



Refugee Council

Lives in the Balance: The quality of immigration legal advice given to separated children seeking asylum

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February 2011

Diana

Princess of Wales Memorial Fund
THE WORK CONTINUES



Acknowledgements

The authors would like to thank the young people who gave their time to contribute to this report. They did so without seeking personal gain but from a desire to see improvements in how legal representatives work with separated children so that others may benefit. They addressed some difficult issues with patience and humour and this report is richer because of their input. Thanks must also go to the Refugee Council's Children's Advisers in Birmingham, London and Wakefield who despite the challenges and pressures of their role made the time to talk about their work. Without them this report could not have been written. Arnaud Vervoitte at the Refugee Council's social evening for separated children was instrumental in arranging for the authors to meet with the young people and thanks also to Helen Johnson and Lisa Doyle at the Refugee Council for their advice and input. And finally a special thank you to Judith Dennis the Refugee Council's Policy Adviser on Unaccompanied Children for her sound advice and warm support.

This research was
funded by the
Diana, Princess of
Wales Memorial Fund

Diana
Princess of Wales Memorial Fund
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Executive summary

Introduction and methodology

Lives in the Balance examines the quality of immigration legal advice and representation provided to separated children in the asylum system. The research used qualitative interviews with Advisers from the Refugee Council's Children's Panel and some of the children and young people with whom they work.

The Refugee Council's Children's Panel is a team of specialist Advisers who, as part of their work providing support and assistance to children in the asylum process, work closely with legal representatives assisting children with their asylum claim.

The research sought to look at the quality of legal advice offered to separated children, including an examination of how legal representatives work directly with children; how they relate to children and build a relationship with them, how they prepare children for interviews, and how they communicate with them and keep them informed of developments regarding their legal process.

The researchers' interviews sought the opinions of interviewees on the following areas of a legal representative's work:

- Knowledge and awareness of law, guidance and policy in this area and the entitlements of separated children
- Direct communication with the child or young person and with other relevant professionals working with or on behalf of the child
- Presentation of the child's case and a commitment to making the case as strong as possible
- Willingness to pay attention to the progress of the case, to keep the child or young person informed of developments and to prepare them for key events relating to their application.

Key findings

- The quality of legal representation that separated children receive is extremely varied. This can be the case within legal firms or organisations as well as between them
- With few exceptions, those representatives whose work was of a high quality in one area tended to be equally strong in each of the areas listed above. In general individuals who were able to communicate well with a child were also generally knowledgeable in the relevant law and country information and used this well in the presentation of the case
- There is an insufficient number of high quality legal representatives able to provide a good standard of advice and representation to children in the asylum process
- There is a worrying number of representatives currently working with children whose knowledge of the relevant law and policy in this area is woefully inadequate and who do not have the requisite skills to ensure that a child they represent is able to fully participate in the process
- Concern was expressed at the poor quality of some interpreters working in this area both by children and young people as well as Advisers from the Refugee Council.

Recommendations

- 1 The Law Society or other relevant professional body should establish criteria for legal representatives working with children to reflect the specific knowledge, skills and qualities required in order that the children receive the best possible service.
2. Accredited training should be designed to enable legal practitioners to be specifically recognised for their work with children in the asylum system.
3. In order to ensure that separated children are supported to understand the complexities of the asylum determination procedure and to challenge unsatisfactory practice as they travel through the asylum procedure, the role of the independent adult should be extended. This should include as a minimum the requirement that an independent adult must be present at all interviews relating to the asylum determination procedure, including those with legal representatives. Ideally this would be through the allocation of an independent guardian for all separated children, with an extensive role including, and extending beyond, the determination procedure.
4. The government should consider funding both an accreditation scheme for interpreters working with children in the asylum system, and training in order that interpreters can achieve the required accreditation.
5. Further research should be conducted with young people who have experienced, or are currently involved with, the asylum process. They can offer a unique insight and may raise issues that professionals have not previously considered.

1 Introduction

This research was commissioned by the Refugee Council to investigate the quality of legal advice offered to separated children.¹ The arrival of separated children in the UK is not a new phenomenon and records indicate that significant numbers have arrived here since the mid 1930s. Recent years have seen an increase in the numbers of separated children worldwide and consistent with this development the numbers arriving in the UK over the past 20 years or so have increased. In 2009 approximately 4000 separated children made applications for asylum to the United Kingdom Border Agency (UKBA). Whilst it is difficult to accurately record the total number of separated children currently within the country most stakeholders would estimate a figure in the region of about 10,000. The Refugee Council has provided direct support to separated children since 1994 when its Panel of Children's Advisers was established.

Lodging an asylum application and navigating through the asylum determination procedure is complex and onerous, particularly for a child. Good practice dictates that upon arrival all separated children should have the support of a legal representative throughout this entire process.² Crawley notes that whilst children and young people may be involved in many different types of legal proceedings, the asylum and immigration system stands out as having the least formal, specialised provision for young people.³ In practice this means that there is no formal mechanism for allocating a legal representative to work with a separated child, and hence no guarantee that *all* separated children will benefit from this provision. Secondly, there is no formal regulation of *specific* standards of legal representation provided to separated children, thus creating an arena within which provision to separated children is extremely variable and can often be inadequate. The legal advice they receive may fail to recognise and address their particular needs as well as the inherent difference in approaches required when working with children compared to working with adults. The issue of the availability of good quality legal advice generally has been highlighted in reports in recent years⁴ including some that specifically address the problems encountered by children in the asylum process.⁵

- 1 "Separated children are under 18 years of age, outside their country of origin and separated from both parents, or their previous legal, or customary primary caregiver. Some children are totally alone while others may be living with extended family members who are not necessarily their customary or primary caregivers" *Statement of Good Practice, 4th Edition*, Separated Children in Europe Programme, December 2009.
- 2 "In cases where children are involved in asylum procedures or administrative or judicial proceedings, they should, in addition to the appointment of a guardian, be provided with legal representation", General Comment No 6, Treatment of Unaccompanied and Separated Children outside their Country of Origin (paragraph 36), Committee on the Rights of the Child, 2005. CRC/GC/2005/6 (2005). "Upon arrival a child should be provided with a legal representative", *Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum* (paragraph 4.2), UNHCR 1997, "In all legal proceedings, including any appeals or reviews, separated children must have legal assistance and a legal representative who will assist them to make their claim for protection and the implementation of any ensuing durable solutions" *Statement of Good Practice, 4th Edition* (paragraph D10) Separated Children in Europe Programme, December 2009.
- 3 *Working with children and young people subject to immigration control – guidelines for best practice*, Heaven Crawley and ILPA, 2004.
- 4 *Justice Denied, Asylum Aid and Bail for Immigration Detainees, 2005 and Justice at Risk*, Information Centre about Asylum and Refugees, June 2010.
- 5 *Going it Alone*, The Children's Society, 2007 and *When is a Child not a Child?*, ILPA 2007.
- 6 A refugee is defined as "a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."
- 7 For example, some separated children have migrated to escape conditions of extreme deprivation and hardship, others have been trafficked to be exploited by adults perhaps in the commercial sex industry, domestic service or the unregulated economy, and others may be separated as a result of failed attempts at family reunion.
- 8 These criteria were influenced by *Working with children and young people subject to immigration control: guidelines for best practice*, Immigration Law Practitioners' Association, 2004.
- 9 For a more detailed list of the questions asked of the Advisers see Appendix 1.
- 10 See Appendix 2 for a list of the broad areas covered in the interviews.

2. Methodology

This research focused on separated children within the asylum determination procedure i.e. those seeking protection from persecution within the meaning of the 1951 Refugee Convention.⁶ For the sake of clarity it is worth mentioning that this is not the only category of separated children.⁷

The research looked at four main areas of practice regarding the quality of legal advice and representation provided to children. These are the standards of legal representatives:

- Knowledge and awareness of law, guidance and policy in this area and the entitlements of separated children
- Direct communication with the child or young person and with other relevant professionals working with or on behalf of the child
- Presentation of the child's case and a commitment to making the case as strong as possible
- Willingness to pay attention to the progress of the case, to keep the child or young person informed of developments and to prepare them for key events relating to their application.⁸

The research sought to look holistically at the quality of legal advice offered to separated children, including an examination of how legal representatives work directly with children; how they relate to children and build a relationship with them, how they prepare children for interviews, and how they communicate with them and keep them informed of developments regarding their legal process. To summarise, as well as good quality preparation and representation of a child's case, do legal advisers provide quality advice in a manner that a child can understand and which makes them feel supported and valued?

The research was primarily built around semi-structured interviews with 11 of the Advisers from the Refugee Council's Children's Panel, including three who were based outside London and the southeast of England. The Advisers were an ethnically diverse group representing both genders who held a complementary range of experience in relation to both the demography of the separated children supported by the Refugee Council and the range of issues that the children face. They represented the work of the different teams within the Panel and their length of service with the organisation was also varied, thus allowing for a range of perspectives. Each Adviser was asked to consider and evaluate the representation children had received against the above criteria.⁹ The Advisers all work closely with legal representatives working in this field, at all stages of the asylum determination process and each Adviser was asked to reflect upon as many recent examples of practice as possible.

In addition, a small number of separated children were consulted regarding their experiences of the legal representation they received. One of the researchers met individually with ten young people who were introduced to her through the Refugee Council's social evening. The young people were offered the opportunity to take part in a short semi-structured interview with the researcher.¹⁰

The time and resources available for this element of the research were more limited and the aim was to take a small snapshot of the views of a few young people, rather than for this part of the research to receive the same attention as the views of the Advisers. A separate piece of research would need to be planned and conducted taking into account the different preparation and methodology required to facilitate the input of the young people.

Footnotes on page 4

3. Information from Children's Advisers

3.1 Introduction and general observations about obtaining good quality legal advice for children in the asylum process

Advisers¹¹ were clear that decisions on asylum applications are influenced by the quality of legal representation. Thus good quality representation can be the difference between a successful application or otherwise. With this in mind Advisers talk to young people about the standards a good representative should work to and, where necessary, they offer support and assistance in arranging for the legal representative to be changed. Changing representatives is relatively rare however as many separated children appear fearful about the consequences of changing their legal representative or wish to remain loyal to the representative's interpreter who may often be from the child's community. In relation to both competence and commitment to the cases, Advisers commented that there can be both 'good' and 'bad' representatives working within the same legal practice. In addition the provision of a good barrister was also seen as significant if the child is to have their case presented at an Appeal hearing in a robust manner that will withstand the scrutiny of cross examination.

Advisers generally held the view that the legal representatives who provide a good service to separated children are more welcoming and supportive of the involvement of an independent adult such as the Advisers themselves, take an interest in the work of the Panel, see Advisers as partners and in general promote the role of an independent adult as an important procedural safeguard. Those legal representatives whose work is perceived as not being conducted to such a high standard are often less inclined to engage with the Panel and some have been resentful of their involvement.

Some legal representatives cite the legal aid system and the limitations this places on the time they can make available to work with individual children as the reason for the limitation in the quality of representation they provide. In particular many representatives appear reluctant to take any case through the appeal process unless they are confident that it will be upheld. This is because there are limits in funding that restrict legal representatives in relation to the advice and representation they give at appeal stage.

Advisers commented that it should be perceived positively when a representative declines to take on a case at an initial stage, as this is usually an indication that they are already working at full capacity and are unwilling to take on further work because they do not feel that they can provide a good service.

Advisers noted some concerns regarding the practice of 'scouting for trade'. It appears that some legal firms use interpreters to trawl reception centres, screening units etc. to take clients, including separated children, to the offices of the particular representative. The scouts usually target young people from their own national and ethnic background and this can unduly inform the child's decision relating to their choice of representative.

The main point arising from the discussions with the Children's Advisers was that the quality of legal representation provided to separated children is extremely variable. Advisers felt that only a relatively small number of representatives gather the key information that is needed to substantiate an asylum application and provide sound, relevant and current legal advice in a manner that is appropriate for children whilst drawing in other expertise as necessary and maintaining contact with the child to keep them, and, with the child's consent, the relevant professionals, up to date with developments and the progress of the application. It also causes problems for separated children when legal representatives move from one practice to another, which appears to occur frequently in this work, and as a consequence separated children often have to adapt to a change in their legal representative.

A small minority of representatives are able to present a sound case without necessarily being able to put a child at ease or work in a relaxed manner with them. However, this observation was relatively rare. It may be that in order to gather the necessary information to support a child's application a legal representative has to be good at working with children and communicating with other relevant professionals; or perhaps just being able to build a relationship with a child is the starting point from which quality and relevant information can be gathered.

3.2 Explaining the process to separated children

The asylum determination procedure is complex and difficult to understand and navigate and this is particularly so for separated children. Good practice was noted amongst legal representatives who explain the process at the outset of their involvement with the child and continue to brief the child throughout the process explaining the relevant terminology, describing the different documents and what they mean, going through and explaining the range of outcomes and even providing some context in relation to the Refugee Convention.

However, Advisers reported that some representatives explain the process in a way that is laced with jargon and without any apparent understanding that the child has not actually taken in the information given as it is too overwhelming. In addition, too few legal representatives recognise the importance of reminding and re-explaining the process to a child who may be overwhelmed by these complex issues. Children are often too frightened or unsure of themselves to tell their legal representative that they do not understand the system. Advisers are aware of children who, despite having been in the UK for two or three years, still feel confused and bewildered by the status determination system and are unclear about the different types of status available to decision makers.

3.3 Gathering information from separated children to support the asylum claim/the application process

Advisers outlined many examples of good practice in relation to how legal representatives gather information and seek to substantiate it so that the asylum claim will be robust. Ensuring that an interpreter who speaks the child's first language is present and establishing that communication between them and the child will not be impeded by differences in accent or dialect is a prerequisite of the interview for some legal representatives. Similarly finding a quiet and private space that will be free from interruptions was an important part of the process for some legal representatives.

The ability to frame questions in a way that a child is more likely to understand and a willingness to rephrase questions or gently probe for more information and fully explore areas where the Home Office may raise issues of credibility were seen as particularly important. Also some legal representatives are more aware of child specific refugee issues including situations where a child may be more at risk of persecution than an adult.

Some legal representatives also take on board the fact that children often can not concentrate for the same amount of time that an adult could be expected to. They will compile the statement over the course of a number of interviews, thus allowing the child to progress at their own pace and with plenty of time to revisit parts of the interview where they have struggled to accurately recall incidents and events or express themselves clearly. One Adviser noted that one particular legal representative encouraged the child they were working with to make drawings and maps rather than struggle to express themselves through narrative.

When giving examples of poorer practice, an Adviser commented that sometimes statements could be over sentimentalised and/or inaccurate and lacking in substance. She said it was as if the legal representatives have no understanding of how difficult it is to obtain a positive decision in relation to an asylum application in the UK. These representatives appear not to appreciate the importance of the application and what it means to the child regarding their future or that in some instances the application can be a matter of life

and death. Some representatives write insufficient detail and at least one Adviser commented that they had seen an application for asylum that consisted solely of one moderately sized paragraph. Advisers report that many legal representatives are not aware of relevant changes brought about through case law or recent court judgements and thus are not able to offer up to date advice.

Several Advisers were concerned that many legal representatives fill in applications by rote and pay scant attention to the individual circumstances of the case, giving little consideration to gathering case specific information.

3.4 Legal representatives' interviews and interactions with children

Some legal representatives work in virtual isolation choosing to 'cross examine' their child clients rather than seek more specialist or expert input. In some instances Advisers noted that key factors are simply not picked up on at all.

Case example

A 17 year old young man had witnessed his father being summarily executed by government forces and had then seen his mother and brother drown as they sought exile – he had formally identified their bodies. He was also imprisoned in a third country before arriving in the UK. Under such circumstances it is not surprising that he had significant mental health issues. The legal representative had not identified this and it was left to the Adviser to suggest that this be included in the representations being prepared regarding his asylum application. The Adviser also asked the legal representative to liaise with mental health professionals in order to substantiate his mental health difficulties. He was subsequently referred to the Helen Bamber Foundation where an assessment found that he was severely traumatised.

Children's Advisers outlined other examples of bad practice including real concerns about children's experiences of the interview process. One Adviser gave an example of a child being interviewed in the corridor of a large solicitors' firm and, in another example, the interview continued as the cleaner did the vacuuming around the office where the interview was being conducted.

An Adviser also provided an example where a child had been so upset by the events that they had had to describe (and re-live) that they were in tears and that this seemed to have no impact on the legal representative who continued with the interview as if nothing was untoward. Another Adviser referred to an interview where the legal representative was so brusque with the child that they made them cry (though the Adviser did add that the legal representative's knowledge of relevant law was excellent).

It was reported that many interviews are rushed and some representatives seem to mistakenly think that because all separated children will get discretionary leave until they are 17.5 years old there is no need to make a strong and robust case.

The experience of many separated children was that their statement was compiled in only one visit to their legal representative, which the Refugee Council believes is insufficient: we recommend at least two appointments to enable a child to reflect upon the statements made in their application.

An Adviser spoke about his concerns regarding a girl who he had worked with. The girl, who was 14 years old, was supported by her older brother who attended the appointments that she had with her legal representative. The Adviser noticed that the girl seemed unsure and hesitant of her older brother and they did not appear to have shared experiences. The Adviser was not convinced that they had told the truth about their identities. The legal representative did not pick up on the lack of interaction and engagement

between brother and sister and the 'brother' effectively controlled the interview and responded on the girl's behalf. It was the Adviser who raised concerns and insisted that the girl be allowed to answer the questions put to her rather than allowing her brother to dictate the responses. The Adviser felt that the girl also needed to be referred to the relevant local authority for an assessment of her needs though the legal representative did not appear to think to do so.

3.5 Concerns about the provision of interpreters

Advisers provided numerous and alarming examples where legal representatives had either not taken steps to provide an interpreter at all, or had not provided an interpreter who matched the child's first language. Examples were provided where languages such as Dari, Farsi and Urdu were either mixed up or treated as being interchangeable. As a consequence the interviews were unable to provide detail and clarity on the specifics of the child's case but took a more generalised approach based on the legal representative's existing perception or knowledge of the current situation in the child's country of origin.

Case example

A girl was in a meeting with her legal representative. An interpreter and the girl's Adviser were also present and the interview was progressing. The girl was shy and reserved but eventually asked the Adviser if they would step outside with her where she explained that she hadn't understood a word that the interpreter was saying. Whilst the legal representative was happy to rebook the appointment, this issue could well have gone unnoticed without the presence of an independent, trusted adult.

In another example, an Adviser who shared the same language as the interpreter at a meeting between the child and their legal representative commented that around two thirds of what the interpreter relayed to the legal representative did not correspond to what the child was actually saying.

Advisers reported some instances where interpreters inputted into the process in ways that are beyond their appropriate role. Sometimes they appeared to want to help the child by suggesting what they should say as part of their statement. Whilst an interpreter's motivation for this may be to help the child, this practice is wrong and in any event may weaken the child's application by skirting over important information. It may also undermine the application by making it so similar to other applications that the Home Office treat it with a degree of scepticism. Additional concerns were raised about interpreters often taking control of the interviews, filtering questions, challenging responses or probing for more information whilst the legal representative passively allows this to happen. There were even reports of interpreters completing the child's Statement of Evidence form.

3.6 Legal representatives and liaison with other agencies and professionals

Advisers outlined positive examples where legal representatives have sought to engage with other relevant professionals, for example country experts, social workers, teachers, health professionals and the voluntary sector, either to gather initial information or to substantiate the information given to them by the child. A young woman stated that she was illiterate, which the Home Office questioned, so the legal representative liaised extensively with her school to gather the evidence necessary to corroborate her claim. Other examples relate to legal representatives engaging with health professionals to provide medical evidence supporting the nature and stated cause of a child's physical injuries, or with mental health specialists to demonstrate the impact upon a child of the events they have witnessed and the trauma they are suffering.

3.7 Communication between legal representatives and separated children

Although some legal representatives regularly keep their young clients up to date with relevant developments, either verbally or ideally in writing (for those who are literate), Advisers also reported that many representatives appeared not to give this due consideration. Poor communication between legal representatives and children as well as between the legal representative and other relevant professionals is clearly perceived by Advisers as being problematic and detrimental to the delivery of a quality service, although it is noted that the child, like any other client, needs to consent to this.

Case example

An Adviser outlined that a young man came to see him to ask if he (the Adviser) knew how his application was progressing following its submission to the UKBA. The Adviser had similarly not been kept informed by the legal representative so he rang the UKBA directly to be told that the young man in question had an appointment with the UKBA at the precise time that the call was made. His legal representative had failed to pass this information on to him. The Adviser was able to smooth the situation and rearrange the appointment – though as a postscript the legal representative failed to attend the subsequent appointment.

Other Advisers provided similar examples of instances where legal representatives had failed to communicate with their clients about interview times and dates.

3.8 Preparation and support at interviews with UKBA

This aspect of practice was also described as extremely varied. Advisers report that good legal representatives make the time and take great care to read through the final statement with the child before it is submitted. They provide an interpreter and in a minority of instances arrange to have the statement translated into the child's first language so that they can read a hard copy. If the child has suggested amendments these will be incorporated into a redraft, and the legal representative will not submit the statement until the child has agreed that it is in order and accurately reflects their discussions.

Case example

One Adviser outlined that they had worked with a legal representative who practically conducted a role-play to inform the child how the interview would progress and how to prepare them for it. This extended to demonstrating where the different parties were likely to sit during the interview, what would happen and what the interview room would look like. Some legal representatives would arrange to meet the child either at their office or at a central venue from which they would travel with the child to their interview.

This is in stark contrast to many other examples where young people had not had their statement read back to them and did not see a final copy of it. Once they had left the legal representative's office they had no further input into the drafting of the statement. It was the experience of all Advisers that many legal representatives don't attend the interview at all, choosing to send a clerk or interpreter, or who attend but offer no preparation and arrange to meet at the venue immediately before the interview is due to commence. Few representatives arrange for the child to meet their barrister, where appropriate, in advance of any hearings. The first meeting usually takes place immediately before the hearing will commence.

11 As noted above this research considered the experiences of Advisers based in and outside London and southeast England. It is worth noting that in general responses across the rest of the UK are consistent and there were no major variations in the responses of the different Advisers that can be seen as being attributable to their location.

4. Responses from separated children

The young people who engaged with this research did so entirely voluntarily and there was no pre-selection. As such the sample does not reflect the demography of separated children in the UK nor the demography of separated children supported by the Refugee Council. It is thus not portrayed here as being representative of the experiences or feelings of the wider population of separated children. However it presents a snapshot and an interesting glimpse into the experiences of some separated children's experiences with their legal representatives. All the young people who engaged with this research were boys aged between 14 and 16 years old (five were 14 years old, two were aged 15 and three were 16 years old).

The young people reported that their legal representatives were 'found' for them by a range of agencies and individuals ranging from relatives and foster carers through to the voluntary sector (Refugee Council) and statutory providers (Children's Services). Only one young man reported that he had found his legal representative via an unsolicited third party – an interpreter who worked for a legal firm who visited the hostel where he was staying. Five of the young men had been granted discretionary leave to remain until they turn 17.5 years old. The remaining five had yet to hear from the Home Office regarding the outcome of their initial asylum application.

Summary of responses from separated children

	Positive Response	Negative Response	Inconclusive Response
Asylum determination procedure adequately explained to the child	2	6	2
Preparation provided to the child regarding UKBA interviews	6	3	1
Legal representative accompanied the child to UKBA interviews	6	3	1
Quality and incidence of communication from representative to child and others was adequate	2	6	2
Overall – child satisfied with legal representative	4	5	1

When the young people were invited to sum up the standard of the legal representation they had received four of them broadly described it as good whilst one portrayed a mixed picture. The remaining five young men were dissatisfied with the quality of the work of their legal representative. There was no clear relationship between the perceived quality of representation and the outcome of the asylum application. So whilst three young men with discretionary leave felt their representative was good, a further two young men in the same situation felt their legal representative was not good. Of those still awaiting a decision one young man was satisfied with his representative, three were dissatisfied and one was unsure about the quality of advice and support he had received.

Whilst six young people outlined that their legal representative had not satisfactorily explained the asylum determination procedure to them, and the different stages they would need to go through, only two of the young respondents said that the process had been explained to them with a further two giving incomplete responses.

Six young men felt that their representative prepared them for their interviews with UKBA staff, three felt unprepared for the interview and one young man did not cover this in his discussions with the researcher. The responses were exactly the same concerning legal representatives attending the interview with UKBA: six responses stated that the representative accompanied them to their interview, three said the representative was not present and there was one young man who did not refer to this. However, preparation for the interview and attending the interview were not totally matched. One young man explained that his representative prepared him well for the interview but did not attend it with him. Conversely another young man felt he was not prepared but his representative did come with him when he was interviewed by UKBA. Only two of the young respondents were satisfied with the regularity of communication from their representative, six thought it should have been better, and two did not talk about this in detail.

One young man explained that he did not know how to contact his solicitor – he had no phone number. Another of the respondents told the researcher that his representative left the legal firm he was working for without telling him and that no one took up his case and no one was there to listen to him (the Refugee Council found him a new representative). He was very angry that no one took his life seriously.

On a positive note one young person was pleased that, when completing the self-evidence form, his legal representative wrote down everything that he said. But some young people were also told to come back in three years when their period of leave runs out and one young man explained that he was told to wait until he was 18 years old to appeal against his decision, but an explanation why to do so was not forthcoming. One young man said he did not trust his representative – *“he doesn’t explain anything and all he wants to do is make money”*. Another young man reported that he was unhappy because every time he saw his solicitor he had to engage with a different interpreter. In a similar vein one young man was upset that the interpreter kept telling him to hurry because he (the interpreter) had an appointment with a friend. He summed his feelings up as *“my life, or your appointment, what is more important?”*

The findings from the young people were illuminating, not least the lack of correlation between the decision a child had received on his case and his views on the quality of legal representation he had received. It shows an awareness from young people that may not have previously been recognised, that is the young people in our sample were able to give feedback about the quality of the advice and representation regardless of what the final outcome of the case may be. This alone indicates that further research into the opinions of young people in this area of work would enhance our understanding.

5. Summary of main findings

The quality of legal representation that separated children receive is extremely varied. Some will have quality advice throughout their application that is delivered in an appropriate manner where all the stakeholders relevant to the welfare and best interests of the child are consulted and encouraged to engage with the legal representative as partners in their work with these children. Communication is good and the child is kept informed and will be prepared for their contact with UKBA. Conversely some separated children receive a poor service which fails to provide sound advice or address a child's particular needs, and where communication between the legal representative and relevant others, and preparation for interviews, is virtually non-existent.

This research looked at a number of areas: practice, knowledge, ability to communicate, willingness to keep the child informed of the progress of their application and the presentation of the case. Generally it found that these components are closely inter-related and if a legal representative is good in one area of practice they will be good in all areas and vice-versa i.e. unsatisfactory in all areas, though there are exceptions to this generalised point.

Legal representatives often move legal practices and as a consequence many separated children have to deal with a change in their representation at least once during their asylum determination procedure. This can be unsettling for children and is often exacerbated by a lack of communication, which means that the child doesn't know who, if anybody, is representing them.

Whilst the perception that there are 'good' legal firms and 'bad' legal firms generally holds up, we identified instances where the quality of representation varied considerably within a particular firm depending upon the individual assigned to any particular case.

The number of quality legal representatives who are able to work effectively is limited. Estimates from Advisers are that there are currently fewer than 20 representatives in London who are able to provide the desired standard of service to children and the figure is significantly lower in other areas of England. The majority of legal representatives have limited knowledge of the specific issues that separated children face in the asylum determination procedure and their knowledge of child welfare legislation is extremely limited. Few are knowledgeable in both asylum and child welfare legislation. There are also gaps in current knowledge about the situation for children in countries from which separated children originate and specific issues such as female genital mutilation.

This research found that the quality and compatibility of interpreters and the roles they take on is also extremely varied. Sometimes languages are simply not matched accurately or dialects are not taken into consideration and thus separated children are effectively denied the opportunity to communicate with their legal representative. Some interpreters inappropriately advise their child clients, control the interview or take the lead in completing the Statement of Evidence Form.

6. Recommendations

- 1 The Law Society or other relevant professional body should establish criteria for legal representatives working with children to reflect the specific knowledge, skills and qualities required in order that the children receive the best possible service.
2. Accredited training should be designed to enable legal practitioners to be specifically recognised for their work with children in the asylum system.
3. In order to ensure that separated children are supported to understand the complexities of the asylum determination procedure and to challenge unsatisfactory practice as they travel through the asylum procedure, the role of the independent adult should be extended. This should include as a minimum the requirement that an independent adult must be present at all interviews relating to the asylum determination procedure, including those with legal representatives. Ideally this would be through the allocation of an independent guardian for all separated children, with an extensive role including, and extending beyond, the determination procedure.
4. The government should consider funding both an accreditation scheme for interpreters working with children in the asylum system and training provision in order that interpreters can achieve the required accreditation.
5. Further research should be conducted with young people who have experienced, or are currently involved with, the asylum process. They can offer a unique insight and may raise issues that professionals have not previously considered.

Appendix 1 – Framework for discussions with Children’s Advisers

How do legal representatives currently helping children through the asylum process score on the following criteria?

- Knowledge of immigration law relating to children, awareness of current law/policy in the children’s asylum field
- Direct communication with the child and other professionals working with the child:
 - explaining the process in way that a child and non-specialist professional can understand
 - asking questions in a way that a child can understand and that facilitates his/her participation
 - showing understanding of the way that children express themselves and will recall/relate the asylum story
 - responding appropriately to questions/queries from the child and professionals working with the child
- Presentation of the case – uses the child’s statement and objective sources of evidence to present a reasoned argument for protection
- Following the process – keeping to timescales, attending appointments, explaining to the child and professionals what is required at each stage
- Preparation of child for appointments and events particularly their substantive interview
- Commitment/doggedness – do they do everything required to give the claim its best chance of success, including appropriate action on appeals?
- Playing a proactive part in keeping a child safe and promoting his or her welfare
- Understanding the impact of poor quality advice and representation for separated children.

Appendix 2 – Questions put to separated children

- How did you access your legal representative?
- Did your legal representative clearly explain the asylum system to you at the beginning? Did you know about the system before you met them? Did they make things any clearer?
- Did they help prepare you for your substantial interview? Did they come to the interview with you? Did any other adults come with you? Did they go through your statement again with you?
- Did your legal representative arrange for an interpreter to be present when you met? Did the interpreter do a good job? Did you understand what he/ she was saying to you? Did they understand what you were saying?
- Did your legal representative keep in touch with you and give you updates about your claim and what was happening to it? Did they let you know about any letters they received about your claim? Did they give you plenty of notice about any meetings you had to have with the Home Office? Did they tell you *quickly* about the decision about your claim?
- Did you understand that you had a right to appeal a decision?

As a human rights charity, independent of government, the Refugee Council works to ensure that refugees are given the protection they need, that they are treated with respect and understanding, and that they have the same rights, opportunities and responsibilities as other members of our society.

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