

Nationality & Borders Bill

House of Commons: Committee stage
October 2021

About the BMA

The BMA (British Medical Association) is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

Key points - NC32¹:

- The BMA calls on the Government to clarify whether ionising radiation is captured in the 'scientific methods' to be used for age verification, under 'imaging technology' in NC32. If so, the BMA has serious concerns about these provisions - they would involve direct harms without any medical benefit to the individual.
- The BMA welcomes amendments, such as Amendment 150 tabled by Paul Blomfield MP, which raise concerns about the level of scrutiny the Government will undertake prior to tabling regulations that make use of the Bill's powers to use scientific methods for age verification (NC32(3)).
- The BMA calls on the Government to clarify whether NC32(9) would mean that scientific methods that are not specified in regulations, and which are able to be used for age assessment 'if the decision-maker consider it appropriate', could include those methods that the Government has been advised against when seeking 'scientific advice' (NC32(3))?

1. NC32(2) - scientific methods

The BMA is seeking clarification as to what would be captured by 'imaging technology' and whether this would include the use of ionising radiation; its inclusion would cause serious concern.

We have serious ethical concerns about the use of ionising radiation for the purposes of identifying an individual's age. The use of radiation for this purpose involves direct harms without any medical benefit to the individual. Furthermore, the evidence supporting the accuracy of the process is extremely weak, particularly where, as in the case of most asylum seekers, there is a shortage of appropriate age and cultural comparators. Age assessments can clearly have serious consequences for the individuals assessed. It is critical therefore that any method used to make such assessments has a strong scientific and evidentiary base.

2. NC32(3) - consultation

The BMA supports amendments which highlight the need to strengthen provisions in the Bill regarding the Secretary of State's obligation to seek 'scientific advice' before making

¹ See the Government's New Clause 32 here: https://publications.parliament.uk/pa/bills/cbill/58-02/0141/amend/natbord_rm_pbc_1027.pdf



regulations. The full range of expert and interested parties must be consulted on any forthcoming regulations about the use of scientific methods for age assessment.

We support the sentiment behind Amendment 150 from Paul Blomfield MP, which seeks to ensure that it would not be possible to make regulations about the use of scientific methods to ascertain a person's age without consulting ethical committees of the relevant medical, dental, and scientific professional bodies for their view. Furthermore, this amendment would require the Secretary of State to publish a report on this consultation ahead of any decision by Parliament on affirmative regulations.

Transparent consultation on the impact of any such regulations is crucial. Both to properly engage the appropriate clinical and ethics expertise, but also to ensure that parliamentarians are adequately and readily informed about the ethical and clinical considerations that these methods would raise if the Secretary of State were to pursue enacting these powers by asking Parliament to affirm regulations. The BMA is concerned that the current wording would not necessarily require the Government to consult all relevant experts and interested parties.

3. NC32(9) - non-specified methods

The BMA is seeking clarification as to what the intention is behind subsection (9) of the Government's NC32.

NC32(9) appears to create another category of scientific methods that the Government may deploy for age assessment, even though they have not been specified in regulations, 'if the decision-maker considers it appropriate'. Our view is that scientific methods for age assessment should not be utilised if they are not specified in regulations nor approved by those with the appropriate expertise (such as by ethical committees of the relevant professional bodies).

We urge MPs to raise the following points for clarification:

- Why not require that all scientific methods intended for use must be specified in affirmative regulations? What sort of methods does the Government have in mind?
- Could these methods which are not specified in regulations include those that the Government was advised against when seeking 'scientific advice'?

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