

By email to: FamilyandFriendsCareSG.CONULTATION@education.gov.uk

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ADCS response to proposed revisions to Family & Friends Care statutory guidance

Introduction

1. The Association of Directors of Children's Services (ADCS) welcomes the opportunity to comment on the proposed revisions to the current statutory guidance. ADCS is the national leadership organisation in England for directors of children's services (DCSs) and their senior teams. The DCS acts as a single point of professional leadership and accountability for services for children and young people in a local area, including children's social care and education.

General remarks

2. ADCS supports family reunion in principle, but we have serious concerns about the proposed changes to the guidance, including the additional and potentially significant unfunded costs that we believe will be incurred by LAs accepting Dublin III transfers.
3. It is difficult to estimate how many children in EU states are likely to have an absolute entitlement under Dublin III Regulation, based on the parent/sibling criterion, to be brought to England. We suspect that the sibling connection will be the most significant factor and that numbers will be substantial. Siblings are themselves highly likely to UASC or UASC care leavers thus adding further to the support and financial challenges.
4. It is already the case that some LAs have reluctantly had to make the decision to withdraw from the voluntary National Transfer Scheme (NTS). The imposition of further additional unfunded costs that may be brought about by implementing the provisions of this guidance, could be the final straw for a further tranche of LAs with regard to their participation in the NTS.
5. LGA research on revenue outturn figures shows that LAs were forced to overspend their budgets for unaccompanied asylum-seeking children by more than 75 per cent in 2015/16, the single biggest proportionate overspend across children's services. Councils spent in excess of £113 million on support for these children in 2015/16, £48 million over budget.
6. In essence, the guidance stipulates that where parents or siblings wish to bring a dependent child into the UK they have a right to do so even if they are not prepared or able to care for them with an obligation that the LA then brings the child into care. This might be construed by some as a misuse of the Family and Friends guidance to impose new legal obligations upon LAs, and of S20 voluntary accommodation of a child.

The Dublin III transfer arrangements

7. Page 58 of the draft guidance states that "the child may need to be accommodated and if so will become looked after by the local authority where the family member lives or (only in exceptional circumstances) through the NTS". Not only will this have an impact nationally on the care system but in a disproportionate manner affecting those LAs that are already under most pressure from UASC volumes either because

they are entry LAs, London Boroughs or LAs which have received significant numbers of UASC transferred via the NTS.

8. Additional children coming into care via this route will directly impact on the NTS numbers and the 0.07% ceiling. There are already LAs above the 0.07% threshold; Croydon is six times over.
9. The "exceptional circumstances" mentioned on page 58 of the guidance need to be spelt out explicitly. Unless the Home Office moves towards a system by which LAs are able to recover from the government the full cost of the support they provide for UASC, it is imperative that "exceptional circumstances" be defined as being when the UASC population exceeds the 0.07% threshold.
10. Moreover, the very basis of the NTS, which is a voluntary scheme based on the principle of seeking to achieve more equitable distribution of UASC across the country so no one LA is carrying a disproportionate burden for the care of these vulnerable children, is undermined by the requirement to accommodate the child in the LA where their parent/sibling lives.
11. The guidance relates to England only; however, we know that during the clearance of the migrant camps in Calais in the autumn of 2016, many UASC, brought to the UK either as part of (expedited) Dublin III arrangements, or via the Dubs amendment, were placed in Scotland.
12. The flowchart in annex B of the guidance is helpful, particularly with regard to the 'conditional' entitlement under Dublin III Regulation where if a child's family member in the UK is an adult aunt or uncle, or grandparent, that the adult is required to establish (with the Home Office initially) that they are capable of taking care of the child (materially and without recourse to public funds, and in terms of parenting capacity and that they can provide suitable accommodation). The flow chart indicates that if a relative in this category cannot take care of the child that "it is unlikely that the child will be brought to the UK." This appears however to depend upon the immigration status of the relative. It would be helpful if the guidance were a little clearer on that matter.
13. As can be seen from the flowchart in annex B, the transfer process is complex, dependent upon several conditions, and significantly, it depends upon a series of processes and decisions being made by the Home Office in a timely fashion, before the child is brought to the UK. Moreover, there appear to be several steps of the process that should take place before the DCS in the relevant LA is even informed of the possibility that a child may be settled in their area. The Home Office should seek to keep the DCS of the relevant LA informed from the earliest possible stage of the process.
14. The guidance states that the Dublin III transfer process - from initiation (a Member State raising a transfer request) to arrival (or not) of the child - should take no more than two months. This is an ambitious timeframe.

15. As described in paragraph 31 of the revised guidance, the arrangement will be an informal family and friends care arrangement unless section 20 or section 47 duties are triggered. As an informal family and friends care arrangement, the LA does not have a duty to undertake a formal assessment of the arrangement. However, checks on the family member/ relative and any other members of the household are required. This plainly has resource implications and whilst this may not technically be a new burden it will undoubtedly be an increased burden. The cost of the 'family checks' was recognised during the response to the clearance of the migrant camps in Calais in 2016 via a flat rate payment per family check, paid to LAs via the Controlling Migration Fund administered by the DCLG (as was). Similar consideration must be given to future Dublin III transfer cases.

Funding support for asylum seeking children

16. The aim of the guidance, in terms of ensuring improved outcomes for unaccompanied children, can only be met via sustainable funding for the LAs and communities supporting unaccompanied children. The disproportionate impact that this guidance will have on some LAs is further exacerbated by the current under-funding of UASC grant rates. A sustainable funding settlement that more closely reflects the full cost to LAs of caring for UASC and UASC care leavers is essential.

17. The provisions in this guidance in respect of Dublin III transfers will have potentially significant costs implications for LAs, including but not limited to:

- Costs of undertaking the family check in the first instance
- Costs of social worker time for the ensuing single child and family assessment, the plan of support and regular review
- Section 17 payments if necessary
- Where families can become homeless, for example, if the family member/ relative's current accommodation was not suitable, additional costs for the LA in 're-homing'. This is particularly significant in areas of the country where access to affordable rented housing is limited.
- Ongoing social work support if appropriate.

18. There are also wider financial considerations that government must address to ensure the best outcomes for this group of children. ADCS urges the DfE to lead a cross-government response on:

- **Access to child benefits:** the family member or members may be able to claim child benefit and child tax credit for the child dependent on the family member's immigration status. Some LAs report that carers have received a very mixed response from DWP when attempting to claim Child Benefit and Child Tax Credit, with some areas accepting the claim and others refusing.
- **Access to legal aid:** family members who are working may have an income which goes above the means testing for legal aid to support the child's asylum claim but this income may not be enough to cover the full costs of private legal advice, particularly if cases are protracted. A commitment to prioritise decisions for this group would be welcomed.

- **Access to accommodation:** LAs are finding that in many cases the accommodation of the relative/ family member is assessed to be inappropriate, particularly if the adult carer themselves is in the dispersal system. Even if the tenancy agreement does not prohibit children, there are often safeguarding concerns that the child could be placed in accommodation with other unrelated adults sharing communal areas within the house. There will be costs to authorities for finding more suitable places for the family to live.
- **Access to specialist trauma-recovery and mental health services:** in the context of the well-publicised issues with access to mental health services, there is a greater prevalence amongst unaccompanied children of post-traumatic stress related symptoms and emotional needs than for the UK child in care population. In addition, they may need access to specialist mental health services that are designed to meet their needs. It is possible that an unaccompanied child's mental health needs will be exacerbated by anxieties about their immigration status.
- **General costs:** ensuring access to ESOL classes, translation/interpreter services and cultural orientation support will have cost implications for the local statutory and voluntary sector.

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