



Consultation Response

National Guidance for Child Protection in Scotland Response from Scottish Refugee Council

About Scottish Refugee Council

Scottish Refugee Council is an independent charity dedicated to providing advice, information and assistance to asylum seekers and refugees in Scotland and to campaigning on their behalf.

Consultation Questions

Scope of response

Our response to the consultation is solely relating to the components of the National Guidance that focus on separated children (asylum seeking, refugee and trafficked children). Given our area of expertise we are limiting our responses to two of the three general questions.

General questions

1. What are your views on the usefulness and accessibility of the guidance for your sector? Are the suggested processes and terminology used relevant to your service/agency /profession? How could they be improved?

The updated guidance is especially welcome through its recognition of the relatively newly recognised, and arguably little understood, phenomena of children who are the victims of child trafficking in all its many forms; children facing genital mutilation or forced marriage; honour killing and children at risk of on line abuse and exploitation.

We would encourage the facilitation of specialist and targeted training to accompany the launch of the new guidance especially in areas that may be very new or relatively uncommon. We would suggest that training in child trafficking awareness and age dispute and assessment, as well as generic training on the situation and particular needs of newly arrived separated children, could be launched simultaneously with the guidance. Professionals reading and absorbing the new guidance may not have encountered separated children's cases or be aware of what to look for in terms of child trafficking.

Further appendices could be added to include the trafficking indicator matrix together with a summary of the Palermo Protocol 2000 to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and extracts of relevant Scots law relating to child trafficking.

We suggest that the term 'separated children' is the correct term to be used consistently in all guidance and related material as it includes all asylum seeking, refugee and trafficked children. However, it may be useful again in any accompanying glossary to more closely define the

different terms in order that they are correctly used in assessments and professionals' reports. 'Refugee child' and 'asylum seeking child' are terms that are commonly used incorrectly and interchangeably. However there is a huge difference in legal status between the two terms.

3. Are there any equality or diversity issues that should be more fully reflected in the guidance?

We feel that the guidance does not explore enough the issues that separated children and young people face, nor does it underline the fact that when these children present in Scotland they become the receiving Local Authorities' responsibility and must be treated as any other child who may present with child protection and or welfare concerns.

We would respectfully suggest that the guidance recognises the Scottish Refugee Council and Aberlour's Guardianship Pilot project which seeks to assist all newly arrived separated children across Scotland either within the guidance or in an appendix.

It is of paramount importance that the use of interpreters is raised as an issue. Children who require interpreters must feel comfortable with the interpreter, for example where possible a child should be asked if they would prefer an interpreter to be male or female. It is also necessary that the issue of age dispute and assessment is considered in the guidance. As well as practitioners being constantly mindful of trafficking indicators and mental health issues arising from the difficulties in being divorced from family, country of origin, facing culture and language barriers and a myriad of complex systems connected to the precariousness of their legal status.

Specifically, we suggest that the following points in the guidance be reviewed and equality and diversity issues more fully described and therefore reflected:

- At paragraphs 136 and 137 (page 36) under 'Additional Legislation' reference could also be made to section 22 of the Criminal Justice (Scotland) Act 2003, the Sexual Offences Act 2003 and the Protection of Children and Prevention of Sexual Offences (Scotland Act) 2005 all of which deal with aspects of child trafficking.

An omission from the guidance is the United Kingdom Border Agency's obligation under the Border, Citizenship and Immigration Act 2009 to promote and safeguard the welfare of children.

- At paragraph 290 (page 75) we suggest that separated children are again explicitly catered for as they have several transitional periods depending on their immigration status and these must be noted by practitioners in order not to endanger their legal status. It is imperative that the professionals understand the asylum process and that plans are made for both the child remaining and integrating in Scotland and for return if deemed appropriate.
- At paragraph 468 (page 118) we suggest that separated children's issues may warrant an additional paragraph in this section. Separated children are likely to have encountered abuse, exploitation and faced traumatic events before, en route and / or following arrival in Scotland and this can very often trigger mental health difficulties. These can be compounded by feelings of alienation, loneliness, disorientation and survival guilt and the fact that often separated young people have little or no concept of welfare, or concepts such as counselling. These issues can make it especially difficult to access services. At paragraph 473 (page 119) We suggest that the COMPASS Mental Health team, a mental

health team dedicated to asylum seekers and refugees also be included in the directory as well as Medical Foundation for the Victims of Torture who offer therapeutic individual and family counselling to those people that have survived torture.

- At paragraph 425 (page 107) it may be necessary to be explicit in relation to the victims of child trafficking where the police will treat the child not as a criminal even if the child states that they were complicit in their travel and exploitation but as a victim of trafficking and work with social workers and child protection leads. An addition to the diagram in the case of separated children is needed because these young people need to instruct a solicitor or legal advisor specialising in immigration law very quickly after arrival.
- In the section titled 'Children who are looked after away from Home' commencing paragraphs 563 (page 140) we would wish to see more on separated children and how they are looked after in terms of the Children Scotland Act 2005 and underlining that Local Authorities immediately become the corporate parent. We suggest that paragraphs on age dispute and age assessment could be incorporated at this juncture.
- Scottish Refugee Council would be happy to be listed in the directory on page 153. There is a dedicated help line available in office hours and further information about our services and work with separated children on our website. This also includes a useful welcome guide that can be downloaded for separated young people in six languages including English. This was developed with the support of the Scottish Government.

For further information, contact:

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