Fostering Network

The Fostering Network in Wales has developed [resources](#) and training to help support the ongoing commitment from Welsh Government to fulfil the aspiration that all unaccompanied asylum-seeking children (UASC) have access to the care, services and support that they need.

We will continue to support and offer further bespoke and responsive consultancy-based services and interventions as Welsh Government develops its UASC strategy.

The Fostering Network would welcome further dialogue on the issues raised in this consultation and will continue to play a key role in the capacity to support the needs of unaccompanied asylum-seeking children and young people.

For more information, please contact:

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