

# **Planning Better Outcomes for Unaccompanied Asylum Seeking Children – the Home Office Consultation on UASC Reform**

## **Joint response from the British Association for Adoption and Fostering and from Family Rights Group**

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## Introduction

As a general but very important point, we are puzzled that this consultation document is not jointly sponsored by the Home Office and the Department for Education and Skills ('DfES') and signed by their respective Ministers. The matters under consideration concern two distinct policy areas – border control and the welfare of children. The interaction between these two areas is highly complex and is not entirely compatible. For instance, the government is not bound by international children's standards owing to the UK reservation to the UN Convention on the Rights of the Child<sup>1</sup> The safeguarding duties applicable to other agencies within England and Wales under s 11 of the Children Act 2004<sup>2</sup>, does not apply to immigration services in the approach taken by this consultation document how the child centred concerns clearly expressed in the DfES's 'Care Matters' green paper relate to the policy thrust of border control in the Home Office's document. What therefore is inevitably a difficult area in reconciling different policy objectives in two government departments is made doubly difficult by no sustained attempt to address them in the consultation document by joint authorship. This fundamental flaw undermines the whole document.

We are also concerned by the documents 'one size fits all' approach to the care of unaccompanied asylum-seeking children. Unaccompanied asylum seeking children have very varied experiences and nuanced care needs. For example, the document talks about the vast majority of unaccompanied asylum-seeking children not having community links in the UK which means they can therefore easily be dispersed. It talks about general care arrangements for under and over 16s and that for those over 16, foster care will not be appropriate. It assumes that the majority of young people whose asylum claims fail will be able to return to their country of origin. In particular, it ignores the duty of local authorities "to provide appropriate support and services to all UASC, as these children should be provided with the same quality of *individual assessment* and related services as any other child presenting as being 'in need.'<sup>3</sup>[Emphasis added]

Throughout this Home Office paper there is a clear conflict between the proposals made and the duty of local authorities to safeguard and promote the welfare of children in need in their area. This is most clearly demonstrated in the radical proposal to support unaccompanied asylum-seeking children through dispersal with the aim of improving consistency and promoting specialisation, yet without providing any detail of how moving young people to local authorities (which lack experience of supporting these young people) will achieve this in practice. The proposals take no account of the safeguarding and care planning responsibilities of local authorities both as transferring and receiving authorities. The many references to this being a cost saving model without making the welfare issues of equal and central importance creates the danger of undermining the whole development and therefore failing to improve the care of unaccompanied asylum-seeking children.

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<sup>1</sup> The reservation provides "The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time"

<sup>2</sup> Bodies which must ensure that "their functions are discharged having regard to the need to safeguard and promote the welfare of children"

Working Together to Safeguard Children 2006, para 11.83

It is acknowledged in 'Care Matters' that there continues to be serious problems in the delivery of consistent, high quality services for looked after children especially when measured against outcomes such as education, health and mental health, placement stability, and other well known measures. Young people consistently report on the difficulties of getting in touch with social workers, frequent changes of social worker, lack of knowledge about their care plans and their implementation and a general sense of stigma and failure to have an ordinary childhood like other young people. While not all of these problems can be laid at the door of the care system, the Minister, Beverley Hughes, has acknowledged that there does need to a radical reform of the system as a whole. In recent years the Department of Health and more recently the DfES have led a raft of work to improve services through 'Quality Protects' and 'Choice Protects', 'Every Child Matters' and lastly 'Care Matters'. At the same time, we have seen new child-centred laws as well as reforms to the regulation, standards and inspection of childrens services. Other developments have included the development of the Assessment of Children in Need Framework and the Integrated Children's System and more recently the Common Assessment Framework. Following the Climbié Inquiry, there has been the integration of social services with education including enhanced safeguarding duties through Safeguarding Boards. The anticipated White Paper following the Care Matters consultation and new primary legislation will take this even further. What is disturbing is that the new system being proposed for unaccompanied children gives no recognition to these developments or to the continuing problems in sufficiently improving service standards or outcomes.

The recognition that there is unacceptable inconsistency in service provision needs to be linked to the DfES's continuing concern with the unacceptable historical inconsistency in children's services in general. In this, there has never been an argument that in those areas where there are poor service standards or service strain, UK children should be shipped wholesale to other parts of the country as a solution. In fact the development of performance indicators for placement distance recognises the importance for children of being located close to family and community. It is the case that in many areas communities have developed over many years that reflect the multi ethnic, cultural, language and religious origins of unaccompanied children. These are not easily replicable in other parts of the UK. While it is inevitable that the concentration of unaccompanied asylum children in certain areas does produce service strain, the focus of development should be to support these local authorities and communities. If resources are to be pumped into specialist authorities, why should those same resources not be pumped into existing authorities and communities to continue to develop their capacity and reinforce the underlying issues identified in the reasons for establishing the 20 mile standard. The consultation document would have been considerably strengthened if it had been directly linked to the lessons that have been learnt to date and then integrated with those being actively pursued by the DfES. The fact that this is not so suggests that the policy is primarily one of border control and not children's welfare.

Overall, the proposals fail to take into account the rights of children as protected by the UN Convention on the Rights of the Child (CRC), in particular:

- Article 2, prohibition of discrimination;
- Article 3, in all actions concerning children the best interests of the child shall be the primary consideration;

- Article 6, the fundamental right to life, survival and development to the maximum extent possible;
- Article 12, the child's right to express his/her views freely and their views to be given due weight; and
- Article 16, the child's right not to be subjected to arbitrary or unlawful interference with his or her privacy.

## **Consultation Questions**

### **1. How might a system of placing young people with a limited number of authorities help to ensure consistency of service provision and aid specialist services?**

#### *Comment*

The proposal to transfer to 'specialist' authorities does not address the underlying problems that undermine consistency of service across local authorities. The proposal fails to acknowledge the expertise that has been developed in local asylum teams. While there may be problems for those teams in responding to and meeting demand, it is important that their expertise is acknowledged and they get the resources they need to do the high quality work that they do. The quoted Save the Children report<sup>4</sup> also shows that there is some very good practice in existence and that it is not an overhaul of the system that is needed to improve care in those authorities where it is questionable, but among other things, leadership from all relevant government departments and adequate funding arrangements. There is little acknowledgement of this in the consultation paper but instead an assumption that it is straightforward to create expertise in 50 or so 'specialist authorities'.

#### *Response*

Placing young people with a limited number of 'specialist' authorities will not improve consistency of service provision nor aid access to specialist services unless sufficient funding is provided to the relevant local authorities to allow them to provide specialist services and to themselves develop expertise. At present, there is no proposal in the consultation paper for additional funding. Funding will also be necessary to provide for additional costs of transferring children between authorities.

It is further unclear how specialist services will in any event be available or develop in new authority areas without specific incentives. Unaccompanied and separated children need access to good immigration lawyers. These exist in areas where there are, and traditionally have been, many asylum seekers. Authorities housing approximately 100 children each will not attract a concentration of immigration lawyers. Similar logic applies to the availability of other specialist services such as medical and psychiatric services with experience of the particular circumstances of unaccompanied and separated children.

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<sup>4</sup> Save the Children: Local Authority support to unaccompanied asylum seeking children – 2005. At paragraph 16 of the Consultation paper

## **2. What other factors need to be put in place to achieve improved delivery of services for unaccompanied asylum seeking children?**

The proposal also fails to acknowledge the expertise that has been developed in local asylum teams. While there may be problems for those teams in responding and meeting demand, it is important that their expertise is acknowledged and they get the resources they need to do the high quality work that they do. There is little acknowledgement of this in the consultation paper and a naïve assumption that it is straightforward to replicate this in 50 or so 'specialist authorities'.

### *Response*

The current system should be built on and improved. We refer to the Save the Children research on local authority support to unaccompanied children<sup>5</sup> which looked at barriers to improving support. There are many local authorities in London and the South East which have extensive experience of supporting unaccompanied asylum-seeking children and where associated services have been developed in the area. To lose this would be detrimental to the care of unaccompanied children. The experience of local authorities in the South East should be built on and improved by tackling the following issues:

- The level of the UASC grant should be reviewed based on local authority requirements and removal of the age distinction between under-and over-16 year olds (and move to a grant level based on whether Section 17 or Section 20 support is provided, in line with LAC 13 and the Hillingdon judgment<sup>6</sup>).
- The DfES should take the lead at central government level to ensure that the welfare needs of children are prioritised in all policy decisions regarding unaccompanied children.
- Extra leaving care funds should be available for local authorities that support unaccompanied children.
- The DfES should monitor the standard of support being provided to unaccompanied young people through inspections carried out by OFSTED.

Alongside improving the current system, the good practice of the Safe Case Transfer model could be built upon to tackle the problems that a few local authorities such as Kent and Croydon have because of the high numbers of unaccompanied asylum-seeking children they support compared to other local authorities. These authorities should be supported by the DfES and the Home Office to negotiate a transfer scheme with other local authorities. The young people involved should only be those who voluntarily agree to be transferred.

In addition, local authorities who agree to take UASC (who may currently only have limited numbers of UASC in their area) will need specific training in asylum issues, and the needs of unaccompanied asylum seeking children. Additional funding should be provided to these authorities to enable them to develop specialist services.

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<sup>5</sup> Local Authority Support to Unaccompanied Asylum-Seeking Young People –Changes since the Hillingdon Judgment' Save the Children, 2005.

<sup>6</sup> Behre & Ors, R v Hillingdon London Borough Council [2003] EWHC 2075 (Admin)(HC)

To ensure proper delivery of services, unaccompanied and separated children ideally need to have an individual who is legally responsible for them, so that someone with a status equivalent to parental responsibility is able to ensure that child receives services to which they are entitled. The Children's Commissioner has recommended the appointment of a legal guardian for all unaccompanied and separated children with statutory responsibility for them within both the childcare system and the asylum system<sup>7</sup>. The Joint Committee on Human Rights ('JCHR') noted in their recent report 'The Treatment of Asylum Seekers'<sup>8</sup> that 'there is currently no statutory oversight body for ensuring that separated children are able to access the services and support to which they are entitled... This is despite the requirement of Article 19 of the EU Reception Directive that separated children should be provided with a guardian'. The JCHR recommended that a formal system of guardianship should be established, by statute, for separated asylum seeking children.

The government originally indicated that Special Guardianship Orders (s14A Children Act 1989) might be used to provide an individual with parental responsibility for an unaccompanied child. However, as a private law order in the public law context it is unlikely to be routinely used for unaccompanied children and to date, has not been so used.

There is currently real concern about the consistency by which local authorities exercise their powers in relation to looked after children in their care. It is a matter rehearsed repeatedly in the 'Care Matters' Green Paper. The proposals within that paper for strengthening the role of the Independent Reviewing Officer and advocacy will, if they are actioned, help ensure that looked after children are better cared for within the care system. However, it is of grave concern that the 'Care Matters' Green Paper appears at the outset to distinguish the needs of unaccompanied and separated children from the needs of other looked after children<sup>9</sup>. It is imperative that unaccompanied and separated children should benefit from the proposals that will improve services and increase accountability of local authorities for all children in their care.

We would endorse the recommendation of the Children's Commissioner as an essential factor to be put in place to achieve proper and accountable delivery of services to unaccompanied asylum seeking children. As a minimum, advocacy, as proposed in the 'Care Matters' Green Paper should be made available specifically to unaccompanied and separated children, as of right.

### **3. When a local authority decides to conduct an age assessment, should this take place before or after arranging the transfer to a specialist authority?**

#### *Comment*

A related issue that has not been addressed in the Home Office proposal is the age assessment issue and when to transfer to specialist authority fits with the asylum application system and the New Asylum Model (NAM). The NAM must comply with time-specific targets in relation to when a minor reports to their case owner (within 10

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<sup>7</sup> As recommended by the Children's Commissioner in his evidence to the JCHR

<sup>8</sup> Tenth report of session 2006-07

<sup>9</sup> At paragraph 1.26

days of arrival), when the asylum interview takes place (25 days), when a decision is served (35 days) and the period for appeals (35-115 days).<sup>10</sup> If a young person's age is being disputed then it is important that a decision on age is given prior to entering the NAM system<sup>11</sup>.

### *Response*

Expert opinion on doing age assessments points to the long time that it takes to carry out a holistic age assessment. Therefore it seems more appropriate to transfer young people to the specialist authority prior to an age assessment being done. If it is done prior to transfer the assessment is likely to be quick and much less accurate than a longer term, more holistic age assessment. It will also mean that young people will be transferred as soon as possible to the 'specialist' authority, which means they will not settle in one area, where they arrive, only to be uprooted to another local authority once the age assessment is done. The proposal contained in paragraph 26 of co-locating social workers at ports of entry and screening units is inconsistent with the idea of 'a holistic approach to age-assessment'<sup>12</sup> as there will be insufficient time for a full assessment to take place

However, any transfer to another local authority has to be considered in light of our response to transfer generally, at question 5 below.

#### **4. What might be a valid reason for refusal to undergo a dental x-ray or other medical examination to improve age assessment?**

##### *Comment*

The Home Office believe that there is a 'serious level of abuse of the system' in relation to young people claiming to be under 18 when they are actually over 18. However, of the 2,425 age disputed cases in 2005, the consultation paper fails to give a figure to the proportion of these decisions which were changed after social work assessment. According to a statement released by the Children's Commissioners on this proposal, over 1,000 children are wrongly treated as adults in the asylum system every year.<sup>13</sup> Discussions on age disputes need to acknowledge that the 'abuse of the system' is not as pervasive as the Home Office believe and should question why so many age assessments take place. It seems that in some places age assessments have become the norm, rather than being carried out only when there is a clear age dispute issue.

We would recommend the following approach to age disputes, as an alternative to the use of medical assessments:

- Age assessments should only be carried out where age is seriously questioned;
- That boundary cases are given the benefit of the doubt on the side of the young person;

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<sup>10</sup> 'The New Asylum Model' Refugee Council Briefing, March 2007

<sup>11</sup> See the Children's Legal Centre - Unaccompanied Asylum Seeking Children Reform Programme – Briefing 1',

<sup>12</sup> Para 27

<sup>13</sup> Press Statement, 'Children's Commissioners respond to Home Office proposals for unaccompanied asylum seeking children', 1st March 2007

- The decision is made over time, through a holistic process;
- The decision is made by childcare professionals, including their social worker and other professionals working with the young person. Dr Heaven Crawley<sup>14</sup> emphasises the need for age determination process needing to be interdisciplinary;
- Good quality training should be provided to all professionals involved in age assessments.

### *Response*

There are numerous valid reasons for refusal to undergo a dental x-ray or other medical examination, which is for non-clinical purposes. Many young people within the asylum system will have experienced fear, torture and other trauma. Any medical examination must be carefully considered in light of these experiences and the further psychological trauma it may cause.

The consultation states that procedures will be consistent with Article 17 of the European Union Council Directive 2005/85/EC - on minimum standards on procedures in Member States for granting and withdrawing refugee status. Article 17(5)(a) and (b) provide that member states should ensure that an unaccompanied minor gives informed consent to a medical examination. However, consent given under threat of a penalty in the form of a presumption of adulthood if the young person refuses to undergo examination, and implications for credibility, will place undue pressure on the individual to submit to unnecessary medical procedures. This is not freely given informed consent. Such a system risks breach of Article 8 ECHR and Article 16 CRC.

Article 17(6) of Directive 2005/85/EC states: "The best interests of the child shall be a primary consideration for Member States when implementing this Article." The use of medical procedures to ascertain age is contrary to current guidelines issued to the Royal College of Paediatrics and Child Health, which advise that a request to X-ray a child to confirm chronological age would be unjustified both on grounds of accuracy and also because of the risks attached to using ionizing radiation for non-clinical purposes<sup>15</sup>. In light of this advice, it cannot be in the best interests of the child to use such techniques.

The consultation paper states at paragraph 27, 'Additionally, there does appear to have been more recent research that indicates x-ray analysis (of the teeth and collar and wrist bones) can be a more reliable means of determining age than was once thought.' This evidence is not referenced, and any review of existing research should be published and considered before any decision is made on the use of these techniques.

We would support the conclusion of the JCHR that 'Children must be given the benefit of the doubt [in relation to age disputes] because the risks associated with treating children as adults are much greater than those treating adults as children'<sup>16</sup>

## **5. When should the assessment of longer term care needs take place (either before or after transfer)?**

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<sup>14</sup> 'Child first, migrant second: Ensuring that every child matters'  
ILPA/Heaven Crawley, February 2006

<sup>15</sup> See JCHR report at para 201

<sup>16</sup> See JCHR report at para 204

### *Comment*

This proposal appears not to have been fully thought through, in particular in relation to the conflicts with current childcare legislation. As noted in the introduction to this paper, a key problem with this proposal is that it a prime concern is about how children are cared for in this country, yet, the central government department responsible for the care of unaccompanied asylum-seeking children, the DfES, are not sponsors of the consultation. Any focus on border control and reducing abuse of the immigration system needs to be linked to this prime welfare concern.

Unaccompanied children should be assessed and a care plan agreed as for other children in the looked after system. The only circumstances therefore in which a local authority should consider the transfer to another authority of a child who it is looking after is in order to safeguard and promote the welfare of that child<sup>17</sup>. Each child must be the subject of an individual assessment of needs. The principles underpinning local authority work to safeguard and promote welfare of children are that work should be:

- Child centred
- Rooted in child development
- Focused on outcomes for children
- Holistic in approach
- Ensuring equality of opportunity
- Involving children and families
- Building on strengths as well as identifying difficulties
- Multi/interagency in approach
- A continuing process not an event
- Providing and reviewing services
- Informed by evidence.<sup>18</sup>

The list is a long one. The consultation paper does not appear to have considered any of these factors in its proposals in relation to the transfer of children between authorities. Whilst the proposal is made 'to improve consistency of services' there is no detail given of how it can work in practice, and no consideration of the duty of a local authority to a child in its area – under current legislation a local authority must undertake an assessment of a child in need in their area before establishing a care plan. Transfer to another authority could only be recommended on the basis that the child's needs would be better met by that authority. Upon transfer, the receiving authority is not bound by the transferring authority's care plan. Significant changes will need to be made to this system if a child is to be transferred on the basis of a particular care plan being guaranteed by the receiving authority. It is unlikely that the receiving local authorities will accept a position where they have no control over the assessment of needs of a child whom they are to be responsible for. However, it is essential that an unaccompanied child is not transferred to an authority that is not in a position to meet their care needs.

### *Response*

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<sup>17</sup> S17 Children Act 1989

<sup>18</sup> Working Together to Safeguard Children 2006 para 5.4.

In the Kent project, assessment took place first because only certain groups would be transferred – males, with no medical or psychological problems who consented to transfer. This is not the basis on which the proposal is now made. If all authorities have the same services available, transfer first and assessment on arrival would make sense, although this would necessitate changes to primary legislation. However, since no additional funding is to be made available to receiving authorities, it is unlikely this will be the case. Therefore, unaccompanied and separated children should only be transferred to an authority that can better meet their care needs, and this will necessitate assessment taking place first.

In all circumstances, assessment within the timeframe set out in 'Framework for the Assessment of Children in Need and their families' is essential. It is important that children should not fall between the two authorities – the one in which they arrive, and the one to which they are transferred. This underlines the need in every case for the appointment of an individual with legal responsibility for the child, whose responsibilities include ensuring that statutory services are provided during this process - please see further our response to question 2 above.

## **6. Should we generally encourage the move of those who have been fostered to other forms of support – in particular after they reach 16?**

### *Response*

A key issue here is that the core assessment and care plan or children in need plan prepared by children's services is put together according to the individual need of that child. Therefore, putting forward general approaches to support, as this proposal by the Home Office does, goes against this key principle of social work practice.

The 'Key transitions for Unaccompanied Asylum Seeking Children: ADSS Asylum Task Force – October 2005' document, states at 5.16 "Placement within a family setting is likely to be the most appropriate setting for many UASC and would be required for UASC under 16 years old unless there were exceptional circumstances".

The proposal in the consultation document that a move from foster care to other forms of support should be 'generally encouraged' or 'generally appropriate' is to ignore the needs of individual children. It is contrary to the approach recently set out in the Government's 'Care Matters' green paper, in which a proposal is made to allow children to remain in a foster care placement longer, even after they reach the age of 18, recognising that looked after children remain vulnerable after the age of 18 and may still require support.

It is also unclear whether what is being proposed in the consultation paper is also a move for children, at 16, from accommodation under s20 CA89 to services provided under s17 CA89. If so, a move without an individual assessment of need would be contrary to guidance, Department of Health: Local Authority Circular 2003/13 and the judgment of Sullivan J in the *Hillingdon* case<sup>19</sup>. The recent report of the JCHR recommends that separated children should be provided with support under s20 CA and should not be 'de-accommodated' before they turn 18<sup>20</sup>.

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<sup>19</sup> Behre & Ors, R v Hillingdon London Borough Council [2003] EWHC 2075 (Admin)(HC)

<sup>20</sup> JCHR report Para 190

## **7. In what other ways can care planning be better aligned to immigration considerations?**

### *Comment*

The consultation paper sets out, at Chapter 3, paragraph 41, a proposal to reassess the current process of granting limited leave to unaccompanied asylum seeking children (usually discretionary leave to remain for 3 years or until 18, whichever is the shorter). Consultees are not invited to comment on this proposal. However, if put into action, it will inevitably result in more young people being made destitute at 18, without recourse to public funds including leaving care services. In effect, they will be homeless and on the streets. These young people will be extremely vulnerable to exploitation. This could lead to internal trafficking of these young people in the UK.

This is totally contrary to the Government proposals for all other children within the care system, as set out in the 'Care Matters: Transforming the Lives of Children and Young People in Care' Green Paper at 7.10, where the Government proposes to

- Pilot giving young people a veto over any decisions about legally leaving care before they turn 18; and
- Pilot allowing care leavers to continue to live with foster families up to the age of 21, to evaluate the support required and the impact on their longer term outcomes.

The proposals in the consultation paper would create a discriminatory system in which unaccompanied and separated children would face exceptional difficulties at the they, in common with all teenagers, need support to make a smooth and safe transition to adulthood.

### *Response*

Immigration considerations, to the extent that this means immigration policies, are not factors which are relevant to safeguarding the needs and promoting the welfare of children who are looked after by local authorities. The presumption made in the consultation paper is that all unaccompanied asylum seeking children should be prepared for departure at age 18. This is not an appropriate basis for children's services to work from, as each child has an individual asylum claim, and each is entitled to proper and full consideration of that claim.

The ADSS guidance<sup>21</sup> in fact talks about parallel planning, and attainable goals (rather than limited to a particular institution or course) so that the care plan is flexible dependent upon whether the UASC stays in UK or returns home. It talks of 'contingency planning'. This is not the same thing as planning for return. It would be helpful for children's services to have better access to information about the progress of a child's asylum claim, in order for individual social workers to work with children managing their expectations and planning realistically for their future. At the same time, the ADSS guidance states specifically that neither the UASC nor the professional network for providing their care leaving support is in control of the immigration decision.

As well as contingency planning for return, there is a clear obligation on children's services to assist an unaccompanied child to access proper legal assistance to pursue their asylum claim fully. Any USAC granted discretionary leave has the right to apply for

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<sup>21</sup> 'Key transitions for Unaccompanied Asylum Seeking Children: ADSS Asylum Task Force – October 2005', at 3.13 *et seq*

an extension of leave, which carries with it a right of appeal. During this process the young person remains entitled to all services under the Children Act, including the leaving care provisions. Clearly any plan which ignores the possibility of a successful application to extend leave is not in the child's best interests, nor is it a comprehensive assessment of their needs as required by the Working Together guidance.

**8. What further guidance is needed on managing the needs and expectations of unaccompanied asylum seeking children whose asylum claims fail?**

*Comment*

Prerequisites to having any chance of managing the needs and expectations of unaccompanied asylum children whose asylum claims have failed, is for them to have faith in the system they are in. In order to do this therefore the following needs to happen:

- Improve the quality of asylum decisions, in order for young people to have confidence in the process and to respect the decision on their asylum claim
- Provision of the same level of care to unaccompanied asylum-seeking children and young people as British citizens including leaving care support.

*Response*

Guidance to local authorities should emphasise the importance of securing access to proper legal advice for unaccompanied and separated children who are looked after by local authorities.

**9. Should we develop new voluntary return packages for 16 and 17 year olds? If so, how could these be structured?**

*Response*

Fundamental to any debate on returns is the quality of asylum decision making and until this has been resolved any return programme should be abandoned as it is likely that wrong decisions are being made and returning children in this situation could result in children being persecuted in their country of origin.

**10. Might an enhanced, but reducing, package encourage take up of voluntary return? If so, at what points should the package be reduced?**

*Response*

We refer to our response to question 9 above. Furthermore, a system which encourages early take up of the package by reducing the benefit over time will force young people to make decisions at an even younger age. For a child, return should not be a financial decision. Any decision should be based on welfare and child protection considerations.

**11. What safeguards need to be put in place before children can be returned to their country of origin on an enforced basis?**

*Response*

Safeguards are clearly set out in the Statement of Good Practice produced by the Separated Children in Europe Programme (UNHCR and Save the Children). This guidance states:

*'This is a complex area and detailed guidance is required on the implementation of good practice. A separated child should be returned only if return is considered to be in the best interests of the child. All other considerations such as the fight against illegal immigration should be secondary. The best way for family reunification and returns to be carried out is on a voluntary basis. Children should be fully informed, consulted and their views taken into account at all stages of the process. The length of time a child has been absent from the country of origin and their age are important factors to consider in this process.'*

The guidance goes on to set out specific requirements that should be in place prior to return. We recommend compliance with this guidance.

**12. Who is best placed to work with the young person on the plan of return?**

*Response*

It is unrealistic to expect social workers or personal advisers to prepare a care plan based on support and opportunities available to the young person on their return to their country of origin. Social workers / personal advisers do not have a specialist knowledge of countries of origin in order to facilitate employment, training and educational opportunities.

Furthermore, the responsibility of the social worker is to plan for all eventualities, including, staying in the UK. Any policy which forces social workers to prioritise return in the care planning process is contrary to their statutory duty to children in need, and seriously undermine the relationship of trust between social worker and child.

**13. Should the service be procured from specialists and, if so, who?**

*Response*

Specialist advice on employment, training and educational opportunities for children in their country of origin would be of assistance to social workers in carrying out a process of parallel planning for looked after children. Procurement of services on behalf of children should be the responsibility of the DfES and informed by child welfare expertise within that Department.

**14. What are the challenges for integrating this voluntary return package within the care planning process for children whose asylum applications have been unsuccessful?**

*Response*

Social workers have the responsibility to plan for a young person's future in their children in need or care plan and therefore should, within reason, plan for the possibility that a

young person may be returned. Working Together to Safeguard Children 2006 states, at paragraph 11.84 and 11.85,

“Once UASC become accommodated children under s20 of the Children Act 1989, they are required to be the subject of a care plan (pathway plan at 16+). The plan must be based on this comprehensive assessment of their needs, taking account of the following dimensions:

- health (including mental health, such as whether post-traumatic support and counselling is needed)
- education
- emotional and behavioural development
- identity
- family and social relationships
- social presentation
- self-care skills, including the child’s understanding of the implications of their immigration status and the skills required to manage transitions.

11.85 The responsible LA should provide services for the UASC on the basis of the above assessment, irrespective of their immigration status.”

Social workers cannot be tasked with encouraging or persuading young people to take up a voluntary return package. This would clearly compromise their fulfilment of these duties to the child.

If young people are to be properly informed about the options open to them, it is unrealistic to expect social workers to have the level of knowledge or the time to be able to support young people in accessing employment, training and educational opportunities in the country they are being returned to. A ‘specialist’ would need to be up to date with the employment market, the range of courses available at colleges and universities and the application process. They would also need to be able to read and speak the language/s of the country fluently. Social workers will not be able to provide this level of detail or have the language skills to help all the young people from a range of countries that they support.

**15. Are these the right factors that need to be addressed in identifying specialist authorities and are there any others?**

**16. Is 50-60 the right number of specialist authorities to begin with? Does this strike the right balance, if not, please state why not.**

*Response*

The key issue here is that many of these criteria were set for the adult asylum-seeker dispersal system, yet were blatantly ignored in practice and the key criteria was access to cheap accommodation regardless of whether this was in a mono-cultural environment or had adequate immigration legal help available. The Home Office proposal recommends that there are approximately 50-60 authorities which each care for around 100 UASC or more. Statistics show that the key big cities that may fit the proposed

criteria already have around 100 or more unaccompanied children. It is difficult to see how many other local authorities would fit the proposed criteria. For example, other local authorities either do not have experience of supporting a reasonable number of unaccompanied asylum-seeking children or are considered mono-cultural and therefore will not meet some of the basic essential requirements such as having existing communities consistent with the ethnic profile of the young person, access to immigration legal advice etc. Therefore either the plan is for the local authorities noted above to take on many more or that the proposed criteria will not be adhered, as was the case in the adult dispersal system, with very negative consequences for the young people dispersed.

**17. Should the Home Office facilitate the procurement of services in partnership with Local Authorities?**

**18. Should the Home Office leave the procurement of services to Local Authorities but provide a model service specification and benchmark costs at a regional level?**

**19. Would Local Government Associations have any role to play in the procurement of services? *Response***

The DfES should take the lead in any support service for unaccompanied asylum-seeking children. Other stakeholders will have a part to play in this and there needs to be full consultation with them within a child centred welfare framework.

Family Rights Group

British Association for Adoption and Fostering