

Care of unaccompanied migrant children and child victims of modern slavery Statutory Guidance

ADCS and LGA Comments

Background

ADCS is a membership organisation. Our members hold leadership roles in children's services departments in local authorities in England. They specialise in developing, commissioning and leading the delivery of services to children, young people and their families, including education, health, youth, early years and social care services. Working in partnership with other agencies our members work to achieve tailored and joined-up services for children, whatever their identified needs.

The **LGA** is a politically-led, cross-party organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

We welcome the opportunity to comment on the current and previous version of the revised statutory guidance. In particular, we welcome the recognition in this version of the Guidance that this is a complex area of practice as exemplified by the many different pieces of legislation, guidance and resources, both in relation to immigration and in support for children.

The consultation and collaboration reflects the positive working relationships between the Department and the sector around support for unaccompanied migrant children. We welcome the recognition of the need to update the guidance given the recent and rapid changes in support for these children. We look forward to working with government and local authorities on related legislation and initiatives that will continue to inform the support of unaccompanied migrant children and child victims of modern slavery.

We believe that the current draft broadly provides sufficient advice to local authorities in England looking after unaccompanied migrant children and child victims of modern slavery subject to the comments below.

Consultation response

6. Is there anything in the revised guidance which should be amended?

- **Page 6, paragraph 8:** under the definition of 'Asylum seeking child,' the Guidance indicates that further guidance on the Dublin III family reunion process is available via the Department for Education (2010) *Family and Friends Care: Statutory guidance for local authorities*. An additional point or footnote should be inserted to say that this is subject to a forthcoming review. This is also referred to in paragraph 49 on page 17 and again, there should be a reference clarifying this will be updated shortly to 'future proof' the Guidance.
- **Page 10:** we welcome the helpful amendments to the drafts of the section and suggest that given the focus on awareness as opposed to a focus on training, the section header should be amended accordingly to be called something such as 'Maintaining or Ensuring Awareness' rather than 'Training and Awareness' for even further clarity around local responsibilities.

- **Paragraph 30, page 12:** the reference to any child who has been groomed and coerced into sexual exploitation should also refer to all forms of exploitation such as criminal activity, forced working, begging etc:

“In addition, whether a child is a potential victim of modern slavery, or not, any child who has been groomed and coerced into sexual *or any form of* exploitation...”

- **Page 13, paragraph 32** - the ADCS age assessment guidance should be referred to as 'practice guidance' rather than 'advice and guidance':

“Further ~~advice and~~ *practice* guidance can be found in the Age Assessment Guidance, published by the Association of Directors of Children's Services in October 2015”.

- **Page 15, paragraph 42** - this outlines that, “care should be taken and appropriate checks made to ensure that the interpreter is not linked in any way with those who may have been involved in the child's trafficking or exploitation.” Providing further examples of expectations around what these 'appropriate checks' should involve could avoid potentially significant levels of activity locally.
- **Page 15, paragraph 39:** the point that, “an assessment with reference, where relevant, to the child's needs as an unaccompanied child victim of modern slavery” should be amended to be, “as an unaccompanied child or an unaccompanied child victim of modern slavery”. Either cohort will require an assessment and not just those who have been trafficked or a victim of modern slavery.
- **Page 17, footnote 35:** states that the British Red Cross “does not undertake family tracing on the request of a third party, including the Home Office, local authority children's services or legal representatives”. It should be made explicit in the main text that child will need to be advised that s/he needs to undertake this:

Children should also be informed ~~of the family tracing services available~~ *that they can trace their family* through the British Red Cross.

- **Page 17, paragraph 48:** A reference to the support offered by Children and Families Across Borders may be useful here with a footnote: <http://cfab.org.uk/services>, which does take referrals from local authorities:

If such contact is being considered, social workers must first discuss the situation with the child's legal representative. *Children and Families Across Borders also can advise on international family reunion <insert footnote>*.

- **Page 19, paragraph 58:** “Involving the child in this way can help them regain a sense of control over their life. It can also help to build the relationships that can form a protective factor, reducing the risk of the child going missing” should be extended to be recognise the complexity of the issue to, “build the relationships, assist in understanding the child's experience, and enhance risk assessments. All of which can provide protective factors that may contribute to reducing the risk of children going missing.”
- **Page 20, paragraph 60:** this states that, “specialist accommodation should be considered, for example, in settings that specialise in dealing with child victims of modern slavery”. Examples

would be useful here as we are not clear what currently exists that has sufficient capacity for local authorities to access.

- **Page 21, paragraph 64:** this refers to the additional advocacy support in the form of Independent Child Trafficking Advocates (ICTAs) is available in Greater Manchester, Hampshire and the Isle of Wight and across Wales. Given these pilots are ongoing and the still results to be explored post an extension to the pilots, this time-specific reference does not seem to be an appropriate inclusion for in statutory guidance. We suggest this paragraph is removed entirely or at the very least the resources referred mentioned via a footnote.
- **Page 22, paragraph 68:** the reference to duties on local authorities to provide support to former unaccompanied children who have exhausted their appeal rights (ARE) given should be moved to the section on 'Immigration status and transition planning'. Given the section it is currently placed in has a more general focus on supporting Care Leavers and given the legal complexity, this reference to ARE care leavers should form a distinct paragraph added in before paragraph 77 on page 25. This will assist with ensuring considerations of future – and uncertain - immigration status are part of transitional planning.
- **Page 24, point IV:** there should need to be clarity about the decision making process even if the child is in the care of the authority i.e. that the final decision rests with the Home Office. There should be clarity whether there could be a role for local authorities in assessing any risk around return if the child is stopped at port – or an outline of the role of the ISS/[CfAB](#) in providing advice in this circumstance.
- **Page 25, Paragraph 76:** paragraph 75 helpfully indicates the possible outcomes of the asylum or immigration process for children. Reflecting this, we now feel the suggested use of 'contingency' may not clarify fully that there are a range of different outcomes, including the possibility of a refusal. We support the suggested changes from the No Resource to Public Funds (NRPF) Network to this paragraph. A point also should be added around how children can be helped to cope with a lack of certainty on a decision on their immigration status as part of pathway planning; for example: "Social workers and those working with children should recognise the impact of any uncertainty and instability on children and be ready to support them. This can offer a protective factor in terms of helping children to feel safe and thus can potentially reduce the risks of children going missing through fear."
- **Page 26, paragraph 79:** the reference to the appeal rights exhausted cohort should also be placed before paragraph 77 (see suggested change to paragraph 68 above).

7. Is there anything further which should be added to the revised guidance?

We support the submission from the NRPF Network that additions to the guidance should include:

- **Page 10, paragraph 18:** further clarity about the local authority role in securing legal advice for a child could be included in line with the Local Government Ombudsman recommendations in the Greenwich Council report.
- **Page 23, paragraph 70:** a point that when a young person is on a route to settlement, the transition planning will need include when they may need to seek legal advice/ take further action to extend their leave or apply for settlement should be added here.
- The new paragraphs on those refused asylum (see above) should provide more information of the restrictions on local authority support for adults without immigration status in Schedule

3 to the Nationality, Immigration and Asylum Act 2002 and other services. It also should refer to forthcoming changes to local authority support for ARE Care Leavers under the Immigration Act, with a footnote to NRPf Network resources for both legislative frameworks added:

- <http://www.nrpfnetwork.org.uk/SiteCollectionDocuments/are-former-uasc-paper.pdf>
- <http://www.nrpfnetwork.org.uk/Documents/immigration-bill-careleavers.pdf>

8. Do you have any suggestions for further links or resources that could be included at Annexe A of the guidance?

We are happy to work with the Department to communicate links or resources that may assist local authorities implement the guidance that might not be appropriate for inclusion in Statutory Guidance; such as time-limited or offers from specific suppliers.