

NCB Member Briefing

Better Outcomes: the Way Forward – improving the care of unaccompanied asylum seeking children.

Border and Immigration Agency (BIA), Home Office

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/uasc/betteroutcomes.pdf?view=Binary>

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Background

In March 2007, the government published a consultation paper called *Planning Better Outcomes and Support for Asylum Seeking Children* that proposed a fundamental reform of the way in which the immigration service works with unaccompanied asylum seeking children who may be in local authority care, or accommodated by the local authority. *Better Outcomes: the Way Forward* is the government response to that consultation exercise. It has been published with a draft *Code of Practice for Keeping Children Safe from Harm*

[\[http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/keepingchildrensafe/\]](http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/keepingchildrensafe/)

– a statutory requirement under section 21(1) of the UK Borders Act 2007. That consultation is open until 25 April 2008.

The definition for an unaccompanied asylum seeking child is: an individual who is under 18 and applying for asylum in his or her own right; is separated from both parents and not being cared for by an adult who by law or custom has responsibility to do so. In 2006, there were an estimated 6,000 unaccompanied asylum seeking children supported by local authorities in the UK, a figure that has remained static since 2004.

The BIA proposals should be seen in the context of broader immigration reforms: a push by government to significantly reduce the numbers of people seeking asylum in the UK and return those who are not deemed to be at risk of persecution to their countries of origin.

Better Outcomes is divided into two discrete sections: a list of key reforms of the arrangements for unaccompanied asylum seeking children, and an annex containing a summary of responses to the original consultation paper. This briefing will focus on the key reforms.

Five Key Reforms

Reform 1:

Ensuring that the BIA, in exercising its functions, will keep children safe from harm while they are in the UK.

- Section 21 of the UK Borders Act 2007 gives the Secretary of State the power to issue a statutory Code of Practice 'to ensure that in exercising functions in the United Kingdom the Border and Immigration Agency makes appropriate steps to ensure that while children are in the United Kingdom they are safe from harm.' A draft Code of Practice is currently out for consultation, with the final version due to be published in January 2008. That draft Code of Practice includes sections on:
 - The legislative framework within which the Code is issued, which highlights the primacy of existing immigration rules and policies.
 - Overall framework for keeping children safe from harm.

- Making specific immigration procedures and situations responsive to the needs of children, focusing on: checking documents, recording biometric information, conducting interviews, and sharing information with other agencies.
- Children and detention. This section makes it clear that children can be detained: in the case of an unaccompanied child, in exceptional circumstances; in the case of a child in a family, with their parents in order to prevent the separation of the family.
- Identifying children who may be at risk of harm including those who arrive with an adult who is not a parent or relative, or those placed in private foster care.
- Referring children to, and working with, other agencies. Examples include disabled children, trafficked children, children identified as missing, or those involved in family court proceedings. Agency examples include the Local Safeguarding Children Board, Child Protection Committee or CAFCASS.
- Information sharing.
- Governance, monitoring, inspection, line responsibility and reporting mechanisms.
- Staff recruitment and training.
- BIA will refer children they identify as being at risk to the statutory agencies that can cater to their particular needs.
- BIA will ensure that any agencies contracted to carry out functions on its behalf will have to meet the requirements of the Code of Practice.
- BIA has set up a pilot scheme to provide an alternative to detention for families with children who are required to return home.
- BIA will assign a case owner to every unaccompanied asylum seeking child. It will improve the way it communicates with children and young people, and says it will develop an effective way of dealing with these matters in partnership with local authorities and other agencies. Through its regional immigration offices, BIA plans to forge clearer links with Local Safeguarding Children Boards in England and Wales, and Child Protection Committees in Scotland.

Reform 2:

Putting in place better procedures for identifying and supporting asylum seeking children who are the victims of trafficking.

This section recognises that proposed reforms must ensure that the UK honours its obligations under the Council of Europe Convention on Action Against Trafficking in Human Beings. The proposals are directly linked to Reform 3 and the creation of specialist local authorities for unaccompanied asylum seeking children.

- BIA plans to ‘work towards’ a service specification for unaccompanied asylum seeking children. As a minimum, the specification would include:
 - Guidance to identify trafficked children as part of the assessment process.
 - Identification and referral arrangements consistent with the Council of Europe Convention.
 - Provision of safe accommodation or foster placements for trafficked children at risk from their traffickers.
 - Partnership arrangements with the Local Safeguarding Children Boards in England and Wales, and Child Protection Committees in Scotland and other service providers to ensure that services are sensitive to the support needs of trafficked children.
 - Monitoring and making arrangements to act (usually through other agencies) when children go missing from care.

Reform 3:

Locating unaccompanied asylum seeking children with specialist local authorities to ensure they receive the services they need.

- BIA will enter into new arrangements with a smaller number of specialist local authorities and other agencies, largely outside London and the South East of England, with a view to placing newly arrived unaccompanied asylum seeking children with them later this year. Negotiations with the new authorities will commence in Spring 2008, with the first wave of specialist authorities due to begin to operate by Autumn 2008.

- BIA will negotiate longer-term grants (three to five years) with specialist authorities, in some cases supplemented by special circumstances payments. Service specification and procurement details have yet to be finalised.
- BIA will work with stakeholders to ensure that other necessary services, like legal services, will be available to specialist authority areas.
- From April 2008, BIA will take on responsibility for funding for unaccompanied asylum seeking children who are entitled to leaving care support in England, Wales and Scotland. Details of the new financial arrangements will be published later this year.
- In Spring 2008, the government will issue additional guidance to Schedule 3 of the Nationality, Immigration and Asylum Act 2002 which deals with the withholding and withdrawing of support and assistance under a number of Acts, though does not prevent the provision of support and assistance to specified groups including children.

Reform 4:

Putting in place better procedures to assess age in order to ensure children and adults are not accommodated together.

- BIA will develop regional specialist centres for assessing the age of asylum applicants, and will negotiate the location of these centres with local authorities and others – with a clear indication that they will be placed near to the main ports and asylum screening units. Age assessment should therefore take place before a child is transferred to a specialist authority. Other assessments such as a child in need assessment will take place at this stage.
- The government will issue guidance on age assessment in Summer 2008.
- BIA will set up a working group to determine best practice in assessing age, which will consider matters such as the weight that should be attached to medical reports, or the merits of x-rays as a means of accurately assessing age.

Reform 5:

Resolving immigration status more quickly and enabling care planning to focus on integration of early return to the country of origin.

Begins with the statement: '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.' The returns policy also applies to trafficked children, and the paper cites it as a possible deterrent to child traffickers.

- Young asylum seekers will be given clarity regarding the expected outcome of their application to stay as early as possible in order to assist social workers and others to help manage their expectations and improve care planning, including planning for a return to their country of origin. The paper describes this as engaging with young people on a twin track basis.
- The government will look at the practice of granting discretionary leave to enter or remain in the UK.
- 'Where it is safe to do so', unaccompanied asylum seeking children will be expected to return to their country of origin at the earliest opportunity (ie before reaching 18).
- BIA will seek to improve working arrangements between social services and immigration staff. BIA case owners and designated local authority staff will share information, and DCSF and the devolved administrations will update guidance on care planning in Summer 2008.
- BIA will develop an Assisted Voluntary Return package for unaccompanied asylum seeking children.
- BIA will also consider on a case-by-case basis the enforced removal of under-18s who have exhausted the asylum process and failed to return home voluntarily.

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