

Improving the Lives of Children in Scotland – are we there yet? Consultation on the Scottish Government’s response to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

2 March 2009

About Scottish Refugee Council

Scottish Refugee Council is an independent charity which provides advice and information to asylum seekers and refugees in Scotland. We also campaign for the fair treatment of refugees and asylum seekers and to raise awareness of refugee issues.

1. Introduction

- 1.1 Scottish Refugee Council welcomes this consultation and the opportunity to respond. We are happy for the comments in our submission to be made public.
- 1.2 Our response primarily focuses on asylum-seeking and refugee children in Scotland thus our comments are mainly limited to pages 44-48 of the implementation plan. For ease of reading, we have added our comments directly into the relevant sections of the plan.
- 1.3 Scottish Refugee Council remains deeply concerned by many aspects of the operation of the UK asylum determination system in Scotland and its impact on refugee children. We do however recognise and welcome the steps that the current Scottish Government and the previous administration in Scotland have taken to ensure that refugee children are treated first and foremost as children. We are pleased that the Scottish Government endeavours to develop policies within their devolved responsibilities to reflect this and support the principles of the United Nations Convention on the Rights of the Child (UNCRC) to refugee children.
- 1.4 We also welcome the openness that the Scottish Government has shown in engaging with stakeholders, such as Scottish Refugee Council, to help progress the rights of refugee children in Scotland. This plan to implement the concluding observations of the UN Committee on the Rights of the Child is one example of this and is to be welcomed.

1.5 We support all of the actions that the Scottish Government has committed to with regards to refugee children. Our response provides additional information and recommendations for the Scottish Government to implement to improve the lives of refugee children in Scotland.

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CHILDREN SEEKING ASYLUM

No	UNCRC Article	Concluding Observations	SACR, Article 12 or SCCYP recommendations	SG response
106	Refugee children [A22]		<p>UK Govt must withdraw its general reservation on immigration and asylum as a matter of urgency and bring its immigration and asylum policies and practices into line with the UNCRC. SG should press the UK Govt to withdraw its reservation on asylum and immigration and bring its immigration and asylum policies and practices into line with the UNCRC.</p> <p>CC91: UK Govt should remove its reservation to A22 of UNCRC.</p>	<p>The Scottish Government is fully supportive of the UK Government's decision to remove the reservation in the run up to oral examination at Geneva.</p> <p>SG also welcomes the proposed new duty on UKBA staff to promote the welfare of and safeguard children and the Code of Practice on Keeping Children from Safe Harm.</p> <p>SG will:</p> <ul style="list-style-type: none"> Continue its work with UKBA to ensure that the rights of children and the Scottish context is taken into account in the development of asylum policy and legislation. <p>Scottish Refugee Council Response:</p> <p>Section 21 of the UK Borders Act 2007 introduced a statutory Code of Practice on keeping children safe from harm. During the passage of the Children and Young Persons Act 2008 the House of Lords voted in favour of the UK Border Agency's being subject to a duty equivalent to that in s 11 of the Children Act 2004 and the UK Government made a commitment to give effect to this. Clause 51 of the Borders, Citizenship and Immigration Bill currently before Parliament is intended to fulfil this commitment. Minister of State Phil Woolas MP is quoted as stating: <i>'It is right that the UK Border Agency is judged by the same standards as every other authority that deals with children.'</i></p> <p>As there is no equivalent Section 11 duty in Scotland, we would ask the Scottish Government to ensure that the duty placed on the UK Border Agency to safeguard and promote the welfare of children fully respects the Scottish context of child safeguarding and welfare and that children subject to immigration control in Scotland are not disadvantaged by being in Scotland.</p> <p>In particular, we would want the Scottish Government to seek clarification from UKBA on what training is being offered to all UKBA staff operational in Scotland with regard to this new duty.</p> <p>Below are a number of concerns relating to the Code of Practice:</p> <p>The Code of Practice was issued on 6 January 2009, thus it is premature to make an assessment of the effect of the Code on UKBA's practice and procedure. However we have a number of concerns on the limitations of the Code in relation to the UNCRC:</p> <ul style="list-style-type: none"> The Code makes only one reference to the UNCRC² Reference to devolved differences are mentioned only broadly

¹ UK Border Agency commits to keep children safe from harm, UK Border Agency www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/keepingchildrensafefromharm Press Release 6 January 2009

² At paragraph 1.5, where it lists it with other international conventions.

				<ul style="list-style-type: none"> • The Code makes no reference to the child's need for legal representation³ and none to the need for a guardian, despite the UN Committee on the Rights of the Child specific recommendation on guardianship⁴ • The Code focuses on safeguarding and says little about promoting children's welfare • Despite the specific recommendation of the UN Committee on age disputes⁵, the Code is silent on age assessment procedures and process or on the duties owed to those whose age has yet to be determined⁶. • The Code does not place a duty on UK officials abroad i.e. immigration liaison officers and those working at juxtaposed controls. • Despite the specific recommendation of the UN Committee on children in detention, the Code envisages the continued detention of children and for excessive periods. <p>We would ask the Scottish Government to ensure that the Regional Director of UKBA in Scotland and Northern Ireland develops appropriate referral mechanisms to the relevant agencies in Scotland as required in the Code of Practice.</p> <p>We would also ask the Scottish Government to work with the Chief Inspector of the UK Border Agency to ensure that his scrutiny of this new duty in Scotland and scrutiny of immigration officers' adherence to the Code in the Scotland is meaningful.</p>
107	Refugee children [A22] Detention	71. The Committee recommends that the State party: a) intensify its efforts to ensure that detention of asylum-seeking and migrant children is always used as a measure of last resort and for the shortest appropriate period of time, in compliance with article 37 (b) of the Convention;	The UK Govt must end the detention of asylum seeking children SG should press the UK Govt to end the detention of asylum seeking children and support the development of alternatives to detention. CC92: Detention should be used only as a last resort. The UK Govt must explore meaningful alternatives to detention including other forms of supervision. <u>General concerns</u> SG and UK-wide NGOS fundamentally opposed to detention of children Dungavel also houses foreign national prisoners prior to deportation. Also concerns about the manner in which children and families are detained, in particular about "dawn raids".	The Scottish Government is fundamentally opposed to the detention of children at Dungavel or elsewhere and has made that position clear to UK Government Ministers on a number of occasions. SG officials have been involved in work with UKBA and other stakeholders on proposals for alternative to detention pilot in Scotland. <u>SG will:</u> <ul style="list-style-type: none"> • Continue its involvement in the development of proposals for an alternative to detention project for Scotland. It is hoped that a pilot will begin in Glasgow early in 2009, aimed at keeping families out of Dungavel. • Continue dialogue with Home Office Ministers and UKBA officials and will continue to raise concerns about Dungavel and early morning removals. <p>Scottish Refugee Council Response: Scottish Refugee Council believes plans for transparent and independent monitoring and evaluation of the project should be in place from the outset.</p> <p>The Scottish Government should also work with the UK Government to ensure that those subject to the enforcement powers of immigration officers operating in Scotland have recourse to a direct and independent complaints mechanism of parity to that provided by the Independent Police Complaints</p>

³ There is one reference to the legal representative, at paragraph 6.4 on staff training

⁴ See the UN Committee's report, *op.cit.* at 71.1.(c). There is one reference to a 'legal guardian' in paragraph 6.4, but this is in a different context, that of 'parent or legal guardian'

⁵ See the UN Committee's report, *op.cit.* at 71.1.(e).

⁶ See ILPA's report *When is a child not a child?* May 2007 available from www.ilpa.org.uk

				Commission in England and Wales prior to any additional powers being granted. There should also be clarity around how complaints arising during cross-border movements can be made.
108	Refugee children [A22]	71. The Committee recommends that the State party: b) ensure that the United Kingdom Border Agency (UKBA) appoints specially-trained staff to conduct screening and substantive and any other interviews of children;		The Scottish Government welcomes the moves by the UK Government to place a duty on all UKBA staff to promote the welfare of and safeguard children within the asylum system. Staff training will be a crucial element of ensuring that this new duty has a positive impact on the children involved. SG will: <ul style="list-style-type: none"> Work with UKBA counterparts to ensure that all UKBA staff in Scotland have appropriate training See 106 above
109	Refugee children [A22] Support for un-accompanied asylum seeker children	71. The Committee recommends that the State party: c) consider the appointment of guardians to unaccompanied asylum-seekers and migrant children;	The UK Govt must introduce a statutory guardianship scheme for all separated children, and any reform to the care of separated children must be formulated within the context of the obligations enshrined in the UNCRC and its optional protocols; The UK Govt must provide adequate levels of funding to LAs, including the proposed new 'specialist' authorities, to ensure high quality care is available for all separated children, including for those with specific needs, eg, those with HIV: Specialist authorities must be developed, not with reduction of costs as the main objective, but with the aim of improving the quality of care for separated children; SG should consult key stakeholders on the selection of specialist authorities, and establish mechanisms to ensure shared learning and best practice between authorities; Ensure that adequate resources are in place to ensure that all separated children can be allocated a social worker and appropriate accommodation to meet the specific needs of children; Press the UK Govt to introduce a guardianship scheme for separated children and as SG has devolved responsibility for the care and welfare of all children in Scotland, should pilot such a scheme as a matter of urgency.	The Scottish Government is concerned that separated children, including unaccompanied asylum seeker children do not always get the support and services they need. The UK Government's position is that guardianship is unnecessary. They argue that unaccompanied children get the support they need from local authority social work teams. SG has been involved in discussions with Glasgow City Council and UKBA about support for unaccompanied children seeking asylum in Scotland, including possibilities around the proposed specialist authority status. This has included discussions around funding. SG has taken steps to ensure equality of access to Further and Higher Education for asylum seeker children in Scotland. SG will: <ul style="list-style-type: none"> Explore the support that separated children in Glasgow should and currently do receive with a view to considering what additional support might be required and who (and how) might provide it. A seminar for key partners was held on 24 November to begin this process and will lead to a series of proposals aimed at addressing the issue. Continue to keep in touch with and contribute as necessary to discussions between Glasgow City Council and UKBA as to whether GCC will become a specialist authority. Raise with UKBA the issue of guidance on children remaining in the formal care system until they reach 18. Scottish Refugee Council Response: We strongly oppose the position taken by the UK Government that guardianship is unnecessary. We believe that this is an area where the UK Government is falling far short of its international obligations to refugee children. We welcome the fact that the Committee raised this particular issue in its concluding observations. We welcome initial discussions with the Scottish Government to implement a pilot guardianship project in Scotland.

			<p>CC97: The UK Govt should issue statutory guidance to the effect that all unaccompanied asylum seeking children should remain in the formal care system until 18.</p> <p>CC99: The UK Govt should develop a more flexible approach to allow unaccompanied young people to complete education and training courses, to avoid discriminatory treatment and to allow them to fulfil their potential.</p>	<p>Scottish Refugee Council believes that, if Glasgow City Council become a 'specialist authority' for the dispersal of unaccompanied asylum-seeking children, the necessary resources must be in place prior to any dispersal of children to the city. It is imperative that Glasgow City Council is fully equipped in terms of staffing and appropriate accommodation, particularly for young females. The Scottish Government should ensure that the need for resources, wider than those which would be provided by the local authority, such as quality and expert legal representation, are raised in discussions with UKBA.</p>
110	<p>Refugee children [A22]</p> <p>Legal representation</p>		<p>The UK Govt must enter into joint discussions at the earliest opportunity with SG, the Law Society of Scotland, CoSLA, Strategic Migration Partnership and the Scottish Legal Aid Board to ensure the availability of, and adequate funding for, appropriately trained legal practitioners, before selecting any specialist authority. SG must ensure that any authority selected in Scotland as a "dispersal area" is able to meet the demands for good quality children's immigration advice.</p> <p><u>General concern</u> Concern that some individuals, families and children are not able to access legal advice either in time for their substantive asylum interview or in general.</p>	<p>The Scottish Government shares the concern that all asylum seekers in Scotland, including unaccompanied children, should have access to quality and timely legal advice. Officials are aware of concerns that the quality and availability of legal services for asylum seekers is not always of a sufficiently high standard.</p> <p><u>SG will:</u> Continue to work with the Immigration Advisory Service (IAS) and the Scottish Legal Aid Board (SLAB) to identify where problems exist and to seek ways to address them.</p> <p><u>Scottish Refugee Council Response :</u> Scottish Government currently funds the Legal Services Agency to deliver a specialist women and children's project. This is the only specialist dedicated service in Scotland.</p> <p>UKBA and the Legal Services Commission have recently concluded a pilot project to provide increased legal representation to asylum seekers prior to the substantive assessment of their asylum claim (the Solihull pilot). The pilot has reportedly yielded significant benefits. We would ask the Scottish Government to support the roll-out of the pilot project and, as the provision of legal aid is a devolved matter, enter into discussions with the UK Government to ensure that early legal representation for claimants can be achieved in Scotland.</p> <p>Scottish Refugee Council is considering an empirical study of the quantity and quality of legal representation available to separated children in Scotland. We would hope that the Scottish Government carefully consider the findings of the study and implement any appropriate actions.</p>
111	<p>Refugee children [A22]</p>	<p>71. The Committee recommends that the State party:</p> <p>d) provide disaggregated statistical data in its next report on the number of children seeking asylum, including those whose age is disputed;</p>		<p>This is largely a matter for the UK Government which has responsibility for asylum statistics.</p> <p><u>SG will:</u></p> <ul style="list-style-type: none"> • As part of its regular discussions with UKBA seek data on the number of asylum seeking families and children in Scotland. • Discuss with Glasgow City Council what data/information it holds about the number of cases where there is an age dispute. <p>Scottish Refugee Council response: Scottish Refugee Council believes that the most appropriate vehicle to gather data on the number of unaccompanied asylum-seeking children in Scotland is the National Register of Unaccompanied Asylum-Seeking Children. This is underused by local authorities in Scotland. NRUC should be known to all Local Authorities, ensuring that key people in each Local Authority are</p>

				<p>identified and are directly responsible for the accurate updating and monitoring of the register. This would allow for more robust data to be made available and assist with targeting resources both from the UK and Scottish Governments, better towards these children in Scotland.</p> <p>Scottish Refugee Council has long called on the Home Office to produce asylum statistics by cohort. This would allow for better planning but also better monitoring of the processes that young refugees and their families encounter.</p>
112	Refugee children [A22]	<p>71. The Committee recommends that the State party:</p> <p>e) give the benefit of the doubt in age-disputed cases of unaccompanied minors seeking asylum, and seek experts guidance on how to determine age;</p>	<p>CC93: The UK Govt should undertake a thorough review of the current arrangements for determining age with a view to ensuring that unaccompanied children seeking asylum are treated as such and afforded their rights as children.</p>	<p>The Scottish Government supports the Committee's recommendation that children should be given the benefit of any doubt in age-disputed cases.</p> <p>We welcome the work that the UKBA has done recently in looking at effective methods of age assessment. This consideration was informed by experts from across the UK including Scotland. We look forward to seeing the outcome of this work</p> <p>SG will:</p> <ul style="list-style-type: none"> Engage with UKBA counterparts to determine what proposals they will be bringing forward to deal with age-disputed cases. <p>Scottish Refugee Council Response: We ask that the Scottish Government press UKBA to conclude this work and to make public the concluding remarks and recommendations. We would want the implementation of new age dispute assessment procedures to be transparent and open to consultation.</p>
113	Refugee children [A22]	<p>71. The Committee recommends that the State party:</p> <p>f) ensure that when return of children occurs, this happens with adequate safeguards, including an independent assessment of the conditions upon return, including family environment;</p>	<p>CC94: The UK Govt should ensure that children whose claims fail are only ever removed if it is in their best interests as ascertained by a UK appointed legal guardian.</p>	<p>The Scottish Government does not support the enforced removal of unaccompanied children.</p> <p>If a child is willing to return voluntarily then UKBA and local service providers should ensure that arrangements for return and for reception on arrival are in the best interests of the child and that the child is informed of all that is happening and that the child's best interest remain the primary consideration throughout</p> <p>SG will:</p> <ul style="list-style-type: none"> Continue to make clear its position on this matter to UKBA. <p>Scottish Refugee Council response: We welcome the Scottish Government's position. We believe that this is one area where the UK Government must look at the practical impact of removing the reservation. The effect of its policies and practices here are not limited to children seeking asylum. We hold the UK is failing to respect its obligations under Article 3 of the UNCRC, that the interests of the child be a primary consideration. Whilst the question of whether a child should be given international protection from persecution or breach of human rights on return is a matter for the UK Border Agency. The question of whether forced return will put the child at risk of harm or not be in the child's best interests engages the wider child protection framework, laws and guidance. No matter what process and procedures UKBA puts in place, it cannot displace that wider framework of obligations.</p>
114	Refugee	71. The Committee recommends that	-	The Scottish Government shares the concerns of the UN Committee that children who arrive in the UK

	children [A22] Asylum seeker and refugee children	the State party: g) consider amending section 2 of the 2004 Asylum and Immigration (Treatment of Claimants etc.) Act to allow for an absolute defence for unaccompanied children who enter the UK without valid immigration documents.		should not be penalised on account of illegal entry or presence where they travel from a territory where they fear persecution. SG has noted the proposed provision for penalising illegal entry in the current draft (partial) Immigration and Citizenship Bill which will include those seeking, or assisting those seeking, international protection. SG will: <ul style="list-style-type: none"> Pursue this matter with UKBA as part of discussions on the forthcoming Bill.
115	Refugee children [A22]		UK Govt must ensure that consideration is given to devolved arrangements in Scotland such as the Children (Scotland) Act 1995, when implementing policy that affects asylum- seeking children in Scotland. SG should in discussion with the UK Govt, clarify the role and responsibility of LAs in Scotland for supporting destitute asylum-seeking families to ensure that children are not made destitute, or forced to rely on charitable support.	The Scottish Government has responsibility for devolved service delivery for asylum seekers, including health, education, social work and housing. SG is committed to doing what it can to ensure that families and children seeking asylum in Scotland do not become destitute. SG will: <ul style="list-style-type: none"> Work to ensure that children's rights and the 1995 Children Act remain at the forefront of consideration of devolved matters relating to asylum seeker children. Take forward discussions with UKBA and local stakeholders on the roles and responsibilities of LAs and others to ensure that children do not become destitute.
116	Refugee children [A22]		UK Govt must in any review of legacy cases the presumption that families with children who have integrated well into communities will be granted leave to stay in the UK should be applied, and the onus shifted onto UKBA to show that there are compelling reasons why these families should be deported.	The First Minister wrote to the Home Secretary in August 2007 making clear the Scottish Government's expectation that all asylum seeking families who had been in Scotland for 18 months or more should be given leave to remain through the legacy review – as long as they had not been involved in criminality or fraud. The initial phase of the UKBA legacy review dealing with families that arrived in the UK prior to July 2004 concluded in March 2008. Around 1000 families in Glasgow were given leave to remain. Since the start of the second phase in March, a further [200] legacy families have been granted leave. Over the same period, around [200] families have been refused leave, primarily because of concerns around criminality or fraud. Glasgow City Council now has a Lead Professional Team which gathers information on these families to help with UKBA decisions on whether, how and when these families might be removed, if they do not leave voluntarily. It is hoped that many of these families will go through the forthcoming alternative to detention pilot. SG will: <ul style="list-style-type: none"> Continue to provide financial support for the Lead Professional Team Continue to work with UKBA and other local stakeholders to develop the alternative to detention pilot. Engage with UKBA as they continue/conclude the legacy process. <p>Scottish Refugee Council response: The Lead Professional Team has been a very welcome development. Learning and outcomes from the work should be made available and disseminated to stakeholders.</p>

117	Refugee children [A22]		SG should seek amendment of the Scotland Act 1998 particularly with reference, but not exclusive, to asylum.	<p>The Scottish Government's National Conversation is exploring Scotland's constitutional future. This includes consideration of Scotland having more control over matters that are currently reserved such as immigration and asylum.</p> <p>SG will:</p> <ul style="list-style-type: none"> Consider asylum issues as part of the National Conversation. <p>Scottish Refugee Council response: We have set out below the key principles and actions that should be implemented by any Government which has competence for asylum in Scotland. We are happy to continue to dialogue with the Scottish Government on how the changes recommended can be achieved.</p> <p>The asylum system</p> <ul style="list-style-type: none"> Every asylum seeker must be given a fair hearing on their claim for protection; Invest in better decisions early in the asylum procedure; Monitor decision-makers to ensure refugees receive protection; and Share the best practice with other EU member states, not the worst. <p>Access to protection</p> <ul style="list-style-type: none"> Adapt border management to ensure access to for refugees; and Create legal channels to enable refugees can travel to Scotland. <p>Integration</p> <ul style="list-style-type: none"> Welcome refugees; Celebrate cultural diversity; Afford refugees similar rights to nationals; and Enable refugees to improve or adapt their skills from day one. <p>Sharing responsibility</p> <ul style="list-style-type: none"> Take the lead in promoting international solidarity and co-operation; Take a fairer share of the global responsibility for protecting refugees; and Better share responsibility between EU member states. <p>Increase protection in regions of origin</p> <ul style="list-style-type: none"> Improve refugee protection standards in Europe as well as in other regions; Put human rights standards at the forefront of improving protection; and Strengthen refugee protection in regions of origin; <p>Resettlement</p> <ul style="list-style-type: none"> Offer a long-term future to refugees through resettlement; Establish a Europe-wide resettlement programme led by the European Union; and
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				<ul style="list-style-type: none"> Develop resettlement as a complement rather than a substitute for an asylum system. <p>Return</p> <ul style="list-style-type: none"> Ensure any return is safe, dignified and sustainable; Prioritise voluntary return over mandatory or forced return; Only return people not in need of protection after a fair and thorough examination of their asylum claim and taking all humanitarian circumstances into consideration; Grant a legal status and rights to asylum seekers whose claims have been rejected but who cannot return; and Monitor returns systematically.
118	Refugee children [A22]		<p>CC95: The UK Govt should carry out an independent review of the children's segment of the new asylum process and no further changes to the leave policy should be implemented until this review has taken place.</p>	<p>The Scottish Government has sought reassurance from UKBA about the effectiveness of the operation of the New Asylum Model in Scotland (including in respect of children) and about plans for evaluating its effectiveness. There is a concern to avoid the creation of a further "legacy" group through the failure of the new process to deal with asylum applications quickly and effectively.</p> <p>SG will:</p> <ul style="list-style-type: none"> Continue these discussions and any particular issues of concerns will be raised with UK Ministers. <p>Scottish Refugee Council Response: Scottish Refugee Council believes that the current speed of the New Asylum Model militates against the full and comprehensive evaluation of a unaccompanied asylum-seeking child's protection claim. We believe that there should be a greater time period from when a child claims asylum and to when they are interviewed on that claim. Each child should be afforded and allocated an independent advocate to introduce them to the relevant professionals and guide them through the complex asylum system.</p> <p>We also wish to see priority given to the speedy resolution of the cases of unaccompanied asylum-seeking children who fall within UKBA's case resolution review.</p>
119	Refugee children [A22] Access to basic services and benefits entitlements		<p>The UK Govt must revoke S9 of the Nationality, Immigration & Asylum Act (Treatment of Claimants, etc.) 2004 so that families continue to be supported while they remain in the UK.</p> <p>CC98: The UK Govt should provide adequate levels of funding to enable LAs to meet their legal obligations to asylum seeking children.</p> <p>CC100: The UK Govt should repeal section 9 of the Asylum and Immigration (Treatment of Claimants etc).</p> <p><u>General concern</u> That S9 could be used to make destitute failed asylum seeker families who don't leave voluntarily.</p>	<p>The Scottish Government does not support the use of s9 of the 2004 Act. Nor does it believe that the use of destitution is an effective tool in encouraging failed asylum seekers to leave the UK.</p> <p>Home Office Ministers have however indicated their intention to keep S9 on the statute book – in case it is required in certain situations.</p> <p>SG will:</p> <ul style="list-style-type: none"> Continue to push the UK Govt for the repeal of S9. Take forward discussions with UKBA and local stakeholders on the roles and responsibilities of LAs and others to ensure that children do not become destitute. <p>Scottish Refugee Council response: The UK Border Agency will shortly consult on reforms to the asylum support regime. This will provide an opportunity to raise this concern.</p>

120	Refugee children [A22]		<p>SG should ensure recommendations of the HMIE report are implemented</p> <p><u>General concern</u> HMIE report highlighted a number of shortfalls in the provision of services for asylum children in Glasgow.</p>	<p>Glasgow City Council has (with its partners) put together an action plan in response to the 2006 HMIE report. Most recently, GCC held a seminar on 20 November to consider the training needs of staff and voluntary organisations who are involved in working with, and providing services to, asylum seeking children - including issues of interagency communication, clarity of roles and responsibilities – to help inform implementation of their action plan.</p> <p>SG will:</p> <ul style="list-style-type: none"> • Work with HMIE to consider the timing and focus of a follow-up inspection. • Support GCC where possible to implement action plan. <p>Scottish Refugee Council response: Reforms to the framework of scrutiny bodies in Scotland are currently taking place. The Scottish Government should ensure that the new scrutiny bodies are aware of their responsibilities towards scrutinising public bodies delivering services to refugee children in Scotland.</p>
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CHILD TRAFFICKING AND CHILD EXPLOITATION

121	Sexual exploitation and sexual abuse [A34]	74. The Committee recommends that the State party intensify its efforts to collect data on the extent of sexual exploitation and abuse of children, essential to prepare adequate responses and combat these phenomena, including in the Overseas Territories.	<p><u>General concern</u> Levels of child prostitution in Scotland and what is being done to tackle it.</p>	<p>The Scottish Government is clear that the lack of firm evidence of child prostitution in Scotland does not mean that there is no need for action. Arrangements are therefore in place to ensure that young people at risk of sexual exploitation are immediately and appropriately protected. Criminal penalties are set out in law which penalise paying for the sexual services of a child and causing, inciting or controlling the provision of sexual services by a child. The Children (Scotland) Act 1995 provides the basis for ensuring that proper care can be provided for any potential victims of such offences.</p> <p>The only data held by criminal justice stats relates to convictions for offences and does not detail the number of children the offence was committed against.</p> <ul style="list-style-type: none"> • Procurement of sexual services from children under 18; • Procurement of child under 18 for pornography; • Sexual intercourse with girl under 13; • Sexual intercourse with child under 16 <p>The 2002 Concluding Observations recommended a study on the scope, causes and background of child prostitution and possible measures to address it. SG does not have any plans to commission such a study at present.</p> <p>SG will:</p> <ul style="list-style-type: none"> • Consider what further work can be done to improve our understanding of the extent of sexual exploitation and abuse of children. <p>Scottish Refugee Council Response: Scottish Refugee Council is very aware that there is a growing concern in Glasgow particularly that unaccompanied asylum-seeking children are entering Scotland having been the victims of trafficking and that they may well be in danger of being re trafficked or of the trafficker finding them. There are currently no resources in Scotland for the victims of trafficking aged</p>
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				under 18. We would ask that the Scottish Government consider establishing a safe place / trafficking centre in Scotland so that the victims are not moved away from Scotland when needing specialist work.
122	Sexual exploitation and sexual abuse [A34]	74. The State party should always consider, both in legislation and in practice, children victims of these criminal practices, including child prostitution, exclusively as victims in need of recovery and reintegration and not as offenders.	<u>General concern</u> That we do not criminalise children who are sexually exploited.	<p>The Scottish Government views child prostitution as a child protection issue and is clear that victims of child prostitution should not be criminalised. SG issued guidance on sexual exploitation through prostitution in 2003. This guidance makes clear that this form of exploitation is abuse.</p> <p>However, the system of independent public prosecution means that the question of whether there should be a prosecution in a particular case will be for prosecutors to determine, independently of the Government; the decision in each case will depend on its own facts and circumstances. When a case is reported, the Crown only prosecute where criminal proceedings were considered to be in the public interest. This means that police and prosecutors have discretion to take the decision which is most appropriate in the circumstances of the individual case. The police will also be directed by any guidelines which the Lord Advocate may issue on the circumstances in which a case should be reported to the Procurator Fiscal for consideration of criminal proceedings. The Lord Advocate's Guidance on the reporting to the Procurator Fiscal of offences committed by children makes clear that only the most serious offences committed by children should be reported to the Procurator Fiscal.</p> <p>This means that the vast majority of children who commit criminal offences are dealt with through Children's Hearing System, which prioritises the welfare of the child rather than the criminal courts. Only a small minority of the most serious offences committed by children are prosecuted in the criminal courts.</p> <p>The Children (Scotland) Act 1995 provides the basis for ensuring that proper care can be provided for any potential victims of child prostitution or other forms of sexual or other exploitation.</p> <p>SG will:</p> <ul style="list-style-type: none"> • Keep this under review.
123	Sexual exploitation and sexual abuse [A34]	74. The Committee also recommends that the State party ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.		<p>The ratification of this Convention is a matter for the UK Government. In May 2008 the UK signed the Convention and the UK is currently taking steps to assess its compliance with its obligations under this Convention.</p> <p>SG will:</p> <ul style="list-style-type: none"> • to ensure compliance with its obligations under the Convention, bring forward legislation to provide police with specific powers, in the proposed Criminal Justice and Licensing (Scotland) Bill, to close premises associated with human trafficking or sexual exploitation. The Sexual Offences (Scotland) Bill also contains provisions to remove the dual criminality requirements in relation to extraterritorial offences against children, as required by the Convention and goes further by extending the extra territorial effect to those inciting such offences.
124	Sale, trafficking and abduction [A35]	76. The Committee recommends that the State party provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan.	SG should develop appropriate mechanisms and ensure high quality training of professionals for the identification and support of child victims of trafficking The UK Govt must fully resource the UK	<p>The Scottish Government is co-signatory to the UK Action Plan on Human Trafficking. The Scottish Government issued child trafficking guidance for consultation earlier this year.</p> <p>SG is committed to working with key local partners, through the Action Plan and the guidance, to put in place effective measures to offer appropriate support to this vulnerable group The ongoing work on child trafficking is undertaken through a child protection context and aims to ensure that all victims of child</p>

			<p>anti-trafficking action plan and ensure that all child victims of trafficking are protected in line with international human rights standards.</p> <p><u>General concerns</u> About the level of child trafficking, that staff working with these children don't all have the skills/training required and that there is no effective methods of keeping a check on these children.</p>	<p>trafficking are responded to within the existing Scottish child protection system.</p> <p>In addition to the publication of formal national guidance in this area, there are plans to make available an online training resource which will support practitioners to make informed decisions when dealing with young people who have been the victims of trafficking. It is the intention that this resource will become available in the early part of 2009</p> <p>In addition to the formal national guidance, training requirements will be considered as part of plans for ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.</p> <p>Child Exploitation and Online Protection Agency produced a report on the trafficking of children into the UK in 2007 and will produce another report in January 2009. This is part of CEOP's remit to build a national picture of the scale and nature of child trafficking in the UK. Findings of these reports go to inform national and local policies on child protection, in terms of awareness raising and training. These include best practice guidance for police, specialist input in operations on human trafficking and the development of a victim identification tool to be piloted in various local authorities. The ongoing work on child trafficking is undertaken through a child protection context and aims to ensure that all victims of child trafficking are responded to within the existing Scottish child protection system</p> <p>SG will:</p> <ul style="list-style-type: none"> • Conclude analysis of the response to the consultation on child trafficking guidance for Scotland with a view to issuing formal guidance in the New Year. • Consider how we can better support trafficked children as part of work around improving support/services for separated children. • Work with key local partners, through the Action Plan and the guidance, to put in place effective measures to offer appropriate support to this vulnerable group.
125	Sale, trafficking and abduction [A35]	76. It also recommends that the State party ratify the Council of Europe Convention on Action against Trafficking in Human Beings and implement its obligations by ensuring that child protection standards for trafficked children meet international standards.		<p>The Scottish Government has made clear its strong support for the decision of the UK Government to ratify the CoE Convention. Ratification is expected to take place by the end of the year. We are also working with the UK Government to help support/ protect trafficked children and are committed to ensuring that robust measures are in place to combat child trafficking.</p> <p>SG will:</p> <ul style="list-style-type: none"> • Continue work in partnership with the UK Government to ensure that Scotland meets the standards laid down in the CoE Convention. <p>Scottish Refugee Council Response: Scottish Refugee Council would wish to see a thorough evaluation of the trafficking tool kit GCC is piloting and a statistical analysis of the number of newly arrived young people who were identified as trafficking victims since the pilot began. We are concerned that young people are arriving elsewhere in Scotland where there is little specialist knowledge and next to no specialist provision, particularly legal representation.</p>
No	UNCRC Article	Concluding Observations	SACR, Article 12 or SCCYP recommendations	SG response

59	Family Reunification (A10)		<p>General Concern Reserved – although we have an interest. Families granted leave through case resolution (and others) are looking to bring in additional family members .</p>	<p>There is no SG work currently underway on this issue, although officials have had initial discussions with the Scottish Refugee Council.</p> <p><u>SG will :</u> Work with SRC and others to assess key concerns and likely scale of the issue in order to develop policy position and to agree a way forward</p> <p>Scottish Refugee Council response: Scottish Refugee Council is happy to share detailed information on the difficulties that refugees face trying to be reunited with their families as well as the specific problems that many of those granted indefinite leave to remain under the case resolution review face due to the status they have been granted.</p>
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