



Home Office

**Border &
Immigration Agency**

BETTER OUTCOMES: THE WAY FORWARD
IMPROVING THE CARE OF UNACCOMPANIED
ASYLUM SEEKING CHILDREN

January 2008

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FOREWORD



Every year the Border and Immigration Agency manages the welfare and asylum applications of thousands of unaccompanied children. We take that responsibility very seriously. Many of these children will have suffered serious abuse on their way to the United Kingdom. Many may have been trafficked against their will. Identifying these children and keeping them safe whilst at the same time managing their asylum claim and preventing abuse of our immigration system presents us all with huge challenges.

In March 2007, we published proposals for fundamental reform of the way we support and manage unaccompanied asylum seeking children. I am grateful to all who took part in that consultation exercise which yielded a wide range of detailed and helpful responses. In this paper, we set out how we will take forward these reforms, focusing in particular on putting in place better procedures for identifying and helping victims of trafficking and on developing the sort of specialist local services that are needed if we are to properly protect this vulnerable group of young people.

We have already taken important steps to improve the welfare of children in our care including a new requirement under the UK Borders Act 2007 for the Border and Immigration Agency to produce and abide by a Code of Practice to keep children with whom we come into contact safe from harm. That must include making sure that adults are not allowed to take advantage of local care arrangements for children and young people, so we will develop specialist centres to improve the way age assessment is undertaken and promote best practice. And we will work hard to resolve young people's asylum claims and immigration status as quickly as we can so that care planning can focus as early as possible on integration or early return to the country of origin.

In all, we outline five main areas of reform where we think improvements need to be made. There is still a lot to do but we hope with your continued support, that we can improve the way this group of young people are cared for and supported.

A handwritten signature in black ink that reads "Liam Byrne". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Liam Byrne MP
Minister of State for Borders and Immigration

INTRODUCTION

- 1.1 On the 1st March 2007 the Border and Immigration Agency published its consultation paper *Planning Better Outcomes and Support for Unaccompanied Asylum Seeking Children*. The consultation paper identified a number of key areas for improvements to the immigration and care support arrangements for unaccompanied asylum seeking children. The proposals set out in the paper reflected a widespread consensus on the need for changes to the current arrangements for this group of young people, with a particular need to safeguard children at the same time as managing the immigration system effectively.
- 1.2 The consultation exercise was extensive with the paper being sent to all local authorities across the United Kingdom and a variety of organisations working in immigration and child care fields. The publication of reform proposals in such a complex area understandably triggered a wide variety of responses. Annex A contains a fuller summary of these responses. The consultation exercise also involved talking at a number of specialist conferences, as well as discussions with health and social care professionals. Since the consultation, we have continued to talk to representatives in all of these fields about what they want to see from the proposed reforms.
- 1.3 This paper sets out how (in light of the responses we received) we intend to take forward reform of the arrangements for unaccompanied asylum seeking children. Our approach will be focussed around the following key reforms:

Key Reforms:

- (i) Ensuring that the Border and Immigration Agency, in exercising its functions, keeps children safe from harm while they are in the United Kingdom.
- (ii) Putting in place better procedures for identifying and supporting unaccompanied asylum seeking children who are the victims of trafficking.
- (iii) Locating unaccompanied asylum seeking children with specialist local authorities to ensure they receive the services they need.
- (iv) Putting in place better procedures to assess age in order to ensure children and adults are not accommodated together.
- (v) Resolving immigration status more quickly and, in turn, enabling care planning to focus on integration or early return to the country of origin.

KEY REFORM 1

ENSURING THAT THE BORDER AND IMMIGRATION AGENCY, IN EXERCISING ITS FUNCTIONS, WILL KEEP CHILDREN SAFE FROM HARM WHILE THEY ARE IN THE UNITED KINGDOM.

2.1 The changes we are introducing for unaccompanied asylum seeking children are part of the Border and Immigration Agency's wider commitment to work with stakeholders to improve the way we deal with children. In particular:

- We have put our responsibilities to children on a formal footing through a provision in the UK Borders Act 2007 for a Code of Practice to keep children with whom we have contact in the UK safe from harm.
- We will seek to identify children who may be at risk of harm and will refer those who are at risk to statutory agencies that can cater for their particular needs.
- We will make sure that any private agencies that carry out functions on our behalf will also have to meet the requirements of the Code.
- We have established a pilot scheme to provide an alternative to detention for families with children who are required to return home.
- We now assign a case owner to every unaccompanied asylum seeking child.

2.2 The process of administering immigration laws can put a lot of pressure on children. This is especially the case for those who do not have family to turn to for support. We recognise that there is a need to think carefully about the effect of our policies on young people, for example in the way we seek to confirm a person's age, or enforce adverse immigration decisions. We will improve the way we communicate with children and young people and explain the immigration system and decisions about their status in a way they understand. We do not want children to go missing from care through a lack of clarity or a real understanding about the options available to them.

2.3 We will develop an effective way of dealing with these matters in partnership with local authorities and other agencies. These arrangements will complement the work we have already begun to establish regional immigration offices, with clearer links with those responsible for the well being of children, including greater participation in Local Safeguarding Children Boards (Child Protection Committees in Scotland). This will form an integral part of our overall strategy for keeping children safe from harm.

We will:

- Put our responsibility to children on a statutory footing.
- Identify children who are at risk from harm and refer them to the right agencies.
- Pilot a scheme to provide an alternative to detention for children and families.
- Communicate better with children and young people.
- Have assigned a case owner for every unaccompanied asylum seeking child.

KEY REFORM 2

PUTTING IN PLACE BETTER PROCEDURES FOR IDENTIFYING AND SUPPORTING ASYLUM SEEKING CHILDREN WHO ARE THE VICTIMS OF TRAFFICKING.

- 3.1 Reform of the immigration and care system for unaccompanied asylum seeking children forms a key part of how we will implement our obligations under the Council of Europe Convention on Action Against Trafficking in Human Beings. This is against a background where there is clear evidence that many children who have been trafficked claim asylum (sometimes at the behest of their traffickers) and enter the local authority support system. A report commissioned by The Home Office and the Child Exploitation & Online Protection Centre (CEOP) identified 330 suspected or confirmed cases, most of whom were, or had been, looked after by local authorities.
- 3.2 Many of these children will have suffered physical abuse on their way to the United Kingdom. Others will have been duped into believing that they are coming to the United Kingdom for a better life and not be aware of the exploitation that awaits them. In other cases, the children may have escaped exploitation but be in need of protection to make sure that they do not fall back into the hands of traffickers. The process of identifying these children and keeping them safe presents difficult challenges, especially as many of them will have complex needs.
- 3.3. The move towards locating unaccompanied asylum seeking children in specialist local authorities (see Key Reform 3) will form part of our response to these difficult challenges, as these authorities develop into centres of excellence. The staff at these centres will be familiar with and understand the particular needs of trafficked children. The changes will also make it much easier to ensure that good practice is applied consistently. In December 2007 the Department for Children, Schools and Families and the Home Office published supplementary guidance on *'Safeguarding Children Who May Have Been Trafficked'*. The move
- towards the specialist model of supporting unaccompanied asylum seeking children will enable us to ensure this guidance is being put into effect and is working as intended.
- 3.4 The move to the specialist local authority model (with the necessary funding arrangements) also allows the Border and Immigration Agency and specialist authorities to work towards a service specification for unaccompanied asylum seeking children that fully takes into account trafficking issues. As a minimum, we expect the specification to include:
- Guidance to help identify trafficked children as part of an early assessment of the service needs of unaccompanied asylum seeking children.
 - Arrangements that are consistent with identification and referral mechanisms for child victims of trafficking as required by the Council of Europe Convention Against Trafficking in Human Beings.
 - Provision for safe accommodation arrangements or foster placements in order to protect them from the people who brought them to the United Kingdom.
 - Partnership arrangements with Local Safeguarding Children Boards (Child Protection Committees in Scotland) and other stakeholders to ensure that local education, legal advice, psychological and medical services are sensitive to the support needs of trafficked children.
 - Arrangements to monitor and take appropriate action (usually involving a referral to other agencies) when children go missing from care.

KEY REFORM 3

LOCATING UNACCOMPANIED ASYLUM SEEKING CHILDREN WITH SPECIALIST LOCAL AUTHORITIES TO ENSURE THEY RECEIVE THE SERVICES THEY NEED.

We will:

- Ensure that unaccompanied asylum seeking children who have been trafficked are identified and referred to the appropriate agency.
- Ensure that arrangements for keeping these children safe form part of the service specification for specialist authorities.
- Ensure proposals are developed in tandem with work to implement the Council of Europe Convention on Action Against Trafficking in Human Beings.

- 4.1 The need for a better and more co-ordinated approach to the support needs of unaccompanied asylum seeking children was a clear theme in the responses received. Most respondents considered it sensible to treat unaccompanied asylum seeking children as a specialist group and agreed there was a need for a more rational system for supporting their needs.
- 4.2 We will enter into new arrangements with a reduced number of specialist local authorities and other agencies, largely outside London and the South East of England, to support unaccompanied asylum seeking children. This will ensure a more consistent approach and allow the development of the necessary infrastructure and expertise to deal with this group of young people. There was a clear consensus from the consultation that placing unaccompanied asylum seeking children with selected ‘specialist authorities’ would achieve clear benefits.
- 4.3 This will require a partnership approach between central and local government (as well as the devolved administrations in Scotland and Wales). We will shortly begin detailed negotiations with key stakeholders with a view to beginning to place newly arrived unaccompanied asylum seeking children with specialist authorities later this year.
- 4.4 To bring this model of service provision into effect we envisage that long term grant agreements (probably for between 3 and 5 years) will be negotiated, thereby giving local authorities greater clarity about future numbers and funding. As these arrangements are introduced the existing funding system based on annual grant agreements, supplemented in some cases by “special circumstances” payments, will be phased out. We will discuss, during the negotiations, the arrangements for procuring

the necessary services, but will want to reach agreement on a detailed service specification.

- 4.5 Any move towards placing greater numbers of unaccompanied asylum seeking children outside London and the South-East of England clearly requires careful management. Services provided by other stakeholders, for example legal services, will need to change accordingly. In order to co-ordinate the necessary activity, we will put in place a number of working groups comprising key stakeholders.
- 4.6 Funding (in England) for those unaccompanied asylum seeking children who have an entitlement to leaving care support once they reach 18 is currently provided by the Department for Children, Schools and Families (DCSF). Different arrangements apply in Wales and Scotland. We recognise that there would be benefits if a single government department assumed responsibility for funding the support for unaccompanied asylum seeking children, both before and after they turn 18. For this reason, agreement has been reached with DCSF that from April 2008 we will assume their existing funding responsibilities for unaccompanied asylum seeking care leavers. We expect to issue details of the new financial arrangements for 2008-2009 later this year.
- 4.7 We recognise that local authorities would benefit from further guidance on how to carry out their duties to unaccompanied asylum seeking children when they turn 18. Indeed, examination of the responses to the consultation exercise shows that some authorities are supporting individuals who may be ineligible for support or assistance under leaving care legislation. This appears to be because authorities misunderstand how the relevant legislation i.e. Schedule 3 of the Nationality, Immigration and Asylum Act 2002, could apply in individual cases. We aim to

remedy the matter by issuing additional guidance in 2008.

We will:

- Engage with partners in central and local government to identify and develop local authorities with the specialist expertise needed to care for unaccompanied asylum seeking children. These authorities will, in the main, be situated outside of London and South East England.
- Work with our key stakeholders in local authorities to agree clear guidelines to ensure that the appropriate services are available for this group of young people.
- Provide additional guidance to local authorities on the application of Schedule 3 of the Nationality, Immigration and Asylum Act 2002 so that local authorities are clear about their statutory responsibilities.
- Assume responsibility from DCSF for funding arrangements for those unaccompanied asylum seeking children who have an entitlement to leaving care assistance after they turn 18.

KEY REFORM 4

PUTTING IN PLACE BETTER PROCEDURES TO ASSESS AGE IN ORDER TO ENSURE CHILDREN AND ADULTS ARE NOT ACCOMMODATED TOGETHER.

- 5.1 We will improve the system for assessing the age of those claiming to be unaccompanied asylum seeking children. Failing to detect those who lie about their age has serious consequences. As well as representing a serious abuse of the asylum system it leads to adults being inappropriately accommodated with children and vice versa, with all the associated child protection risks that we are determined to minimise.
- 5.2 We agree with many respondents to the consultation exercise that the process of assessing age should take place in regional centres set up for that purpose. The location of these centres will be negotiated with local authorities and other stakeholders, though it seems sensible to place the majority near to our main ports and asylum screening units where the young people first come to attention – building on the arrangements we have already put in place to fund social worker teams in these areas. In that way, issues about a person’s age can be settled before transfer to the specialist local authority that will provide longer term care. There will, of course, be other needs which will require assessment at this stage, including those set out in the National Framework for the Assessment of Children in Need and their Families (2000) and similar guidance in the devolved administrations. All local authorities that wish to play a role in the initial assessment stage of specialist service provision will need to show that they have proper procedures in place to carry out age assessment and other important functions.
- 5.3 By ensuring age assessments are carried out in specialist regional centres there will be a more consistent approach. Consistency will be further enhanced by ensuring that the social workers in these centres undertake assessments according to clear written guidance. We will consult

further with key stakeholders about what this updated guidance should contain. It will need to cover matters such as the weight that should be attached to reports from Paediatricians and other medical reports commissioned by solicitors acting for the young people. There is presently a lack of consensus among stakeholders about the merits of x-rays as a means of accurately assessing age. There is a need to consider this further. We will, therefore, set up a working group with key stakeholders, including medical practitioners, to carry out a thorough review of all age assessment procedures with a view to establishing best practice.

We will:

- Develop a number of specialist centres, ensuring a consistent approach to age assessment is taken.
- Work with our local authority colleagues to draw up revised guidelines clarifying the roles, responsibilities and agreed timescales for carrying out age assessments.
- Set up a working group to determine best practice in assessing age.

KEY REFORM 5

RESOLVING IMMIGRATION STATUS MORE QUICKLY AND, ENABLING CARE PLANNING TO FOCUS ON INTEGRATION OR EARLY RETURN TO THE COUNTRY OF ORIGIN.

- 6.1 It is vital that all children and young people who are granted refugee status are supported in their integration into society. Equally it is right that those asylum seeking children who are not granted any form of leave, and therefore have no legal basis to remain, are returned to their own countries. Any other policy would exacerbate many of the problems described earlier in this paper, including the problem of child trafficking. The motives of people traffickers appear to be at least partly connected to a belief that once they have induced a child to claim asylum they have ensured that they will remain in the United Kingdom and under their control. We will work with our key stakeholders to resolve these issues in relation to the Council of Europe Convention Against Trafficking in Human Beings. More fundamentally, we need to recognise that as a general rule the needs of children are best served by being with their families. As many respondents to our consultation exercise stressed, where it is clear that a child can return to the family it is better that such returns take place as early as possible.
- 6.2 Young people should have clarity about the outcome of their application to stay in the United Kingdom as early as possible so that social workers and others involved in the care system can work with them to manage their expectations and reduce uncertainty in care planning. We will look again at the widespread practice of granting discretionary leave to enter or remain (DL) following refusal of asylum or humanitarian protection. This practice allows individuals to make successive applications to remain and is not conducive to gaining early resolution of immigration status. Where it is safe to do so and reception arrangements are in place, an unaccompanied asylum seeking child will be expected to return to his country of origin at the earliest opportunity once a decision is made and all appeal rights are exhausted.
- 6.3 It is clear that the process of managing the young person's expectations and making preparations for their return, will present new challenges for all professionals and agencies working with unaccompanied asylum seeking children. To make these arrangements work we need to improve working arrangements between immigration and local authority children's services staff. The early indications are that the new regional approach to asylum decision-making is already delivering a more collaborative approach between the Border and Immigration Agency and local authorities.
- 6.4 We will build on this good start and ensure that both the Border and Immigration Agency case owner and designated local authority staff share information to ensure that care planning takes account of immigration processes. We will also work with the Department for Children, Schools and Families and the devolved administrations to produce updated guidance that will capture this "twin track" approach to care planning, so that guidance takes into account the position of both successful and unsuccessful applicants for asylum.
- 6.5 It is always preferable that young people return home voluntarily. We will therefore work to provide Assisted Voluntary Return (AVR) programmes that are more attractive and tailored to the needs of unaccompanied asylum seeking children. Education and vocational training in their home countries will form an important part of this programme, with the aim of equipping the young people with the necessary range of skills to adjust to life back home.
- 6.6 We are satisfied that the reintegration assistance that can be made available through AVR meets our commitment to ensuring that return takes place where there are adequate reception arrangements. In such circumstances it cannot be right that individuals should be allowed to remain in the United Kingdom in circumstances when they have refused the offer of return

NEXT STEPS – TIMETABLE FOR REFORM

to adequate reception arrangements. We will therefore consider, on a case by case basis, enforcing the removal of those who have not reached 18 and who do not accept the offer of an assisted voluntary return where it is clear that the consequences of their actions have been explained and understood by them.

We will:

- Ensure that the young people have clarity about their application to remain in the United Kingdom as early as possible.
- Work with our key stakeholders to ensure that case owners and children’s services staff engage with young people on a “twin track basis” to manage their expectations so that where young people are refused permission to stay in the UK they can be prepared for return.
- Work with the Department for Children, Schools and Families and the devolved administrations to produce updated guidance based on this ‘twin track’ approach to care planning so that support is provided to both successful and unsuccessful asylum applicants.
- Develop an Assisted Voluntary Return package designed for assisting in the reintegration of unaccompanied asylum seeking children in their country of return.
- Consider on a case by case basis enforcing the removal of an unaccompanied asylum seeking child where they have refused the offer of voluntary return where adequate reception arrangements exist.

7.1 Our exact timetable will depend on the time required to set up the new specialist authorities. However, we anticipate that it could look as follows:

January 2008

7.2 Publication of the Border and Immigration Agency Code of Practice for Keeping Children Safe.

Spring 2008

7.3 Issue of updated guidance on the application of Schedule 3 to the Nationality, Immigration and Asylum Act 2002.

7.4 Negotiations begin on the setting up of new specialist authorities.

Summer 2008

7.5 Publication of guidance on the operation of new age assessment procedures.

7.6 Publication of updated guidance on an approach to care planning that takes into account the position of both successful and unsuccessful applicants for asylum.

7.7 Negotiations completed with local authorities about setting up new specialist authorities and the operation of new safe case transfer arrangements. The first wave of new specialist authorities should begin to operate before Autumn 2008.

ANNEX A

SUMMARY OF RESPONSES TO THE CONSULTATION

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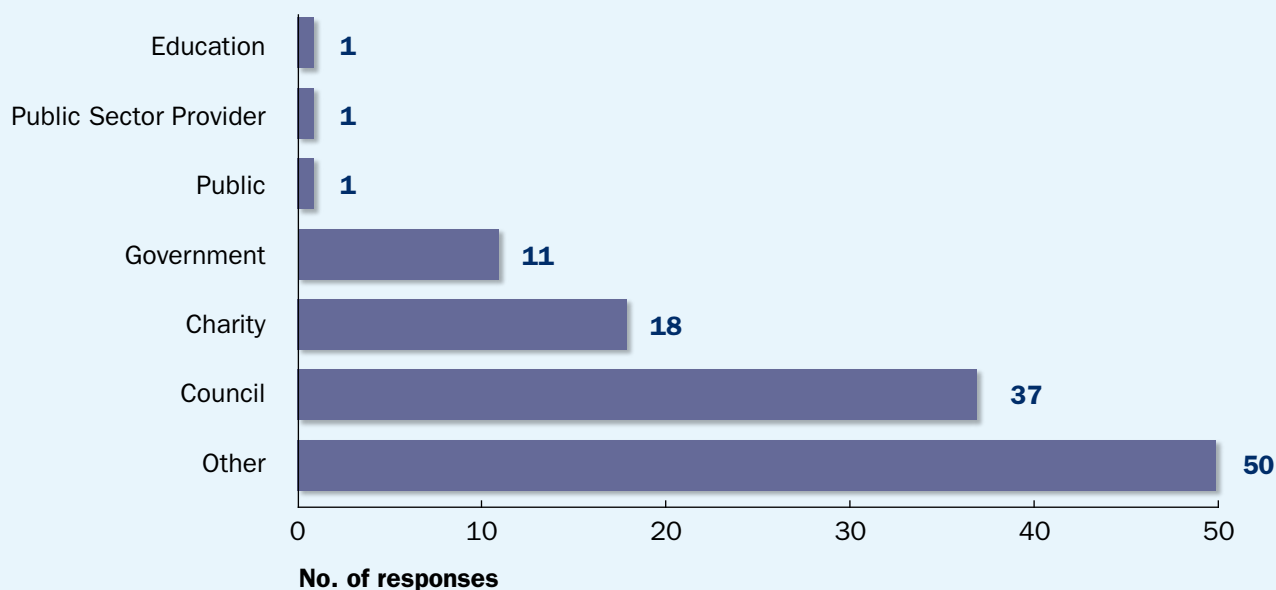
1 INTRODUCTION AND OVERVIEW

- 1.1 The consultation paper: *Planning Better Outcomes and Support for Unaccompanied Asylum Seeking Children* was published on 1 March 2007. The paper was sent to all local authorities across the United Kingdom and to a variety of organisations working in the immigration and child welfare fields. A link to the paper was also made available on the Home Office website. A total of 119 written responses to the paper were received, including responses from local authorities, leading NGOs and charities working on asylum and child welfare issues, health care organisations, as well as children themselves.
- 1.2 The publication of reform proposals in such a complex area understandably triggered a wide variety of responses. The most helpful were those that appreciated that the support and care needs of unaccompanied asylum seeking children need to be dealt with in a way that recognises that their stay in the United Kingdom

will sometimes be temporary. The need for compatibility between immigration and care processes was the central theme underpinning most of the reform proposals set out in *Planning Better Outcomes and Support for Unaccompanied Asylum Seeking Children*. We are extremely grateful for the many helpful contributions that focussed on this important objective and have reworked and refined some of the detail of our proposals as a result. We will continue to work with key stakeholders to implement the policy changes set out later in this paper.

- 1.3 We are also grateful to the respondents that focussed on the need for the proposed reforms to be implemented in a way that safeguards the wellbeing of the young people. For example, many respondents pointed out that a firmer message about the need to leave the United Kingdom if the asylum claim is refused may create an extra risk that the individuals will go missing from local authority care. This is a valid concern. It does not mean that we will abandon

RESPONSES TO UASC REFORM CONSULTATION DOCUMENT



the objective of securing more returns of unaccompanied asylum seeking children to their own countries. On the contrary, the need for there to be clear consequences to immigration decisions was another common response to the consultation exercise, as was the general principle that children should generally grow up in the home of their parents. It does, however, mean that we need to manage the process of return very carefully, for example through co-ordinated work and co-operation between immigration officials and social workers.

- 1.4 We also received criticism from some respondents that our proposals failed to make the necessary links with other government initiatives to improve outcomes for children. We have tried to be clearer about this in the earlier part of this paper. We are very well aware, for example, that these reforms are a key part of how we can implement parts of our obligations under the Council of Europe Convention on Action against Trafficking in Human Beings (see Key Reform 2 earlier in the paper). We have therefore set out more fully how our proposed move to a “specialist” support model will contribute to meeting our Convention commitments. The Home Secretary has also recently announced our commitment to accelerating plans to ratify the Convention so that necessary legislative and procedure changes are made before the end of 2008.
- 1.5 Many consultation responses raised issues which did not feature prominently in the consultation paper but form part of the high level consideration of policy development relating to all children who are subject to immigration control. For example, concerns about the United Kingdom’s reservation in respect of the United Nations Convention on the Rights of the Child (which the Home Secretary has recently announced will be revisited). We wish to make

clear, however, that all our policy changes will be implemented in a way that fully recognises our existing obligations to children. Our starting point is that we need to deliver improvements in the way we handle immigration decisions relating to children and deliver services that are better tailored to their needs.

- 1.6 Despite the variety of opinions expressed there was broad agreement that arrangements for unaccompanied asylum seeking children need to change and recognition that the consultation process offered the opportunity to engage a wide circle of stakeholders in shaping a new and better system.

The National Youth Advocacy Service welcomes this government initiative to improve services to unaccompanied children and in particular the recognition that changes need to be made to the current arrangements for this vulnerable group. We are also grateful to have the opportunity to comment on the proposals within the consultation paper and acknowledge the Government’s willingness to consult openly on these important matters.

- 1.7 The following sections of this part of the paper summarise the main responses we received during the consultation period. The consultation paper asked respondents to answer a number of specific questions, but we have decided to structure the summary around the views expressed about our key reform themes, since this best encapsulates the variety of comments and suggestions we have received. Most of the responses received do not lend themselves to precise statistical analysis as they were not framed in a ‘Yes’ or ‘No’ format. We have tried to give a flavour of the range of views received by including excerpts from the responses.

2 RATIONALISATION OF PLACEMENTS

2.1 The consultation paper put forward proposals around entering into new arrangements with selected local authorities and other agencies, outside the main areas where large numbers of unaccompanied asylum seeking children are concentrated and away from London and the south-east of England. The proposals explored the possibility of reducing the number of local authorities who deal with unaccompanied asylum seeking children, in order to ensure a more consistent approach and to develop the necessary infrastructure and expertise to deal with this special group of young people.

2.2 The majority of respondents agreed with the proposal to move towards a more rational system of placement and to reduce the number of local authorities that deal with these young people, thus allowing the development of expertise and specialist skills.

A system of dispersal does not seem inherently wrong in principle, providing transfers take place quickly before children have settled and made connections in particular areas. Dispersal must be adequately funded, based on needs. We recommend the Home Office considers the learning from the Safe Case Transfer pilot in establishing this system. Many young people who have taken part in Safe Case Transfer are very positive about their experiences

The Children's Society

2.3 Many respondents also stressed the importance of learning lessons from the dispersal of adult asylum seekers from London and the South-East of England. Others stressed the need to learn from the positive experiences of the Safe Case Transfer Pilot (an initiative that involved the transfer of a number of unaccompanied asylum seeking children from Kent to local authorities in the North-West of England).

2.4 Respondents highlighted the need to consider a range of important and critical factors before moving towards a model of rational placements and specialist services. Some of the factors suggested were:

- The ethnic diversity of a particular area.
- The availability and accessibility of legal representatives.
- The availability of interpreters.
- The availability of, and access to, Mental Health services.
- The development of good partnerships and communications between local authorities.
- The transfer of existing knowledge and skills to new specialist authorities.

...great care should be exercised in transferring existing skills and knowledge to new areas to ensure that UASC do not fall through the gaps that sometimes exist in new provision. We do have concerns that specialist services, medical and legal expertise and support from communities are most prevalent in London and the South East and these may not reach other areas sufficiently.

The Red Cross

2.5 Whilst many local authorities supported a move toward the placement of unaccompanied asylum seeking children with specialist authorities, there was concern expressed about funding arrangements. Other concerns were about the possible effect on local services caused by extra numbers of unaccompanied children.

We accept that dispersal of Unaccompanied Asylum Seeking Children away from the overheated economy of the South East of England should contribute to lower unit costs but unless there are adequate financial guarantees to meet both set up and ongoing costs, would-be specialist authorities cannot be expected to take up the challenge.

Hammersmith and Fulham Refugee Forum

2.6 Other issues raised were questions around the minimum standards required to become a specialist authority. There was also concern about the timing of any move to a specialist authority model of support for unaccompanied asylum seeking children. Children should only be moved to new local authorities if the necessary professional expertise and infrastructure is in place.

3 AGE ASSESSMENT

3.1 The consultation paper set out proposals to improve systems for assessing age. There is a need for significant improvement in this area, both for the purposes of tackling abuse to the asylum system and to ensure that unaccompanied children are not accommodated with adults. As part of these measures it was proposed that dental and possibly other x-rays should be used to strengthen existing assessment techniques.

3.2 The majority of respondents had reservations about the use of dental and other x-rays as means of assessing age. Many stated that stronger reassurances about their accuracy needed to be provided before they could support their use. Others thought that insufficient evidence had been provided to justify using medical procedures such as x-rays for non-therapeutic purposes.

It is the view of the City Council that medical evidence is still not of a standard to produce a reliable outcome and a good social work assessment should take precedence. If medical evidence is going to form a part of the overall assessment of age, then it should only be used with the support of the relevant medical authorities and professional bodies and after proper evaluation of the reliability of the conclusions provided together with guidance.

Liverpool City Council

3.3 However, there was some support for using dental x-rays provided it can be shown that the procedures are safe and that they will be used only as an additional tool in the overall age assessment process.

Accurate age assessment facilitates age-appropriate social and medical care and can avoid serious child protection issues. The current system by which age is determined solely by trained social workers is open to subjectivity and lack of consistency. It is sensible to consider more scientific approaches including x-ray analyses of teeth and collar or wrist bones (provided such x-ray analyses are deemed safe in this age group).

X-ray analyses could be either used alone or to complement assessments by a trained social worker. Such x-ray analyses would have to be deemed safe in this age group.

Leicester City Public Health Directorate

3.4 The consultation paper asked a specific question concerning the circumstances where it would be reasonable for a person to refuse to undergo a dental examination. The following were the most common reasons suggested:

- previous trauma to the face area
- previous torture or ill treatment in the country of origin
- cultural and religious reasons
- pregnancy
- disability

3.5 There was general support for more thorough changes to age assessment procedures, with suggestions that age should in future be assessed in regional centres established for that purpose. The 'holistic' approach to age assessment, with decision makers able to draw upon a range of information and indicators of the person's age, commanded general support.

A more accurate and truly holistic approach to age assessment is needed. The Government, working with stakeholders, should explore the establishment of independent, multi agency, age assessment panels as recommended by the Separated Children in Europe Programme.

Save the Children

4 NEEDS ASSESSMENT AND TYPE OF ASSESSMENT

4.1 Chapter 3 of the consultation paper covered procedures for assessing the service needs and appropriate placements for unaccompanied asylum seeking children. There was general agreement that many unaccompanied asylum seeking children aged over 16 are capable of reasonably independent living with the proper level of support.

Most of Norfolk’s arrangements for 16+ young people are in shared housing arrangements, with as much support as is required. For example, we may put in a series of Home Care Sessions to teach the young people about household care, cooking etc. We have found that many young people are resourceful, and some already have good life skills.

Norfolk County Council

4.2 Other respondents stressed that experience has demonstrated that many unaccompanied asylum seeking children are resourceful and often display considerable purpose and drive in rebuilding their lives through their own efforts.

Through our direct work we have had contact with many unaccompanied children and we are resolute in our belief that not all refugee children are ‘victims’. Many are resourceful young people with a real sense of purpose and a desire to rebuild their lives. Many set themselves high standards in their education and want to play an active part and contribute positively to the communities within which they have made their homes.

National Youth Advocacy Service

4.3 A further issue was the need to ensure that the young people are kept safe and free from exploitation, even if they are assessed as suitable for semi-independent living arrangements.

Appropriate accommodation must be provided for separated children, particularly those who would benefit from semi-independent accommodation arrangements, which do not put the child at risk of exploitation or abuse.

NSPCC

4.4 The majority of respondents did not feel it appropriate for children to be moved from foster placements to more independent living arrangements, when they reach 16. There was a broad consensus of opinion that the need to maintain continuity of placement outweighed any benefits achieved by taking a different approach. Some of the feedback we received from children reflected this view.

It should be the young people’s choice, and foster parents and social services together, to say if they are ready to live independently.

The only network they have is with the foster family.

Child respondent

4.5 There were differing views about when, under the proposed new arrangements, full assessment of need should take place. Some respondents thought that two separate assessments needed to be conducted, one by the local authority that initially takes charge of the individual and the other by the specialist authority, after transfer. A common theme stressed by many was that assessment should be seen as an ongoing process.

Assessment is ongoing, not a one off event. It should take place over a period of time, both during the initial phase and when the young person is in placement. If the young person moves geographically, action will need to be taken to ensure that any assessment remains current. However, with these provisos, we feel that early assessment by a specialist proved effective in Safe Case Transfer.

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4.6 The need to safeguard children who have been trafficked featured heavily in a number of respondents' replies. The Government's signature to the Council of Europe Convention on Action Against Trafficking in Human Beings and its launch of the UK Action Plan on Tackling Human Trafficking were widely welcomed. Against this background a number of respondents drew attention to the need to recognise that many unaccompanied asylum seeking children have been trafficked to the United Kingdom for forced labour and sexual exploitation. There was a concern that the consultation document should have reflected this background more fully. We have addressed these concerns in the earlier part of this paper.

ECPAT UK welcomes the recognition in Chapter 2 (paragraph 15) that 'there is a clear need to build on existing work to identify and provide appropriate safeguards for the victims of traffickers'. However, the paragraph and the entire Consultation document does not in any way explain how child victims of trafficking who are also asylum seeking children will be provided basic safeguards that are consistent with the Government's own obligations to special protection under the UK Children Act 1989, 2004; the UN Convention on Action Against Trafficking in Human Beings (hereafter Council of Europe Convention), signed by the Home Secretary on 23 March, 2007.)

4.7 Other messages related to the particular vulnerability of unaccompanied asylum seeking children to traffickers, the need for the children's best interests to be paramount and a perceived conflict between immigration and asylum policy and child protection principles. Concerns were also expressed, in the context of dealing with trafficking, about the United Kingdom's immigration reservation to the United Nations Convention on the Rights of the Child. As the Home Secretary said on the 14 January, we are now reviewing the need for this.

4.8 Serious concerns were also expressed about the perceived lack of skills among front line professionals regarding the identification of child victims of trafficking, a lack of safe accommodation and a lack of specialist services to meet their needs. A broad theme was that all Local Safeguarding Children Boards (LSCBs) need to build expertise around child trafficking to ensure a truly multi agency approach that properly safeguards victims.

4.9 Many respondents welcomed the proposal to set up specialist authorities with responsibility for ensuring a high quality responsive service provision for all unaccompanied asylum seeking children.

5 BETTER ASYLUM DECISION MAKING PROCESS AND IMMIGRATION POLICY CHANGES

5.1 The consultation paper outlined the need for important changes to the asylum decision process for unaccompanied asylum seeking children. It suggested that unaccompanied asylum seeking children require clarity about the outcome of their application to stay in the United Kingdom at an early stage, in order to gain a realistic idea of their future options and enable agencies working with them to manage their expectations.

There needs to be more clarity of expectation – currently, nothing happens when an asylum claim fails. There are a number of different outcomes depending on for example whether or not an applicant has already appealed or whether they are from a country to which forced return is not possible. Therefore, the experience of most UASC (based on what happens to their peers) is to ignore the possibility that they may not be able to remain in the UK. In the absence of a positive decision, it is difficult for young people to plan properly for the future. NAA should lead to some improvements but it is important that UASC can see that there are consequences to the outcome of their asylum applications.

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5.2 In order to facilitate clarity of immigration status, as early in the asylum process as possible, the consultation paper suggested that the existing policy of granting discretionary leave needs to be reviewed. There was some concern that restrictions on grants of discretionary leave policy might lead to young people going missing from local authority care because of a fear of being returned to their countries. Any change to the policy therefore needed to be carefully handled. There was, however, considerable support for the objective of providing clarity about immigration status at the earliest opportunity and managing expectations accordingly.

6 ALIGNING CARE PLANNING WITH IMMIGRATION STATUS

- 6.1 An important theme of the consultation paper was that unaccompanied asylum seeking children are a specialist group among children in the local authority care and support system. The paper noted that many of the needs of unaccompanied asylum seeking children are similar to those of other children in care, but argued that there are some differences, most particularly those that arise because of the realities of immigration status.
- 6.2 Many respondents considered it sensible to view unaccompanied asylum seeking children as a specialist group and to focus care planning on how the individuals can be equipped for life in their own countries if their asylum applications are unsuccessful. There was, however, concern that for care planning of this sort to be effective returns to the individuals' countries needed to take place much more consistently than has been the case to date. The need to facilitate more integrated care planning through better communication between respective agencies was also a common theme.

The issue for good planning is often having clear timescales which are the same for all those in the same group. Young people need to be clear what to expect and then they can be given support to deal with each stage. At present there is poor exchange of information between the local authority staff and the staff responsible for the investigation and deportation processes. If this improves then the planning with young people will improve.

- 6.3 Other respondents pointed to a lack, as they saw it, of clear guidance on care planning for unaccompanied asylum seeking children. There was a general concern that the lack of such guidance causes difficulties in understanding how different government policies (immigration and child welfare) should be interpreted. Plans to address this issue are set out earlier in the paper.

London Borough of Camden

7 VOLUNTARY AND ENFORCED RETURNS

7.1 In order to facilitate early return to the country of origin (when the asylum claim fails) the consultation paper proposed enhanced and tailored voluntary return assistance based on the specific needs of the unaccompanied asylum seeking child. The paper also suggested that, in many cases, a package of opportunities in the country of origin (employment, training, education) should form the centrepiece of the young person's care plan.

7.2 This approach received some support, particularly if the package of assistance offered meaningful benefits to the individual. Other respondents noted that voluntary return had to date not proved an attractive option for most young people whose asylum claims have failed and that this problem needed to be addressed.

There needs to be a clear process with outcomes and consequences – there needs to be timescales, arrangements with country of origin and a process by which such returns will be managed together with incentives for failed UASC to take up the opportunity of a voluntary return.

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If safety could be guaranteed, education was cited by UASC as a more powerful inducement to return than money. One African UASC suggested that promise of education on return might induce UASC to return, particularly if the education was provided at a boarding school where food and housing would be provided. Some UASC felt that if under-18s could be returned to be reunited with family, this might be 'OK'.

Practitioners felt the following were needed:

- *a responsible agency to receive the child into care*
- *support with accommodation, work and study*
- *support for the emotional and psychological needs of the child*
- *family tracing services*
- *support to assist the child to re-adjust to their cultural environment*

Oxfordshire local authority

7.3 There were varying views as to which agencies or individuals are best placed to work with the young people on a plan of return to the country of origin. Some felt that the social worker was best placed to do this work, with the plan integrated into the overall care and pathway planning required under children's legislation. Other suggestions were:

- International Organisation for Migration
- Red Cross
- Save the Children
- International Social Services

7.4 A recurring theme was the need for return, if it was to happen, to take place as soon as possible.

We do not consider it is helpful to young people to be able to stay long enough to adjust to life in this country and become settled, and then be faced with the prospect of having to uproot themselves and re-establish themselves in their country of origin, at some unknown future date. If the UASC have to return to their country of origin this should occur immediately, or as soon as possible, after the asylum decision has been made[...] In view of the huge problems being experienced in accurately assessing age, the policy of delaying return until the young person is 'adult' or nearing 'adulthood' appears to be flawed. The return process will be difficult whenever it happens, but the more protracted the process and the longer the delay experienced by the young person the more problematic it will become.

7.5 Some respondents objected to enforced return under any circumstances. Others expressed the need for clarity on the nature of the safeguards that first need to be put in place. Some respondents felt that social workers are best placed to assess the adequacy of reception arrangements, although others felt that independent organisations (for example some of those listed at paragraph 7.3) were best placed to make these assessments. Some respondents also felt that it would be beneficial to both young people and organisations working with them to have some positive examples of those who have returned to their countries of origin and been successfully reintegrated.

8 LEAVING CARE AND OTHER ISSUES POST-18

- 8.1 The consultation paper recognised some of the difficulties that arise for unaccompanied asylum seeking children and local authorities once the individuals reach 18. It was pointed out that faster asylum decisions, leading to clarity of immigration status, with removal or integration by 18, would alleviate many of these problems. The paper proposed to underpin these arrangements by providing better guidance to local authorities about their legal responsibilities to care leavers who remained in the United Kingdom post 18.
- 8.2 Many local authorities thought that the effect of these proposals might (if removals from the United Kingdom do not take place in sufficient numbers) lead to more former unaccompanied asylum seeking children having no access to support and assistance under leaving care legislation. It was therefore important that local authorities were not left open to legal challenge, if forced to discontinue support.

The consultation paper points out that this group of UASC should then have no recourse to public funds and, specifically, to leaving care support. There are already a number of former UASC in this position that Liverpool City Council has continued to support within the leaving care legislation, post 18. If it is the intention of the NAA and the consultation paper to resolve the funding of post 18 support by confirming removal of entitlement, then it is essential that Local Authorities are not left open to judicial challenge.

Liverpool City Council

- 8.3 Partly to alleviate these potential problems, the consultation paper suggested that legislation could be enacted to remove former unaccompanied asylum seeking children, who have been refused asylum, from eligibility to leaving care assistance. The individuals would instead have a possible access to support under section 4 of the Immigration and Asylum Act 1999 (or something similar to it). This proposal received a mixed reaction. We are therefore keeping the matter under review.

There must be absolute clarity as to the nature of the Section 4 (S4) support to be provided to 'failed asylum seekers' and mechanisms put in place to deliver that support, pending any arrangements for a return to the country of origin. As noted above, the resolution of this matter should not be left to individual authorities becoming the subject of judicial reviews in pursuit of clarity.

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9 FUNDING AND PROCUREMENT OF SERVICES

9.1 The consultation paper announced a general intention to replace the current funding system with new arrangements that make the link between service provision and cost clearer. Nonetheless, many local authority respondents stressed that sufficient assurances need to be provided before potential specialist authorities would agree to take on responsibility for extra numbers of unaccompanied asylum seeking children.

9.2 There was a particular concern that under current arrangements responsibility for providing funding is split between the Border and Immigration Agency (for those aged under 18) and the Department for Children, Schools and Families (for those aged over 18). Some respondents felt this led to some anomalies and inconsistencies. We have addressed this issue (see Key Reform 3).

We support better joint working principles between central and local government as outlined in the consultation. However, we firmly would recommend consideration also is given to better co-ordination across government departments as a necessary outcome of this review. This is a cross-government issue that requires a joined up response.

This could entail consideration being given to placing the responsibilities for the grant mechanisms for all UASC/former UASC within a single government department, to avoid the current separation/inconsistencies. However, overall, what is most important is that there are sufficient resources available to cover the costs of the services provided and that the resulting provision meets the needs of children.

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9.3 There was a general consensus that local authorities were best placed to procure most services necessary for unaccompanied asylum seeking children, albeit within some specification guidelines agreed with the Border and Immigration Agency.

Commissioning and procurement of services should be left to the local authority, but agreed specification with the Home Office. Costs should reflect what is currently available or can be negotiated within a regional basis, similar to those for the indigenous looked after accommodation.

Liverpool City Council

