
Rethinking social policy for asylum seeking care leavers

A contribution to the Commons debate
on the Children and Social Work Bill





Foreword

As the largest dedicated children's charity for the fostering and adoption of children and young people, TACT is delighted to see the policy spotlight that the Children and Social Work Bill has put on the issue of children in and leaving care.

The aim of this paper is to influence a positive approach to the support of all children and young people in or about to leave our care. This of course includes unaccompanied asylum seeking care leavers. Since the Immigration Act 2016, the unaccompanied asylum-seeking children (UASC) in the UK are seriously disadvantaged. Even when they've been here for a few years, done well in school, been happily settled with wonderful foster parents – by the time of their 18th birthday, the young asylum seeker's life is turned upside down.

The young asylum seeker stops being a vulnerable child; access to our care and support is meant to be closed down. The young asylum seeker's transition is not so much from child to adult as from child to immigration statistic.

TACT is not the only organisation concerned about the plight of asylum seeking care leavers: local authorities that support UASC are already worried about the impacts of removing services. There are conflicts between the Immigration Act and local authorities' statutory obligations, with an added cost implication if they do have to provide some form of support. The constant threat of judicial review, which is a lengthy and expensive way of dealing with policy development, is also present.

The inclusion of asylum seeking care leavers into the category of young people who will benefit from the proposed legislation makes complete sense. It means that TACT and local authorities can work with young people to make a success of their lives, regardless of the outcome of their immigration application. Work can continue with the young person to prepare them to adapt to their new status as a refugee or prepare them for life in their country of origin.

We hope that this paper will help reopen the debate on support for asylum seeking care leavers and improve their outcomes, whether they remain here or return to their country of origin.

Andy Elvin
Chief Executive TACT



Introduction: differential treatment of care leavers in the UK

Young people that leave the care system can go on to make a success of their lives and there are many examples of those who do. However there are too many leaving care that end up with the opposite. Poor outcomes in health, housing and education, and little or no employment prospects, are a persistent feature of care leaving statistics.

Proposed legislative changes acknowledge poor outcomes for care leavers, and advocate support up to the age of 21 with personal adviser support up to the age of 25. But this is not always the case for the unaccompanied asylum seeking care leaver.

The 2016 Immigration Act removes the automatic right to support for the unaccompanied asylum seeker following their 18th birthday, making their transition from a child to an adult fraught with insecurity.

We have been thinking about ways in which we improve the transition of all children leaving care, including those seeking asylum. Our experience of supporting unaccompanied asylum seekers has brought us into contact with extraordinary children and young people who are here in the UK having survived the most difficult circumstances imaginable.

We support young unaccompanied people from countries such as Eritrea, Afghanistan, and Albania to name but a few. TACT foster carers report that some of the young people they support with asylum seeker status are discriminated against in school with some not being put forward for GCSE examinations for fear that they will lower the school league table performance. Yet in areas like London where it is not unusual to find schools with many different languages, and in spite of such difficulties, we have found asylum seeking children and young people to be resilient and often high achievers in education despite the fact that they arrive here alone, with as English as a second language or no English at all.

The Adolescent and Children's Trust (TACT) is the largest fostering and adoption charity in the UK. At TACT, not only have we been helping to provide loving homes for vulnerable children for 24 years, we're also a voice for children in care. That is why TACT and its key stakeholders have been thinking about this issue and are calling for a rethink of social policy for asylum seeking care leavers.

The Children and Social Work Bill 2016

Now on its passage from the House of Lords to the House of Commons is the Children and Social Work Bill 2016. According to former Prime Minister David Cameron and the mover of the Bill Lord Nash, the purpose of the proposed legislation is to combine a commitment to protect the most vulnerable in society with the “ambition to ensure that disadvantaged children have the brightest possible future”.

The Children and Social Work Bill reflects a commitment to offer the promise of a better future to children in and leaving care. Lord Nash introduced the Children and Social Work Bill as part of a programme of measures to strengthen children’s services and improve the life chances of all children, especially the most vulnerable. The proposed ‘local offer’ to care leavers will benefit children and young people leaving the care system.

This is a welcome measure, given that the transition of a child in care to adult is notoriously difficult. But what is missing is any reference at all to unaccompanied asylum seekers. This is astonishing considering there are over 3,043 unaccompanied asylum seeking children in the UK care system, many of them between 15 and 18.

As they approach their 18th birthday, unaccompanied asylum-seeking children (UASC) must apply for extended leave to remain in the UK, and the majority are turned down. However, the Home Office does not then remove the majority of them from the UK. The appeals system isn’t efficient, so many young people go underground and become even more vulnerable.

The removals system itself is inefficient, under resourced and overwhelmed.

Notes

1. David Cameron, *My promise to every child in care: I will help you build a better life*. Sunday Times, May 15 2016
2. www.parliament.uk, Children and Social Work Bill 2016

Making the case for the inclusion of UASC in the category for 'Local Offer'

The Children and Social Work Bill provides an opportunity to improve services to care leavers, enabling support to continue to the age of 25 through the development of a 'Local Offer'. If the proposed 'Local Offer' is to help care leavers then it must include unaccompanied asylum seekers in their transition to adulthood.

Currently if you are a young unaccompanied asylum seeker leaving care, then under the current arrangements you will not qualify for the Staying Put scheme, not qualify for benefits, not qualify for student loans and, even if you want to go on to higher education you will be treated as an overseas student and charged overseas fees which are generally three times higher than for others.

On their 18th birthday, the unaccompanied asylum seeker will cease to be a 'vulnerable child' in the eyes of the state, but like any other young person their age, they may well still be vulnerable.

TACT and its stakeholders have proposed an amendment to the Children and Social Work Bill to include asylum seeking care leavers. By adding unaccompanied asylum seeking young people to the category of those entitled to the 'Local Offer', this amendment will enable local authorities and their partners to work with unaccompanied asylum seeking young people as they progress into adulthood for as long as they remain in the UK.

Extending the Local Offer to asylum seeking care leavers will:

- Bring about a parity of services that will reduce prejudice and discrimination in the design and delivery of the offer for care leavers
- Promote positive outcomes for all care leavers through a parity of services for children designed in LAC planning and delivered via leaving care provision.

The extension of a Local Offer to unaccompanied asylum seeking young people will bring about a more integrated service between the local authority and health services for children and young adults with poor mental health. More important still, it will greatly reduce the chances of vulnerable asylum seeking young people going under the radar, disappearing, and becoming susceptible to emotional, financial or sexual exploitation. The fact that they will retain a statutory link to their local authority will mean they can continue to be engaged with the immigration system through their post 18 support services.



Immigration Act 2016

The way in which Home Office legislation and DFE legislation interact will inevitably create tensions. None more so than the two significant pieces of legislation affecting unaccompanied asylum seeking children to come out in 2016.

The 2016 Immigration Act seeks to: "Reduce pressures on local authorities and simplify support for migrants pending resolution of their immigration status or their departure from the UK." They have achieved the second part, because they have all but removed support for UASC who turn 18, while leaving local authorities in a complex position in which "Local authorities will continue to provide support under section 17 of the Children Act 1989 to meet any other needs of a child, or their family, in order to safeguard and promote the child's welfare."

The 2016 Immigration Act's provisions will limit the support that can be provided by local authorities to care-leavers subject to immigration control by carving out exceptions to the Children Act leaving care duties found in s.23.

Schedule 12 undermines children and leaving care legislation and policy to prioritise immigration control over young people's welfare considerations. It creates a two-tier system of support, discriminating against care leavers on the basis of their immigration status, with damaging consequences for young people who have been

living in the UK for many years as unaccompanied children, including potential victims of child trafficking and those who have no other family but their foster family and their corporate parent – the local authority.

Lord Alf Dubs sought to amend the legislation to enable the UK to take in unaccompanied asylum seeking children, despite the fact that the Government was against the amendment as it may cause what they call a 'pull factor'.

Yet local authorities have a clear responsibility to care for children with no family, and are under a moral and statutory responsibility to support the children of destitute families.

Notes

3. www.legislation.gov.uk Immigration Act 2016

The closure of Calais and the safeguarding of unaccompanied children

The refugee camp in Calais known as the 'Jungle' will be closing imminently. According to the Help Refugees census there are 1022 unaccompanied minors living in the camp. At least 387 of these children have a legal right to be in the UK.

The Dubs amendment, which was passed in May 2016 enables the resettlement of an unspecified number of the most vulnerable unaccompanied children in Europe to be brought to safety in the UK. Now, working across political parties Stella Creasy MP is proposing the Dub II law – an amendment to the Children and Social Work Bill which will enable the government to protect these children.

The closure of the Calais camp will provide an early test for the planned dispersal scheme though many of the children may have family who will care for them in the UK.

Notes

4. www.helprefugees.org.uk Help unaccompanied children 13 October

Syrian Refugee Programme

There is a current programme to offer 20,000 Places for Syrian Refugees Pledged and Additional Funding for English Language Training. The 20,000 local authority places required to meet the Government's landmark pledge to resettle Syrian refugees have been secured.

The Government has been working closely with local authorities and the devolved administrations across the UK since announcing plans to resettle 20,000 of the most vulnerable victims of the Syrian conflict by 2020. Latest figures (until end of June 2016) show more than 2,800 Syrians have arrived in more than 100 local authority areas under the scheme.

In the week of the anniversary marking one year since the commitment was made, the Home Office has also announced a new £10m funding package to boost English language tuition for those arriving under the Vulnerable Person Resettlement Scheme (VPRS).

This additional funding for English language training will mean all adults arriving through the scheme anywhere in the UK will receive an extra 12 hours a week of tuition, for up to six months. This is on top of the language support already provided by local authorities, which is accessed by refugees within a month of their arrival. It will help arriving families to integrate in their new communities more quickly and make it easier for them to seek and obtain work.

These are positive programmes and are most welcome – they place even more importance on getting support for asylum seekers, including unaccompanied asylum seekers, right.

The Association of Directors of Children's Services describe the three streams to the national picture and the changes around the Immigration Act – the dispersal of children already in the UK, the Children at Risk Scheme, and the Lord Dubs amendment – as key to accelerating support to this vulnerable group.

The Association of Directors of Children's Services has worked closely with local government in developing the regional model for transfer, which should assist in facilitating a joined-up approach to the different migratory pressures. It is hoped that new grant agreements will also go some way to responding to this.

Underpinning this is a willingness to work in partnership with key stakeholders in order to learn from best practice, review cost effective ways of accommodating these young people, and co-ordinate our response locally and regionally.

Notes

5. [Gov.uk How you can help Syrian Refugees coming to the UK](#)

6. [Home Office notice, 20,000 Places for Syrian Refugees Pledged September 5 2016](#)

The cost of a child centred policy for the young asylum seeker

Background

The 1996 Immigration and Asylum Act ended rights to benefits for asylum seekers. Through a process of judicial review, local authorities were required to support all destitute asylum seekers with food and shelter under the 1948 National Assistance Act. Local authority support for asylum-seeking families with children and unaccompanied asylum seeking minors was, just like for any destitute children, provided for under section 17 to 20 of the 1989 Children Act. This has caused considerable tension between local and central government.

Denying asylum seekers benefits has triggered a perpetual three year cycle where a new immigration white paper is released and a new immigration Act is enacted. While the clauses of the legislation were varied, the theme has been consistent. Each piece of legislation was explicit in the aim to deter anyone seeking political asylum from coming to the UK. It also increased the tension on asylum support between local and central government by making the financial arrangements for asylum support more and more complex.

Initially local authorities claimed expenditure for their part in the support of UASC from the Department of Health (DH). The grant responsibility was transferred to the Home Office, which only added to the complexity.

We then saw repeated changes in arrangements to support for young asylum seekers. By the time they reach their 18th birthday they could be moved from supported accommodation to unsupported accommodation. Sometimes they were moved from London to dispersal areas around the UK.

Then, in August 2003, the High Court ruled that unaccompanied asylum seeking children came under the same legislation as children leaving care, ruling that they should continue to receive support up until the age of 21 or 24 in certain circumstances. The ruling came in case involving a group of UASCs and Hillingdon Council, and is now commonly referred to as the Hillingdon judgment.

Current situation

Local authorities can claim £200 for the support of post 18 years of age asylum seekers and despite legislative change on immigration, local government must fulfil its duty to safeguard asylum seeking young people. Many local authorities near to ports of entry have responded well under difficult circumstances. Kent, Hillingdon, Croydon, Harrow and other local authorities close to the ports can all demonstrate good practice in the area of asylum support. Yet they and many other local authority children's services departments are still overwhelmed with demand. Councils are currently half way through a

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7. www.gov.uk Leaving Care Funding Instructions 2015-16
8. Home Office funding: *Funding to local authorities financial year 2016/17 Unaccompanied asylum seeking children 2016/17*
9. ADCS National UASC Transfer Protocol, *Safeguarding and Child Protection* 9 September 2016

scheduled 40 per cent cut in central government funding, and having delivered £10 billion of savings in the three years from 2011/12, local authorities have to find the same savings again in the next two years.

There are hidden costs in supporting unaccompanied asylum seeking children and young people. Many local authorities report additional costs over and above the expected support costs. Additional costs for the support of UASC include education, college, social work time and costs to other partner organisations like health and translation services. There are of course costs associated with finding suitable placements to meet the different needs of young people arriving in the UK. The majority of separated children understandably need foster care. According to analysis of Home Office data, nearly all unaccompanied asylum-seeking children under 16 are fostered. The increase in demand for fostering services means that many local authorities work with private 'for profit' fostering agencies which will incur significantly higher costs than existing asylum seeking grant agreements cover.

The Department for Education, the Home Office and local authorities are in perpetual discussion about long-term and sustainable plans for the future. Despite several dispersal programmes to move asylum seeking children from the 'port' or London authority's asylum seeking facilities to purpose commissioned accommodation around the UK, the bulk of responsibility remains with the same local authorities.

The Children and Social Work Bill is silent on the issue of unaccompanied asylum seeking young people leaving the care system. However the Care Leaver Strategy published in July 2016 by the Department of Education makes some reference.

For those former UASC care leavers whom the courts agree do not need our protection, and who have no lawful basis to remain in the UK, the Immigration Act 2016 makes alternative provision for any accommodation, subsistence or other social care support the local authority considers they need prior to their departure from the UK. This could include, for example, support from a Personal Adviser. The DfE and the Home Office will be working together with local authorities and relevant non-governmental organisations on the development of the regulations and guidance required to implement these new support arrangements.

It goes on to say that the DfE will consult on revised guidance for local authorities on the care of unaccompanied and trafficked children, later this year. This is encouraging. But such arrangements must be agreed in a timely and transparent manner, or they will simply add to the complexity of policy in the issue of asylum seekers finance, with local authorities finding themselves worse off, and asylum seeking young people in an even worse position without support.

Towards a positive and child centred policy for asylum seeking care leavers

Almost a third of asylum seekers arriving are unaccompanied children. Most are 15, 16 or 17, but some are as young as 12. Many have lost those closest to them and have been forced to flee from atrocities in their home countries. And all of them have made dangerous journeys through several countries to arrive here. During the course of these journeys, they have been at risk of abuse and exploitation and their lives have been genuinely in danger.

There is a concern that once the asylum seeking young person reaches their 18th birthday and with support ending so brutally abruptly that the young person will disappear. Young asylum seekers will be forced underground to live their life under the radar. This withdrawal from statutory services could make the vulnerable adolescent susceptible to criminal activity or sexual exploitation.

A parity of service for the unaccompanied care leaver would improve that young person's life chances regardless of asylum application outcome. If the young person is granted leave to remain, then the support that they receive as a 'care leaver' will stand them in good stead to access training education and employment which will undoubtedly assist his/her integration. If on the other hand, the asylum seeking young person reaches the end of their asylum application and is turned down at appeal, then she or he will be in a better position to mentally, physically and materially prepare themselves for the reality of returning home. If their transition from child to adult has been handled in a supportive way, then they are less likely to disappear and more likely to have benefited from training, education or employment which will help their life chances after they have returned home.

TACT intends to work closely with its stakeholders to improve outcomes for the young asylum seekers that we support. We hope that this work will influence positive change for all young people who are in or leave our care. To that end we will campaign for the following positive policy:

1) Post 18 support for unaccompanied asylum seeking children

- Amend the Children and Social Work Bill to include unaccompanied asylum seeking children in the category for the local offer.
- Be explicit that the purpose of the support will prepare the young person for either refugee status or returning to their home country.

2) Review the financial arrangements for reimbursing local authorities

- Financial support for local authorities supporting unaccompanied asylum seeking children and care leavers should reflect the real costs incurred and be on a full cost recovery basis.

3) Safeguarding all children including refugees

- Meaningful, well-funded and managed, protection of children at the point of entry in refugee camps at the UK borders. This must include the implementation of safeguarding processes to keep children safe throughout and beyond the closure of camps like Calais.

4) Child Centred Assessment

- Make sure assessments of unaccompanied asylum seeking children take into account that the asylum applicant is a child first, and ensure that moves are made to make the interviews less intimidating.





We want to reopen the debate on support for asylum seeking care leavers and improve their outcomes, whether they remain here or return to their country of origin.

Find out more about Policy and Campaigning at TACT

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