



Consultation Paper – ‘Planning Better Outcomes and Support for Unaccompanied Asylum Seeking Children’ – Response from the National Youth Advocacy Service.

1. Introduction.

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

NYAS is a unique ‘not for profit’ young person’s charity which supplies socio-legal advice, information, signposting and advocacy services to children and young people, and their appropriately concerned adults. NYAS also provides independent visitors to young people across the United Kingdom. NYAS aims to ensure that the voice of children and young people can be heard in all matters affecting them. NYAS has been awarded the Community Legal Service Quality Mark. NYAS offers a complete range of social and legal advice and representation to young people. NYAS is also working closely with CAFCASS and has formalised a partnership protocol for joint working with them in the separate representation of children under the Family Proceedings Rule 9.5. We provide support to unaccompanied children through our advocacy services. We have recently received a grant from the Home Office to offer support to this vulnerable group, from our office in Nottingham.

Through our direct work we have had contact with many unaccompanied children and we are resolute in our belief that not all refugee children are ‘victims’. Many are resourceful young people with a real sense of purpose and a desire to rebuild their lives. Many set themselves high standards in their education and want to play an active part and contribute positively to the communities within which they have made their homes. We wish to affirm our belief that it is wrong to label unaccompanied children as a burden on our society and feel that more should be done to maximise the potential that these children offer to us.

2. Comments.

2.1 Chapter One - Scope of the Paper.

Whilst the consultation paper is right to note that the majority of unaccompanied refugee children enter the public care system at an older age than their citizen peers it is important to note that the population of unaccompanied children is not solely made up of older teenagers. We are concerned that the needs of younger children are not properly addressed within the paper. In particular we believe that the only appropriate placement for children under 16 is within a substitute family and that every effort must be made to make these placements with a family that shares the child's culture. We have a real sense of unease surrounding the potential transfer of young children between a 'point of arrival authority' and 'designated specialist authority' as we doubt the short term ability of the latter to recruit, train and support the necessary number of foster carers to meet demand. We believe that the timescale for any planned transfer of younger children needs to reflect this current gap in provision. We also believe that younger children will need a higher level of support to help them understand the transfer process and would call on government to consider very carefully the appropriateness of including children who are under 16 at the time of their arrival in these new transfer proposals.

We would, in general, agree with the statement within the paper that the reason why many unaccompanied children need the care and support of a local authority is that, by definition, they are separated from their parents. However it is vital to recognise that the experiences of some of these children will be very different to that of those who have not experienced exile. Some will have suffered or witnessed atrocities and violence that have left them deeply traumatised and we feel that the consultation paper fails to address how to respond to these particular children. Whilst we are confident that the social work profession holds the skills necessary to respond to the needs of all children we do feel that they are likely to need short term support in adapting to these new challenges. It is unclear how, in preparing local authority staff in the envisaged specialist authorities, these issues will be addressed. Young men who have served as child soldiers and young women who have been repeatedly gang raped in refugee camps present child protection issues that are very different to mainstream child protection work. Further we would like to see the Home Office review the rather restrictive definition of an unaccompanied child that it continues to use. The current definition refers to adults holding a responsibility, within a cultural context, to care for a child. Our concern is that it is the application of this responsibility that is crucial and where this responsibility is not undertaken appropriately the child is in practice unaccompanied. NYAS hear many anecdotal instances where children are treated by the Home Office as dependents of an adult but where they are essentially unaccompanied.

2.2 Chapter Two – Why Improvements need to be made.

It is a real strength of current provision that services to unaccompanied children are delivered within the same legislative framework as services to indigenous children. We feel that Government should be proud of this and applaud them for taking this stance. We can see the case for change, and accept that there are issues about current

geographical distribution as well as inconsistencies in the level and quality of care available. However in light of our strength of feeling concerning the use of mainstream legislation to support this group we would argue for a cautious approach to change. NYAS supports the idea that unaccompanied children need specialist support but we seek reassurance from government that a precedent will not be established leading to a two tier system where unaccompanied children are disadvantaged in the services they receive.

Question 1 (page 10)

NYAS would expect that the placing of unaccompanied children in a limited number of authorities would enable the development of expertise within staff groups. This would relate to;

- *knowledge regarding legislation, procedures, and the wider global context of migration*
- *skills in relation to consulting with children, supporting and planning for children from a range of cultures and backgrounds and skills in working with traumatised children*
- *the development of local networks with other relevant stakeholders*

We also see opportunities for greater consistency and would expect that the numbers of unaccompanied children placed in each authority would facilitate the development of well resourced but cost effective services.

Question 2 (Page 10)

NYAS believe that the asylum determination procedure remains difficult for children to understand and we further believe that they struggle to navigate through it. We feel that steps should be taken to produce simple, multi lingual child friendly information leaflets explaining the process. We also feel that children in general are rarely consulted about the plans that are made on their behalf and this is particularly so for unaccompanied children. If government succeeds in identifying specialist authorities we believe that a key factor in effective transfer will be the development of partnerships between the local authorities where children first present and the receiving specialist authority. As a national provider of advocacy support to children and young people we firmly believe that the provision of effective, specialist advocacy is an essential requirement of any civil or administrative procedure involving unaccompanied children.

2.3 Chapter Three – The Journey through the Asylum and Support System.

There is a vast amount of anecdotal references to adults claiming to be children at the point that they make an application for asylum. We feel that insufficient attention has been given to the instances of children claiming to be adults, and the ensuing child protection issues that this is likely to trigger, and respectfully suggest that a climate of disbelief has arisen around the stated age of many asylum applicants who claim to be older children. Nevertheless we accept that the issue of age determination remains unsatisfactory. We welcome the government's view that a holistic approach, presumably made over time with input from a multi-disciplinary range of professionals, is their preferred option. We are concerned that medical opinion will be given more weight than other factors when making a balanced decision concerning age assessment. We say this in light of medical practitioners being consistently robust in their view that medical science can only give an estimated age with a variance of

plus or minus 2 years. We question how this can assist in making any decision regarding the reaching of adulthood.

NYAS would ask government to consider the establishment of designated accommodation for young people where there is a disagreement about their stated age. We believe that such accommodation would minimise, though not entirely remove, many of the child protection concerns that are currently voiced surrounding the placing of adults with children. Although there are a few anecdotal tales of adults in their mid twenties and older claiming to be children the reality is that most disputes are not so clear cut and we believe that the variance in the vast majority of cases is between the ages of 16 and 22. Therefore if young people whose age was disputed were placed together pending an assessment of their age the risk of placing mature adults with younger adolescents recedes greatly. The accommodation that we are proposing would not require full time staffing and would be similar to the semi-independent models of provision that many local authorities are familiar with.

Question 3 (Page 13)

We believe that age assessment, if required, should be part of the initial assessment process though we argue that this should not be rushed (see below). It thus follows that if an age dispute occurs this should be addressed by the local authority where the young person first presents for assessment and/or support. We believe that this would encourage more relevant assessments, would minimise accommodation moves where the applicant is deemed to be an adult and would also free the assessing authority from allegations that age assessment outcomes are influenced by the availability of resources.

We do not support the use of X-ray examinations as a tool for assessing age. Not only do they not provide the required degree of accuracy but there is clear undisputed evidence that exposure to x-rays is potentially damaging to health. It seems unethical to us to use this method for an administrative rather than diagnostic procedure.

Question 4 (Page 13)

For the reasons outlined above we believe it is reasonable for an applicant to refuse a dental x-ray examination on the grounds that it is likely to be harmful to their health.

In principle NYAS accepts the merits of meeting the needs of unaccompanied children by placement in specialist authorities. We are pleased that the government recognises that transfer may not be appropriate in all cases and we firmly believe that in the many cases where transfer is the best route forward the preparation afforded to young people will be critical. However this needs to be balanced with minimising unnecessary delay as transfer will need to take place before the unaccompanied child has 'put down roots'. To this end we favour the government's open approach to advising young people at the outset that in order to meet their long term care and support needs most effectively they are likely to be transferred to another part of the country which should be achieved within prescribed time scales.

Question 5 (page 15)

The question posed in the consultation regarding assessment and who conducts this is of key importance, and we recognise that this is not a straightforward issue. In order to balance our concerns relating to preparation whilst minimising delay we would

propose that the initial assessment is undertaken by the authority where the child first arrives. We do not see how a specialist placement can necessarily be known to be appropriate without this assessment of need and an initial plan drafted to address this. However we can not over emphasise our belief in the importance of preparation for transfer and in order for this to be done properly we would propose an initial assessment and planning period of between 3-4 weeks. The consultation paper refers to the pilot transfer project involving Kent County Council and local authorities in the North West. We understand that our proposed initial assessment timescale is not inconsistent with the timescale of the pilot project and we further understand that the young men who were part of the transfer project felt this timescale to be appropriate. Following transfer the receiving specialist authority could then undertake a more comprehensive assessment and follow the established procedures for monitoring, reviewing and amending the care plan.

Question 6 (Page 15)

In deciding whether or not a child who has been fostered, regardless of whether they are an asylum seeker or otherwise, should move to another form of placement careful consideration should be given to the current needs of the child and decisions made based on their best interests. The initial decision to place the child in foster care should have been based on an assessment of need and the question that needs to be asked is 'what has changed'. We would not support a blanket policy to end foster placements at 16 years of age solely because the child in question was an unaccompanied asylum seeking child. This should only be done using the same criteria that is applied to all looked after children, following both assessment and, consistent with best practice in this area, consultation with the young person for whom the plans are being made Again we would call for the involvement of an independent advocate as a necessary safeguard in these instances. In some instances assessment may indicate that a change of placement is appropriate and again we would emphasise the importance of preparation. We believe that in the majority of cases a move to semi-independent provision is a natural pre-requisite of full independence.

Question 8 (page 16)

NYAS believes strongly that unaccompanied children need clear, understandable guidance about the asylum determination procedure and we further believe that this should be given to young people at the start of the process. This guidance should spell out in the young person's first language, among other aspects of the procedure, the outcomes available to decision makers, thus alerting unaccompanied children that they may not gain a permanent status with in the UK. We understand that the ADSS has issued guidelines to social work staff concerning the many issues that arise as and when unaccompanied children reach their 18th birthday. We feel that this guidance is relevant in many cases where an unaccompanied child's asylum claim fails and we would like to see greater dissemination and promotion of this guidance.

The consultation paper acknowledges that the decision making process regarding asylum applications lodged by unaccompanied children needs to be improved and that recognition rates for this group are low. Given the universal acceptance of the vulnerability of children it seems perverse that statistically an adult has a (far) greater chance of being recognised as being in need of international protection than a child. We feel that in general the references to children in the Home Office Country Reports, which are widely consulted by decision makers, need to be developed and

although we recognise that the Home Office has made some improvements in this area we feel that the information within the reports relating to the circumstances of children remains scant. However even where information on the situation of children is available within these reports we are not clear how this is used to inform decisions and at times are surprised that unaccompanied children are refused asylum whilst the Home Office's own report portrays a very dismal and sometimes dangerous situation for children within their country of origin.

We feel that the consultation paper puts too much weight on the need to return unaccompanied children whose asylum applications have failed rather than seeking to strengthen the decision making process. We would want safeguards to be in place when children are interviewed and trust that the current requirement that an independent person is present throughout such interviews will remain in force. We seek clarification of the role of the independent adult and again would call for the role to have an advocacy aspect to it. Of course we welcome the commitment to provide specialist training to all staff who will be involved in interviewing unaccompanied children. We would be interested in the detail of the proposed training and would further remind policy makers that training and keeping staff up to date with new developments and initiatives is an on-going process that requires identified and sustainable resources.

Questions 9 and 10 (Page 17)

We believe that it is generally fair to state that what all migrants, whether adults or children, whether seeking safety from persecution or fleeing hardship and poverty, have in common is that they left their homeland looking for 'something better'. We thus believe that the key to any voluntary return package is that the young person has something that they can take home with them that will lead to improved opportunities for them upon return. Consideration should be given to the provision of skills training to unaccompanied children whose asylum applications have failed. We appreciate this would require resources, the provision of which is likely to be politically sensitive, and an initial mapping of demand would be necessary. Our experience is that many young people would value an opportunity to develop some basic vocational skills, e.g. motor mechanics, joinery, computer skills etc. Young people could then return home with genuine enhanced opportunities for their future and without carrying with them a sense of failure.

Question 11 (Page 17)

As noted above NYAS feel that Government has yet to get the balance right when it focuses on return rather than recognising and addressing the particular needs of unaccompanied children within the asylum determination procedure. We recognise the on-going commitment to ensuring that adequate reception arrangements are an essential requirement when considering the return of unaccompanied children. However we are very uneasy with the use of institutionalised care provision for unaccompanied children upon their return home. We fail to see how this can address the inevitable disappointment of forced return or meet the needs of children who may have been traumatised either before or during their exile.

Questions 12 and 13 (page 17)

NYAS believes that the young person's social worker or personal adviser is likely to be best placed to support a young person in developing a plan of return. We say this

because we assume that the social worker will already have built a positive relationship with the young person and will have gained, or at least begun to have gained, their trust. We suggest that this may best be done in partnership with a specialist voluntary sector organisation, e.g. The Refugee Council or Refugee Action but we would fall short of supporting a full procurement of services as we believe the social worker needs to be closely involved throughout in order to constantly reassess the suitability of voluntary return. Again we would wish to emphasise the importance of independent advocacy within this procedure.

Question 14

We suspect that the main challenge here will be length of leave to remain, granted in each case. Where the period of leave is short, for example due to the imminent approach of the applicants 18th birthday, there will be little time to formulate and implement the voluntary return package. NYAS believes that a cornerstone of voluntary, as opposed to coerced return, is the involvement of an independent advocate to support the young person through both decision making and the implementation procedure.

2.4 Chapter Four – The Specialist Authority.

NYAS recognises the need to develop the specialist authority model. We welcome the proposal to remove the per capita rate funding currently used to reimburse local authority costs to unaccompanied children. We feel that linking funding to the actual costs of service provision is more equitable. Whereas the per capita model may have acted as a disincentive to local authorities considering whether to undertake the role of the specialist authority we believe the proposed model should enable local authorities to feel confident that their costs of supporting this group will be met.

Questions 15 (Page 20) and 16 (Page 21)

The figure of around 100 children being provided with care by each specialist authority feels about right. This should justify and enable the establishment of cost effective specialist services and likewise enable professionals whose services will be required by this group to develop the necessary expertise required for effective work. We do wonder whether the target of 50-60 specialist authorities, particularly given the required, and we feel, appropriate criteria, is viable. Given that only 4 of the 6 NAM offices will be placed outside London we doubt the ability of all but a relatively small number of specialist authorities to meet the ‘proximity to local immigration offices’ criteria. We wonder how government proposes to address this but feel strongly that expecting young people to travel significant distances is not the answer.

3. Conclusion.

NYAS recognises that change in the way we support unaccompanied asylum seeking children is needed. We sense that this programme of reform is heavily influenced by the Government’s current agenda to reduce migration rather than a drive to secure better outcomes for children. However we realise that it is not always in a child’s best interests to remain in the UK and that the current delay in delivering a durable solution to some children in this group is detrimental to their welfare. We acknowledge that age assessment remains a difficult and unsatisfactory issue at present and agree that the current geographical imbalance in the location of

unaccompanied children is likely to hamper rather than enhance the development and delivery of quality services.

We support the move towards specialist authorities but believe that a proper initial assessment and adequate preparation of young people prior to transfer is absolutely essential if this is to be effective. As a national provider of advocacy to children and young people we cannot over emphasise our belief that unaccompanied children need strong independent advocacy throughout all the stages of their journey through the asylum process.

Once again we are grateful for the opportunity to comment on these new and far reaching proposals.