



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Submission to DoH Consultation on proposals
for a new regional model of service for
separated and unaccompanied asylum seeking
children in Northern Ireland**

5 July 2021

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Recommendations

The Northern Ireland Human Rights Commission (NIHRC):

- 3.1.6 **supports the proposal for a single Trust Based Central Hub with Dispersal Arrangements (Option 3) for the regional model of service for separated and unaccompanied asylum seeking children in Northern Ireland.**
- 3.2.7 **recommends that age assessments in Northern Ireland continue to be conducted by social workers operating within their established regulatory framework.**
- 3.2.8 **recommends that any changes to NI guidance on age assessments are compliant with UK caselaw and international standards and takes account of NI's social work specialisms and Independent Guardian Scheme.**
- 3.3.5 **recommends that the Department of Health systematically collect and publish disaggregated data on the number of children seeking asylum, including those whose age is disputed.**
- 3.3.7 **recommends that the Department of Health provide periodic reports to the Health Committee on the operation of the service, in accordance with the best interests principle contained in the UNCRC.**
- 3.4.4 **recommends that rights-based, child-centred training is prioritised for all those in first contact roles with S/UASC. Training should be trauma-informed and include information on S/UASC's likely journeys and experiences.**
- 3.4.5 **recommends that social workers and independent guardians should receive training on how to capture and record information on the best interests of S/UASC, including what information to share and how to ensure the voice of the child is adequately represented in plans and subsequent assessments.**
- 3.4.8 **recommends the Department of Health collaborates with the Department of Education to develop a community awareness education programme to assist S/UASC long-term settlement and**

integration into NI.

- 4.1.3 recommends that the NI Executive engages with the Home Office to affirm its commitment to the National Transfer Scheme.**

- 5.1.2 recommends the development of a Standard Operating Procedure to provide clarity around specific roles and requirements; and establish transparent and effective cross-Departmental Ministerial accountability for the full and effective implementation of the services provided to S/UASC.**

1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (NIHRC), pursuant to section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). In accordance with this function, the following advice is submitted to the Department of Health (DoH) and the Health and Social Care Board (HSCB) to assist the development of proposals for a new regional service delivery model for separated and unaccompanied asylum seeking children and young people (S/UASC) in Northern Ireland (NI).
- 1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, and the treaty obligations of the Council of Europe (CoE) and United Nations (UN). The relevant regional and international treaties in this context include:
- UN Convention on the Rights of the Child 1989 (CRC)¹
 - UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment²
 - The Refugee Convention 1951³
 - The European Convention on Human Rights 1950⁴
 - The Council of Europe Convention on Action against Trafficking in Human Beings (Anti-Trafficking Convention)
 - the Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country 1993
- 1.3 In addition to these treaty standards, there exists a body of 'soft law' developed by the human rights bodies of the CoE and UN. These declarations and principles are non-binding but provide further guidance in respect of specific areas. The relevant standards in this context include:
- UN Committee on the Rights of the Child, General Comment No.6⁵
 - UN Committee on the Rights of the Child, General Comment No.14⁶
 - Concluding Observations of the UN Committee on the Rights of the

¹ Ratified by the UK in 1991.

² Ratified by the UK in 1988.

³ Ratified by the UK in 1954.

⁴ Ratified by the UK in 1951.

⁵ CRC/GC/2005/6, UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005

⁶ CRC /C/GC/14, UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) , 29 May 2013

Child (2016)⁷

- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims
- Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography

1.4 The NIHRC welcomes the proposal for a new regional service delivery model for separated and unaccompanied asylum seeking children and young people (S/UASC) in NI. The NIHRC reiterates that the current service provision has much to be proud of and is therefore encouraged by this early opportunity to identify what elements can be strengthened or sustained. In particular, the NIHRC commends the Department's efforts to situate the proposals in a human rights framework which is evident throughout the documentation. The following submission highlights key areas for consideration to inform the next stage of policy development.

2.0 International Human Rights Standards

2.1. Children who have become temporarily or permanently separated from their parents, relatives or caregivers are dependent on state authorities to uphold their rights.⁸ Of all refugees and migrants, separated and unaccompanied children are among the most vulnerable to violence, abuse and exploitation.⁹ Action on behalf of separated and unaccompanied children should be guided by principles enshrined in international human rights law.

2.2 On 19 September 2016, all 193 Member States of the United Nations unanimously adopted the New York Declaration for Refugees and Migrants.¹⁰ At a time of unprecedented displacement, this set of commitments reaffirmed the enduring importance of the international refugee protection regime, committed fully to respect the rights of refugees and migrants, pledged to provide more predictable and sustainable support to refugees and the communities that host them, and agreed to expand opportunities to achieve durable solutions for refugees. The Declaration addressed the

⁷ CRC/C/GBR/CO/5, UN CRC 'Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland', 12 July 2016

⁸ Article 1 of the Convention on the Rights of the Child (CRC) defines a 'child' as 'every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier'

⁹ UNHCR, 'High Commissioner's Dialogue on Protection Challenges: Children on the Move' 28 November 2016, at paras 14 -18.

¹⁰ A/RES/71/1, UN General Assembly, 'Resolution adopted by the General Assembly on 19 September 2016: 71/1. New York Declaration for Refugees and Migrants', 3 October 2016

particular vulnerability of unaccompanied and separated children and called for commitments from the member states of the UN to meet their needs.¹¹

2.3 Several international treaties afford children's rights affected during or after the migration process.¹² However, at the foundation of the international framework for children's rights is the UN Convention on the Rights of the Child (UNCRC), which prescribes minimum standards that states must adhere to regarding the treatment and protection of children in their respective territories. Article 22 explicitly requires states to ensure that the rights set out in the UNCRC extend, without exception, to asylum-seeking and refugee children:

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

2.4 In General Comment No.6, the Committee on the Rights of the Child identifies core principles to be applied to all actions taken in regard to separated and unaccompanied children, as below;

¹¹ Ibid at para.32

¹² See: the 1951 Refugee Convention; the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment; The European Convention on Human Rights 1950; The Council of Europe Convention on Action against Trafficking in Human Beings (Anti-Trafficking Convention); the Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country 1993

- **non-discrimination** (UNCRC, Art.2);
Article 2 prohibits any discrimination on the basis of the status of a child as being unaccompanied or separated, or as being a refugee, asylum-seeker or migrant. This does not prevent differentiation on the basis of different protection needs such as those deriving from age and/or gender. The Committee advises that measures should be taken to address possible misperceptions and stigmatization of S/UASC within society.¹³
- **best interests of the child** (UNCRC, Art.3);
Article 3(1) states that in “all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. In the case of a S/UASC, ‘a best interest determination’ must be documented in preparation of any decision fundamentally impacting on the child’s life.¹⁴ Respect for best interests also recognises the right of the child to a periodic review of their treatment and circumstances relevant to his or her placement (UNCRC, Article 25).¹⁵
- **right of the child to life, survival and development** (UNCRC, Art.6);
Article 6 confers a positive obligation on States to take practical measures at all levels to protect children violence and exploitation, to the maximum extent possible. Such measures could include, “priority procedures for child victims of trafficking, the prompt appointment of guardians, the provision of information to children about the risks they may encounter, and establishment of measures to provide follow-up to children particularly at risk. These measures should be regularly evaluated to ensure their effectiveness”.¹⁶
- **right of the child to express his or her views freely** (UNCRC, Art.12);
When determining the measures to be taken with regard to S/UASC, the child’s views must be taken into account. Such children must be provided with all relevant information regarding the process and any care arrangements, in a manner that is appropriate to the maturity and level of understanding of each child.¹⁷ Interpreters should be available at all stages of the procedure.

¹³ CRC/GC/2005/6, UN Committee on the Rights of the Child, General Comment No.6 (2005) Treatment of unaccompanied and separated children outside their country of origin, 1 September 2005, at para.18

¹⁴ Ibid at para.19

¹⁵ Ibid at para.22

¹⁶ Ibid at para.24

¹⁷ Ibid at para.25

- **non-refoulement** (1951 Refugee Convention, Art.33; UN CAT, Art.3);
The UN Committee on the Rights of the Child stipulates that States must fully respect non-refoulement obligations deriving from international human rights, humanitarian and refugee law and, in particular, obligations codified in the 1951 Refugee Convention and UN CAT. Therefore, States “shall not return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child”.¹⁸
- **confidentiality** (UNCRC, Art.16);
The confidentiality of information received in respect of S/UASC must be protected and that information must only be sought or shared for a legitimate purpose. The Committee highlights that, “care must be taken in order not to endanger the well-being of persons still within the child’s country of origin, especially the child’s family members”.¹⁹ The whereabouts of the child shall only be withheld from the parents if consistent with child protection and safeguarding advice and in the best interests of the child.
- **inter-country adoption** (UNCRC, Art.21);
States must have full respect for the preconditions provided under Article 21 as well as other relevant international instruments, including in particular the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption²⁰ when considering the adoption of S/UASC. Inter-country adoption should only be considered when; all feasible steps have been taken to trace and, where appropriate, reunite family members; it is legitimately within the child’s best interests; the child’s views have been taken into account; and it does not occur in haste at the height of an emergency.²¹

2.5 The UN Committee on the Rights of the Child reiterates that the “ultimate aim in addressing the fate of unaccompanied and separated children is to identify a durable solution that addresses all their protection needs, takes into account the child’s view and, wherever possible, leads to overcoming

¹⁸ Ibid at para.27

¹⁹ Ibid at para.30

²⁰ See also: Recommendation Concerning the Application to Refugee Children and Other Internationally Displaced Children of the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption, 21 October 1994

²¹ CRC/GC/2005/6, UN Committee on the Rights of the Child, General Comment No.6 (2005) Treatment of unaccompanied and separated children outside their country of origin, 1 September 2005, at para 91.

the situation of the child being unaccompanied or separated".²²

- 2.6 Beyond the core principles, the full range of rights under the UNCRC will be applicable for determining the specific measures taken in respect of the complex protection needs of S/UASC. Those of particular salience include: effective steps for family reunification (Arts. 22(2), 9(3) and 10(2)); appointment of a guardian or adviser and legal representative (Arts. 18(2) and 20(1)); care and accommodation arrangements (Arts. 20 and 22); full access to education (Arts. 28, 29(1)(c), 30 and 32); right to an adequate standard of living (Art. 27); right to enjoy the highest attainable standard of health and facilities for the treatment of illness and rehabilitation of health (Arts. 23, 24 and 39); prevention of trafficking and of sexual and other forms of exploitation, abuse and violence (Arts. 34, 35 and 36); prevention of military recruitment and protection against effects of war (Arts. 38, 39).
- 2.7 In 2016, the Committee on the Rights of the Child highlighted its regret that the right of the child to have his or her best interests taken as a primary consideration is not reflected in all legislative and policy matters and judicial decisions affecting children in the UK and NI, particularly in the area of immigration, asylum and refugee status.²³ The Committee, with reference to General Comment No.14 (2013), recommends Member States develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration.²⁴
- 2.8 In respect of asylum seeking, refugee and migrant children, the Committee recommends that the State party:
- (a) Systematically collect and publish disaggregated data on the number of children seeking asylum, including those whose age is disputed;
 - (b) Establish statutory independent guardians for all unaccompanied and separated children throughout the State party;
 - (c) Conduct age assessments only in cases of serious doubt through multidisciplinary and transparent procedures, taking into account all aspects, including the psychological and environmental aspects of the

²² Ibid at para.79

²³ CRC/C/GBR/CO/5 UN Committee on the Rights of the Child, 'Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland' 12 July 2016, at para 26.

²⁴ Ibid at para 27.

person under assessment;

(d) Cease the detention of asylum-seeking and migrant children;

(e) Review its asylum policy in order to facilitate family reunion for unaccompanied and separated refugee children within and outside of the State party, including through implementation of the European Union Dublin III Regulation;

(f) Provide sufficient support to migrant, refugee and asylum-seeking children to access basic services;

(g) Review the Immigration Act (2016) in order to ensure its compatibility with the Convention;

(h) Ensure that children are returned only where there are adequate safeguards, including a formal best-interests determination, effective family tracing, including individual risk and security assessments, and appropriate reception and care arrangements.²⁵

2.9 In the European framework, children's rights are enshrined in the Charter of Fundamental Rights (Article 24), however the EU has additionally incorporated standards of the UNCRC and the 1951 Refugee Convention into its framework of policies and legislation concerning S/UASC.²⁶ For instance, the Qualification Directive reinforces the provision on the tracing of family members of minors who have been granted international protection.²⁷ Under the Return Directive, before returning an unaccompanied minor, Member States are obliged to make sure that 'he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return'.²⁸

2.10 Several non-legislative instruments also provide important guidelines for the care, integration and possible return of unaccompanied minors, such as the Action Plan on Unaccompanied Minors (2010-2014) which proposes an EU approach based on ten principles to guide Member States in their approach to unaccompanied children.²⁹ Finally, the EU has adopted legislation to eradicate various forms of violence to which children are subjected, including

²⁵ Ibid at para.77

²⁶ Qualification Directive (COM(2016) 466 final), Asylum Procedures Directive (2013/32/EU), Reception Conditions Directive (COM(2016) 465 final) and Return Directive (2008/115/EC) among others.

²⁷ Qualification Directive (COM(2016) 466 final), Article 36(5)

²⁸ Return Directive (2008/115/EC), Article 10(2)

²⁹ Action Plan on Unaccompanied Minors (2010 – 2014), (COM(2010) 213 final)

human trafficking³⁰ and sexual abuse and exploitation.³¹

3.0 Procedural Considerations

3.1 Best interests principle

3.1.1 The NIHRC welcomes the underlying purpose of the Department's proposals to enhance the service provision to S/UASC in NI and to ensure that the rights and best interests of S/UASC remain a primary consideration throughout the process. The NIHRC acknowledges there have been many positive developments in respect of the services provided in recent years, therefore these proposals present a good opportunity to reflect and build upon the strengths of current arrangements.

3.1.2 The UN High Commissioner for Refugees (UNHCR) produces guidance in order to assist states to implement their obligations under international refugee and human rights law. With regard to guidance on the best interests of S/UASC specifically, UNHCR and UNICEF recommend that States develop a formal 'best interest determination' procedure which adopts strict procedural safeguards and documentation requirements designed to determine a durable solution for an individual S/UASC. UNHCR state: "It should be designed so that the child is able to participate in the decision making process and involves decision makers with relevant areas of expertise, who can identify and balance all relevant factors in order to decide upon the best available option for that child, which will be both sustainable and conclusive".³² Ultimately, UNHCR considers that the principle of best interests in the case of S/UASC requires cross governmental or multi-agency approach in a systematic manner.

3.1.3 Therefore, the current regional reception and assessment centre, supported by the statutory independent guardian service, appears to be consistent with international best practice. It has enabled the Health & Social Care (HSC) Trusts to coordinate a systematic approach to all S/UASC within the jurisdiction. This contrasts to the current arrangements in England and Wales where local authorities are each responsible for managing their own response to S/UASC entrants, resulting in a number of ongoing challenges regarding inconsistent funding, problems with resource and information

³⁰ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims

³¹ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography

³² UNCHR, 'Written Evidence submitted by the United Nations High Commissioner for Refugees' (2013)

sharing, and inequitable pressures put on certain local authorities. It is of course recognised that the numbers of S/UASC coming to NI is significantly lower than in certain other areas in Britain.

3.1.4 Furthermore, the holistic model developed in NI enables explicit consideration of the child's best interests at multiple steps in the decision-making process.³³ For instance, through the multi-agency assessments, the ongoing care planning process (including after-care procedures), and the appointment of an independent visitor or advocate.³⁴ The independent guardian service is also a significant safeguard in protecting the best interests of the child across all settings and providing consistent support through complex systems. Finally, the regional approach has allowed social work teams within HSC Trusts to develop specialisms and expertise in the care of S/UASC, further ensuring the best interests of the child at all stages of the process.

3.1.5 The NIHRC consider that, out the shortlisted options at Section 8.7, the central hub model (Option 3) would most effectively retain and build upon the quality of the holistic and co-ordinated service already provided through the elements set out above. Moreover, a regional hub most effectively promotes the best interests principle for its greater potential to achieve a consistent, highly co-ordinated and collaborative service for S/UASC.

3.1.6 The NIHRC supports the proposal for a single Trust Based Central Hub with Dispersal Arrangements (Option 3) for the regional model of service for separated and unaccompanied asylum seeking children in Northern Ireland.

3.2 Age assessments

3.2.1 UNHCR advises that age assessment procedures should only be undertaken when a child's age is in doubt, and not as a routine measure.³⁵ Furthermore, assessments should be conducted in a safe, child and gender sensitive manner, with due respect for human dignity.³⁶ In General Comment No.24, the UN Committee on the Rights of the Child state that, in situations where there is doubt as to a child's age: "The least invasive method of assessment should be applied. In the case of inconclusive evidence, the child or young

³³ UNHCR and UNICEF, 'Putting the child at the centre: An analysis of the application of the best interests principle for unaccompanied and separated children in the UK' (UNHCR, 2019)

³⁴ Health and Social Care Board, 'Working arrangements for the welfare and safeguarding of unaccompanied and separated children and young people' (HSCB, 2018)

³⁵ UNHCR and UNICEF (2019) at page 59.

³⁶ UNHCR, 'A Framework for the Protection of Children', 26 June 2012

person is to have the benefit of the doubt".³⁷

3.2.2 In NI, social services have a duty to conduct age assessments for the purposes of assessing what duties are owed to children under The Children (Northern Ireland) Order 1995. Social workers in NI comply with guidance produced by the Association of Directors of Children's Services (ADCS) which highlights the critical role played by social workers in conducting such assessments by virtue "of their education, experience and specialist skills in working with and interviewing vulnerable children and young people".³⁸

3.2.3 ADCS guidance is consistent with leading UK caselaw, *R(B) v Merton*,³⁹ which established lawful criteria to be considered when undertaking age assessments. The role of social workers in the age assessment process was later affirmed in the case of *AW (A Child) (R, on the application of) v London Borough of Croydon [2009] EWHC 3090 (Admin)*. The court stated that: "if a firm conclusion is reached by experienced and properly trained social workers... then it will be difficult to persuade this court, perhaps impossible, that that decision is one which can be said to be wrong in law".⁴⁰

3.2.4 The NIHRC is encouraged by the recent experience of the Law Centre NI, who highlighted that, "age disputes cases are relatively few in Northern Ireland. Where such cases do arise, they are resolved via a Merton compliant process".⁴¹ As part of the Refugee & Asylum Forum, the Law Centre NI additionally emphasised the fact social workers are regulated by the NI Social Care Council, which lays an Annual Report to the NI Assembly, providing a significant safeguard.⁴²

3.2.5 The consultation document identifies 'certainty about the age assessment process' as an immediate requirement and indicates that work is underway to develop NI Guidance on Age Assessment procedures. However, it is not clear whether current procedures and guidance on age assessments, including the safeguards in existing UK caselaw, will be retained.⁴³

³⁷ CRC/C/GC/24, 'Committee on the Rights of the Child, General Comment No.24 (2019) on children's rights in the child justice system' 18 September 2019, at para.34

³⁸ ADCS (2015) 'Age Assessment Guidance: Guidance to assist social workers and their managers in undertaking age assessments in England', (October 2015), at para.3.

³⁹ EWHC 1689 (Admin).

⁴⁰ *AW (A Child) (R, on the application of) v London Borough of Croydon [2009] EWHC 3090 (Admin)*, para 10.

⁴¹ Law Centre NI, 'Evidence to All Party Parliamentary Group on Modern Slavery and Human Trafficking Inquiry into the situation of unaccompanied and separated minors in Europe', May 2017

⁴² Refugee & Asylum Forum, 'The New Plan for Immigration: Analysis of the impact on Northern Ireland, May 2021

⁴³ Association of Directors of Children's Services (ADCS) 'Age Assessment Guidance: Guidance to assist social workers and their managers in undertaking age assessments in England', (October 2015)

3.2.6 The NIHRC has recently raised a number of concerns about the Home Office’s proposal for a National Age Assessment Board (NAAB), and set out a series of recommendations to develop an understanding of how it would operate in NI.⁴⁴ The Children’s Law Centre (NI) highlighted that the creation of the NAAB encroaches on transferred matters under the devolved settlement.⁴⁵ Significantly, the UNHCR provided a submission to the consultation, advising that the proposals within the ‘New Plan’ regarding age assessments are not in line with international standards:

In UNHCR’s view, policy or legislation which allows asylum-seekers to be treated as adults based on brief assessments of physical appearance and demeanour by immigration officials creates a considerable risk of children being subjected to adult procedures and of a violation of their rights under the Convention on the Rights of the Child and the 1951 Convention.⁴⁶

3.2.7 The NIHRC recommends that age assessments in Northern Ireland continue to be conducted by social workers operating within their established regulatory framework.

3.2.8 The NIHRC recommends that any changes to NI guidance on age assessments are compliant with UK caselaw and international standards and takes account of NI’s social work specialisms and Independent Guardian Scheme.

3.3 Data collection, monitoring and review

3.3.1 The NIHRC frequently highlights the need for transparent monitoring and data collection as essential parts of government accountability. Notably, the UN CRC Committee has called on the UK to improve its collection and publication of comprehensive and disaggregated data specifically relating to children. In 2016, the Committee recommended that Northern Ireland improves data collection by finalising a child rights indicator framework.⁴⁷

3.3.2 For effective monitoring in this particular context, the UNCRC Committee recommends that the UK and NI “systematically collect and publish

⁴⁴ NI Human Rights Commission, ‘NIHRC Response to Public Consultation on the Home Office’s New Plan for Immigration’, May 2021, at paras 46-49.

⁴⁵ Children’s Law Centre, ‘New Immigration Plan Abandons Children’s Rights and Protections’ 12 May 2021

⁴⁶ UNHCR, ‘UNHCR Observations on the New Plan for Immigration policy statement of the Government of the United Kingdom’ May 2021, at para.25

⁴⁷ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland’, 3 June 2016, at para 14.

disaggregated data on the number of children seeking asylum, including those whose age is disputed".⁴⁸ The Committee previously highlighted the need for data collection to be disaggregated as a means to "enable discrimination or potential discrimination to be identified".⁴⁹

3.3.3 Currently, NI does not publish disaggregated data in relation to the number of S/UASC or how many age assessment examinations have been carried out, which is inconsistent with best practice and international standards. The consultation document sets out a positive intention to progress work regarding data development which will inform future evolution of the service, however it does not specify whether this data will be made publicly available.

3.3.4 In terms of the potential impact this might have, Law Centre NI has stated that it impedes policy development and planning, and makes it difficult to counter inaccurate information and myths on refugees and asylum seekers.⁵⁰ Similarly, the Expert Group on Refugee and Internally Displaced Persons Statistics have stated that robust and accurate data on refugees, asylum seekers and refugee related populations is critical for informed decision-making, enhanced policy formulation, more effective monitoring, evaluation and accountability of policies and programmes and more improved public debate and advocacy.⁵¹

3.3.5 The NIHRC recommends that the Department of Health systematically collect and publish disaggregated data on the number of children seeking asylum, including those whose age is disputed.

3.3.6 The NIHRC notes that the consultation document does not outline any plans for developing a review or monitoring mechanism for the service, which will be essential for ensuring that the new model and procedures are operating effectively and continuing to protect S/UASC's best interests throughout the process.

3.3.7 The NIHRC recommends that the Department of Health provide periodic reports to the Health Committee on the operation of the

⁴⁸ CRC/C/GBR/CO/5 UN Committee on the Rights of the Child, 'Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland' 12 July 2016, at para 77(a)

⁴⁹ CRC/GC/2003/5, 'UN CRC Committee General Comment No 5: General measures of Implementation of the Convention on the Rights of the Child', 27 November 2003, at para 12

⁵⁰ Law Centre NI, 'Law Centre Response to Racial Equality Strategy' (2014) at page 2.

⁵¹ Expert Group on Refugee and Internally Displaced Persons Statistics (2018), International recommendations on Refugee Statistics (European Union and the United Nations, March 2018).

service, in accordance with the best interests principle contained in the UNCRC.

3.4 Training and education

- 3.4.1 The needs of S/UASC may be complex and difficult to assess and meet. The NIHRC supports the Department's intention to immediately progress recruitment and training of social workers to ensure the transfer of knowledge from the reception and assessment centre staff. However, it is further recommended that training is prioritised for all those who may provide a first point of contact during the arrival of S/UASC into NI, which might include police, border control and health workers.
- 3.4.2 All training should be child-centred, trauma-informed and include information on S/UASC's likely journeys and experiences.⁵² Information should be provided on how to talk and communicate with S/UASC and include the use of non-verbal therapeutic interventions. The rights and needs of S/UASC, and how to protect and promote their best interests should underpin the training, bringing an awareness to cultural diversity and gender sensitivities. This training could be developed with psychologists, former unaccompanied and separated children who have been through the process, and those with previous experience supporting S/UASC.
- 3.4.3 In addition, the UNHCR have repeatedly highlighted that information sharing is essential for effective 'best interest determinations' (see 3.1.2) in respect of S/UASC, particularly where several agencies are involved in different aspects of the decision-making.⁵³ It ensures all relevant information is collected and carefully weighed, drawing upon a variety of expertise, to find a durable solution. Therefore, social workers and independent guardians should receive specific training on how to capture, record and share information regarding 'best interest considerations', while respecting the principles of data protection. Furthermore, it should cover how to ensure the voice of the child is represented in all care planning and assessments.
- 3.4.4 The NIHRC recommends that rights-based, child-centred training is prioritised for all those in first contact roles with S/UASC. Training should be trauma-informed and include information on S/UASC's likely journeys and experiences.**

⁵² UNHCR and UNICEF (2019) at page 57.

⁵³ Ibid at page 44.

3.4.5 The NIHRC recommends that social workers and independent guardians should receive training on how to capture and record information on the best interests of S/UASC, including what information to share and how to ensure the voice of the child is adequately represented in plans and subsequent assessments.

3.4.6 In terms of long-term settlement into NI, the Department should consider further training and education initiatives to assist the integration process. In March 2020, Barnardo's NI published a report examining the resettlement and integration experiences of Syrian refugee children and their families through the Vulnerable Person's Resettlement Scheme (VPRS).⁵⁴ It made a series of recommendations designed to reflect the key challenges and needs of refugee children and families, including education programmes in schools; extra-curricular activities; support from trauma specialists; and language support. Ultimately it emphasised that "integration is a two-way process" and warned it will have limited success without acceptance and participation of the local community:

The community in Northern Ireland must be encouraged and supported to better understand the nature and trauma of seeking asylum and resettlement in another country, and understand the benefits, responsibility and pride Northern Ireland should have in offering this sanctuary to some of the most vulnerable children and families in the world.⁵⁵

3.4.7 It is regrettable that NI remains the only part of the UK without a Refugee Integration Strategy. Since 2014, there has been there has been an objective to establish a Refugee Integration Strategy, as part of the Executive Office's Racial Equality Strategy 2015-2025, but this has been delayed. However, the NIHRC understand a draft of the strategy has been prepared and is currently with awaiting Minister's approval before going out to consultation.

3.4.8 The NIHRC recommends the Department of Health collaborates with the Department of Education to develop a community awareness education programme to assist S/UASC long-term settlement and integration into NI.

⁵⁴ Dr Arlene Robertson for Barnardo's Northern Ireland, 'A New Life for Me: Integration Experiences of Syrian Refugee Children and their Families' March 2020

⁵⁵ Ibid at page 88.

4.0 Additional issues

4.1 National Transfer Scheme

4.1.1 In June 2021, for the second time in a year Kent County Council were forced to stop taking S/UASC into its care due to the extreme pressure on its services.⁵⁶ The Home Office has since committed to updating the National Transfer Scheme, in recognition of the fact that those who do not participate in the scheme put disproportionate pressure on those who do. Therefore, as a UK-wide responsibility, the NIHRC supports the intention to take account of the capacity needed for NI's fair and proportionate participation in the National Transfer Scheme. This reflects recent observations by the UNHCR on the UK Governments 'New Plan for Immigration', albeit on a national level:

The international refugee protection system, underpinned by the 1951 Convention, has withstood the test of time and it remains a collective responsibility to uphold and safeguard it. If States, like the UK, that receive a comparatively small fraction of the world's asylum-seekers and refugees appear poised to renege on their commitments, the system is weakened globally and the role and influence of the UK would be severely impacted.⁵⁷

4.1.2 The NIHRC is concerned that if NI are not part of the National Transfer Scheme, it risks undermining its commitments under international refugee protection law and could weaken the UK's overall response to S/UASC arriving within its borders.

4.1.3 The NIHRC recommends that the NI Executive engages with the Home Office to affirm its commitment to the National Transfer Scheme.

5.1 Sustainability

5.1.1 The NIHRC acknowledges that NI has built a strong foundation for an effective service for S/UASC, however consistency and stability in both funding and collaborative working arrangements will be essential for delivering a sustainable service capable of meeting the complex needs of S/UASC. It will require well-trained, high-quality front-line practitioners from

⁵⁶ 'Concerns for child migrants as Kent County Council hits capacity' BBC News, 15 June 2021

⁵⁷ UNHCR, 'UNHCR Observations on the New Plan for Immigration policy statement of the Government of the United Kingdom' May 2021, at para 4.

a number of services and agencies with the capacity to respond effectively, in a consistent, child-centred and rights-based approach.

- 5.1.2 **The NIHRC recommends the development of a Standard Operating Procedure to provide clarity around specific roles and requirements; and establish transparent and effective cross-Departmental Ministerial accountability for the full and effective implementation of the services provided to S/UASC.**

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