



The
Children's
Society

Into the unknown

Children's journeys through the asylum
process



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Introduction

Seeking protection alone

Each year around 3,000¹ unaccompanied children claim asylum in the UK. Most come from countries which are in a state of chaos, endemic violence or with well-documented human rights abuses, such as Afghanistan, Iraq, Iran, Somalia, Democratic Republic of Congo, Sri Lanka and Eritrea. These young people survive mass killings, escape from being recruited as child soldiers and experience the death of loved ones. For some, their journey to safety is extremely dangerous and they experience exploitation, violence and abuse along the way².

The process of claiming asylum is very complicated and confusing for children who seek protection in the UK on their own. Although we have seen improvements in recent years, for many of the young people The Children's Society works with, the process remains frightening and bewildering. The trauma they have suffered prior to arriving in the UK and the difficulties they experience in seeking protection as well as acclimatising to a new culture, language and way of life, all have a significant impact on their well-being.

The applicant journey review

The Children's Society welcomes the work that the UK Border Agency (UKBA) is undertaking to investigate and improve their systems of information, advice and support for asylum applicants. These are important in ensuring that the agency's duty to safeguard and promote the welfare of children is further integrated into the asylum process.

To inform this initiative, we conducted a consultation with 33 young people aged 13 to 20 supported by The Children's Society's services in Manchester, Birmingham and Oxford. The young people we spoke to were at different stages of the asylum process at the time of the consultation and came from a range of countries including Algeria, Afghanistan, Iran, Somalia, Sudan and Syria. All had come to the UK as unaccompanied asylum-seeking children. Most were boys but five of the 33 were girls.

The report begins by providing background information on child development, mental health and well-being, the status of unaccompanied asylum-seeking children in the UK, and outlines the policy and legal context of children's rights to participation and considerations of their best interests. It then goes on to set out the key findings from our consultation with young people on their experiences of the asylum process and makes a number of recommendations. We believe these would improve how children and young people feel about their treatment by ensuring that their views are taken into account and that they have a fair chance to have their protection claim considered.

For the purposes of this report, we have not consulted with children who experience the asylum process as part of a family - as dependents of their parents' claim. From our experience of working with refugee families, children are often invisible or seen as secondary to their parents. However, they have the same individual rights as all children, including the

¹ According to Home Office statistics, between 2007 and 2011 there were on average 2,819 asylum applications from unaccompanied children each year. In 2011, there were a total of 1,277 applications from unaccompanied children: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-tabs-q1-2012/asylum3-q1-2012-tabs>

² Mougne, C. (2010) *Trees only move in the wind: A study of unaccompanied Afghan children in Europe*. Geneva: UNHCR

right to be heard and to be informed about decisions that affect their lives. This is made clear in Statutory Guidance issued to the UKBA³. Their individual experiences should not be overlooked when considering the asylum applicant journey.

³ Section 55 of the Borders, Citizenship and Immigration Act 2009 – see [Statutory Guidance](#).

Chapter 1: Background

Child development and maturity

Unlike adulthood, childhood is a unique time during which children are developing at a rapid rate. As they grow up, children develop cognitive, physical, social, emotional and moral capacities. These influence their ability to communicate, make decisions, develop an awareness of others, ability to project events to more distant points in the future and make judgements about long-term consequences.

While people continue to develop throughout life, all societies acknowledge that childhood is a period during which children's capacities are perceived as evolving rather than evolved⁴. This means that children are fundamentally different from adults, which is recognised in law⁵. As they make the transition into adulthood, children continue to develop and evidence clearly shows that the human brain is not 'mature' until the early to mid-20s.⁶ However, despite some recent improvements, the current asylum system makes little allowance for these varying developmental stages in its treatment of unaccompanied children.

Unaccompanied asylum-seeking children in the UK

Most unaccompanied children who apply for asylum in the UK are refused refugee status or humanitarian protection, but are granted discretionary leave to remain for 30 months⁷ or until they reach the age of 17½, whichever is sooner. On average only 13% of unaccompanied minors were granted asylum over the past five years, while around 51% were given discretionary leave on the basis that there were no adequate reception facilities in their country of origin.⁸ Although grant rates improved somewhat in 2011, unaccompanied children continue to be granted refugee status at a noticeably lower rate than overall applicants. In 2011, 25% of asylum applications were granted refugee status compared to only 18% of unaccompanied children⁹.

As their discretionary leave comes to an end, children may apply for an extension. However, the numbers of young people who receive an extension of discretionary leave is very low – around 290 out of 5,280 decisions over the past five years, according to UKBA figures¹⁰. This

⁴ Lansdown, G. (2005) 'The Evolving Capacities of the Child'. UNICEF.

⁵ As indicated in the Declaration of the Rights of the Child, "*the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.*" Article 5 of the UNCRC specifically states that States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.

⁶ Prior, D. et al (2011) 'Maturity, young adults and criminal justice: A literature review'. By the Institute of Applied Social Studies School of Social Policy, University of Birmingham for the Transition to Adulthood Alliance.

⁷ Discretionary leave to remain is a form of temporary permission which may be given in some circumstances to those who have been refused asylum or humanitarian protection but who cannot return to their country of origin for other reasons – e.g. medical reasons. In the case of unaccompanied asylum seeking children, they will normally qualify for discretionary leave because they are a minor and there are no adequate reception arrangements available in their country of origin. Previously this leave was given for three years, however, with the change to the immigration rules from 9 July 2012, this is now 30 months.

⁸ This figure is based on the average number of unaccompanied asylum seeking children granted refugee status and discretionary leave between 2007 and 2011 from Home Office statistics: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/>

⁹ According to Home Office statistics, of the 17,496 initial decisions on asylum applications overall made in 2011, 4,309 (25%) were grants of refugee status, 81 (0%) Humanitarian Protection, 1,258 (7%) Discretionary Leave and 11,848 (68%) outright refusals. For unaccompanied children, of the 1,356 initial decisions made in 2011, 239 (18%) were grants of refugee status, 10 (1%) Humanitarian Protection, 607 (45%) Discretionary Leave and 500 (37%) refusals.

¹⁰ Coram Children's Legal Centre (2012) 'Navigating the System: Advice provision for young refugees and migrants'. London: Coram Children's Legal Centre

means that children receive a temporary status to remain in the UK and at a key transition point in their lives - as they turn 18 - they are at risk of being detained, made destitute, or returned to their country, where their safety and welfare are not ensured¹¹.

Cultural, linguistic and educational context

Unaccompanied children seeking protection in the UK often struggle to get the support they need to understand their rights and present their case effectively. Limited English, lack of understanding of British cultural cues, illiteracy, lack of education and different development opportunities throughout their childhoods are all factors that make it difficult for many young refugees to understand what is happening to them throughout the asylum process.

Furthermore, many refugee children will have grown up in cultures where they have been taught to be obedient to their elders. They are more likely to be submissive to adults, particularly those in positions of authority. Our services find that young refugees are often unwilling to complain if something is wrong or ask questions. In addition, experiences of persecution under repressive and brutal regimes have taught some to live in fear of the authorities.

Mental health and well-being

According to research on refugee children's mental health there is a direct relationship between post-migration stresses and psychological distress including higher levels of post traumatic stress disorder (PTSD) and depression.¹² The immigration process and discrimination were both found to result in greater PTSD scores while uncertainty regarding asylum status or failed claims were significantly related to depression. Furthermore, evidence suggests that psychological problems such as these are more prevalent in unaccompanied asylum-seeking children than in accompanied children.¹³

Our own research on children's subjective well-being¹⁴ shows that of the 10 factors found to affect children's subjective well-being, choice had the greatest effect on their overall well-being.¹⁵ Children who feel that their views are taken seriously and that they are treated fairly in key areas of their lives have a more positive view of themselves, resulting in greater well-being.¹⁶ Many of the young people we spoke to during this consultation told us that the immigration system made them feel powerless as they had no choice over what was happening with their case or the impact it had on their life.

¹¹ Gladwell, C. (2012) '[A voice from Afghanistan](#)'. Refugee Support Network blog on 6th May 2012.

¹² Bronstein, I. and Montgomery, P. (2011) 'Psychological Distress in Refugee Children: A Systematic Review' in *Clinical Child and Family Psychology Review* Volume 14, Number 1 (2011) pp. 44-56

¹³ E. Sanchez-Cao, E., Kramer, T., and Hodes, M. (2012) 'Psychological distress and mental health service contact of unaccompanied asylum-seeking children' in *Child: Care, Health and Development*

¹⁴ This survey was conducted in 2008 with a representative sample of over 7,000 children aged 10 to 15 in mainstream schools in England. Whilst refugee and migrant children made up a small proportion of this sample the findings are still relevant as a reflection of the factors affecting the well-being of children of this age range.

¹⁵ The Children's Society (2012) '[The Good Childhood Report 2012: A Review of Our Children's Well-being](#)' p. 15

¹⁶ Goswami, H. (2011) 'Social relationships and children's subjective well-being' in *Social Indicators Research* Online First, 26 May 2011

Chapter 2: Policy and children's rights

Best interests of the child

When the UK ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991, it recognised children to be vulnerable subjects requiring additional care and protection while also acknowledging their autonomy as rights-holders in their own right. Article 3 of the UNCRC states that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Children's rights apply to all children within the state's jurisdiction without discrimination of any kind including national, ethnic or social origin or other status. By removing the immigration-related reservation to the Convention in 2008, the UK government in effect accepted that all children, irrespective of their immigration status, must enjoy all of the Convention's rights and protections. This means that any decision or policy now made by a public authority affecting children subject to immigration control, has to be made in accordance with the UNCRC to the same extent as those concerning any other child resident in the UK.

This paved the way for the establishment of a duty on the Secretary of State under Section 55 of the Borders, Citizenship and Immigration Act 2009 to make arrangements for ensuring that immigration, asylum, nationality and customs functions are discharged in a way that safeguards and promotes the welfare of children. Government guidance specifies that this includes putting in place processes for: *'preventing impairment of children's health or development; ensuring that children are growing up in circumstances consistent with the provision of safe and effective care; and undertaking that role so as to enable those children to have optimum life chances and to enter adulthood successfully'*¹⁷.

In its response to the independent review of the Children's Commissioner, the government made clear its commitment to *"give due consideration to the UNCRC Articles when making new policy and legislation"*. The former children's minister, Sarah Teather, emphasised that, *"At the centre of this coalition government's thinking is a determination to see children and young people achieve to their full potential, and the desire to empower individuals to shape their own future."*¹⁸ This applies equally to all children and young people, including those subject to immigration control.

While the removal of the UNCRC reservation and the introduction of the Section 55 duty have marked important steps forward in policy, we have found through our services that children's rights and welfare continue to be compromised in favour of tighter immigration control¹⁹.

Children's participation

A key right under the UNCRC is participation. Children's views should be sought in all matters affecting their lives and should be given due consideration in accordance with their age and maturity. This right was central in the case of *ZH (Tanzania)* where the supreme court held

¹⁷ UKBA and DCSF (2009) *'Every Child Matters, Change For Children: Statutory Guidance to the UK Border Agency on Making Arrangements to Safeguard and Promote the Welfare of Children'* London: HM Government, paragraph 1.4, p. 6

¹⁸ Publication of the independent review of the Children's Commissioner - [Written Ministerial Statement](#)

¹⁹ Pinter, I. (2012) *'I don't feel human: Experiences of destitution among young refugees and migrants'*. London: The Children's Society.

that when deciding what is in the best interests of the child, ascertaining the child's own views was an important part of the process. It stated that "*immigration authorities must be prepared to at least consider hearing directly from a child who wishes to express a view and is old enough to do so. Whilst their interests may be the same as their parents this should not be taken for granted in every case*".²⁰ Effective participation requires decision-makers to put in place procedures that enable the wishes and feelings of children to be considered. This includes ensuring that children are informed and aware of the decisions that are being made, in a way that they can understand.

²⁰ *ZH (Tanzania)v Secretary of State for the Home Department* [2011] UKSC04 1 February 2011, paragraph 37

Chapter 3: What young applicants told us about their 'asylum journey'

Going through the asylum process as an unaccompanied child is a confusing and emotionally distressing time. It often follows a dangerous and long journey to the UK to escape war or persecution in their home country and it can be hard for a child or young person to process all of these things at once. In talking about their experiences since arriving in the UK and claiming asylum, many young people displayed feelings of confusion, distress, anger and frustration. Some struggled to piece together the stages of the process as their memories were blurred or were so traumatic that they had blocked them out.

Fear, worry and anxiety

When asked about their general view of the asylum process, their strongest feelings were of fear and worry. They were aware that claiming asylum was a serious matter and said that the process had been extremely stressful. Many of the young people interviewed said that when they arrived in the UK they were scared of being returned to the country from which they had fled and lived in constant anxiety and worry until they were told they could remain. In many cases the decision process took several months and even years. One young person said it was:

"Confusing when interview was over and everything was over and the decision is very, very slow."

However, a few young people we spoke to did have a positive view of the asylum process and the UKBA staff they had encountered. For example, one young person said she found her case worker helpful and easy to speak to. Those who received protection from the UK government said this decision had changed their lives and they were very grateful to the UKBA for it.

Complexity of the asylum process for children

The young people's experiences of the different stages of the asylum process varied considerably. Very few could piece together the steps of the process in chronological order, as it would be set out in policy and guidance, but recalled many stages as being 'bad experiences'. Many young people also found it hard because they were asked so many questions by many different professionals. As one young person said:

"So many interviews and questions and so many forms - all blur into one."

The fact that the provision of immigration advice is heavily regulated and restricted to legal practitioners with specific training²¹ is indicative of the asylum system's complexity. Serious shortages in the availability of good quality, specialist legal advice and representation²² mean that children and young people experience great difficulty in navigating the system. As highlighted in a recent report on the provision of advice to young refugees and migrants, while children's rights and entitlements may be clearly enshrined in international and domestic standards, this can mean very little in practice if children are unaware of them and

²¹ Authorised legal representatives can be any one of the following: solicitors, barristers, other regulated non-lawyers such as caseworkers and immigration advisors in specialist advice centres or other organisations. Solicitors and barristers are regulated by their own professional bodies. Other legal representatives are legally bound to register with (or obtain an exemption from having to register with) the Office of the Immigration Services Commissioner (OISC), which is responsible for ensuring that immigration advisers fulfil the requirements of good practice.

²² Refugee Council (2011) *'Lives in the Balance: The quality of immigration legal advice given to separated children seeking asylum.'*

do not have the means to challenge the failure to implement or uphold them²³. The information that children get also varies greatly depending on where they end up in the country.

The only guide for young people produced by the UKBA, which gives information on the process in a simple format, was published in 2006 and is out of date²⁴. It was published prior to the removal of the reservation to the UNCRC and the enactment of the Section 55 safeguarding duty and so omits vital information about young people's rights, including about the Office of the Children's Commissioner, who is responsible for ensuring that the views of children and young people are asked for, listened to and that outcomes for children improve²⁵. Importantly, the guide describes an entirely different asylum process for children prior to the establishment of the New Asylum Model (NAM) where children, for example, did not have a substantive interview. Therefore, it is entirely misleading. We recommend that this guide is urgently updated and reviewed regularly. We would encourage the agency to consider other formats for providing information to children, for example audio formats in different languages.

Any written information provided to children, including letters from the UKBA, should be provided in a simple, accessible format and in a language they can understand. In addition the UKBA should ensure that children are able to consider information with the support of a responsible adult so that there is someone who can explain the information to them in a way that they can understand.

Lack of confidence in UKBA and the asylum process

A few young people told us that they felt UKBA staff had listened to them and that they had been helpful, for example by speaking to them slowly and with respect. One young person said:

"They gave me an interpreter and a solicitor. They spoke to me in a nice way. They said they could not answer my questions every day, but they told me to speak to my solicitor."

Another young person explained how during their interview their case owner had been very patient and supportive saying:

"I understood all the questions -- if I didn't, I would ask for them to say it a second time until I understand."

However, many of the young people expressed a lack of confidence in the asylum process and the UKBA generally. A number of young people felt that their cases were dependent upon luck and the benevolence of the officials dealing with their case. Another common and extremely stressful experience for them was when their case files and essential information, such as identification documents, were lost by the UKBA for long periods of time or even permanently.

²³ Dorling, K. and Hurrell, A. (2012) *'Navigating the System: Advice provision for young refugees and migrants'*. London: Coram Children's Legal Centre

²⁴ Home Office (2006) *'Claiming asylum and living in the UK: A guide for young people arriving alone'*. London: HM Government. The guide was produced with support from Save the Children.

²⁵ Given the Commissioner's strengthened role in promoting children's rights and the merger with the Children's Rights Director function for promoting the views of children away from home, it is essential that children seeking protection in the UK alone are made aware of the new Office of the Children's Commissioner for England and their rights under the UNCRC.

While a few young people said that the UKBA officials dealing with them had been respectful and smiled, the majority we consulted said that staff had been rude, did not smile and had been 'rough' with them. A number of young people even reported angry and aggressive behaviour towards them. One recounted his asylum interview:

"My interview was the worst experience that I have in my whole life. He was so angry with me and there was a part of my case that I need help for my health... and he asked 'why you didn't die!' Isn't it rude?"

Culture of disbelief and benefit of the doubt

UKBA guidance on processing applications from children states that in assessing credibility *"the benefit of the doubt will need to be applied more generously when dealing with a child"*²⁶. The Children's Society's long history of working with children has taught us that children and young people who are victims of abuse, exploitation and violence need to feel that they are believed. When children disclose information about the harm that has been done to them and their loved ones, a central pillar of our child protection system is to give children the benefit of the doubt.

However, this does not appear to be the case in practice for children subject to immigration control who are disclosing abuse. A number of young people we spoke to felt that UKBA officials did not care about them and treated them with suspicion and disbelief. Almost all said that they were asked the same or very similar questions repeatedly. They found this confusing, tiring and many of them felt that officials were doing this to try to *'catch them out'*. As one young person explained:

"They kept asking the same questions again and again to see if you are telling the truth. They do not trust what you say."

This type of questioning was very unsettling to some of the young people and undermined their ability to communicate essential details and present their case properly. One young person said:

"It [the interview] made me feel bad. Their intention is to find something in what we can say so they can catch us. They shouldn't do that."

Some of the young people we consulted had experienced situations where the information they had provided to the authorities was called into question. Inconsistencies in their evidence given at different points in the process had been used to discredit their claim for protection and they had not been given any opportunity to explain this discrepancy.

Another factor that contributed greatly to young people's anxieties about the asylum process was having their age disputed by the UKBA or local authorities. They did not understand why they were not being listened to about their age and why they were not believed²⁷.

²⁶ UKBA Asylum Policy Guidance - *Processing an Asylum Application from a Child* para 16.4

²⁷ Each year on average around 1,200 (30%) of those who claim asylum as unaccompanied children have their age disputed by the UKBA. Some will also have their age disputed by the local authority. It is difficult to know exactly how many are later found to be children since this data is not collected and published by the Home Office. However, we know from our direct practice that the age determination process is a very stressful and disempowering experience for young people, some of whom are put at

Understanding what is happening to them

In order for children to participate in a meaningful way in decisions made about them, they need to be able to understand the decisions that are being made and what will happen to them. This means that mechanisms should be in place to ensure that children understand their rights at each stage of the process. UKBA guidance repeatedly states that explanations of what is happening and the asylum process should be given to children and young people at various stages and 'in child friendly language'.²⁸

From our consultation it was a particular concern to hear that almost all of the young people we spoke to said that they often did not know what was happening to them during various parts of the asylum process. Many did not know who their case owner was and were often unaware of what this role entailed. Several young people reported only receiving information about the asylum process from their interpreters or solicitors rather than the UKBA. One young person said:

"They never gave me any written information; just spoke to me. My solicitor gave me a copy of the case. No information about what would happen to me or explaining things. I just thought this is just how it is."

Only some young people said they knew what a responsible adult was, while others were not informed of this and a few young people said they were given conflicting or wrong information about the asylum process.

Written information

In order for children to understand the written information presented to them it needs to be in a language and format they can understand. Some young people said that they could understand more when spoken to in person but that written information was far harder and often there was a lot of text. There appears to be no difference between the written information provided to young people and to adults, for example, in their refusal letters. Many of the young people we spoke to said they had difficulty understanding why their claims had been refused and that they were unable to understand the complex language used in letters from the UKBA without support. As one young person explained:

"Face to face is OK to understand but in writing it's much harder. They use long, difficult words. I need someone to explain to me. Especially letters they send me - I don't understand."

Interviews and questioning

UKBA guidance states that interviews with children should be carried out in a "sensitive manner using appropriate tone" and that if "a child is perceived to be upset... case owners must stop the interviews and assess the situation"²⁹.

great risk when their age is incorrectly assessed: they can end up destitute on the streets, in detention with adults or living in adult accommodation without appropriate supervision or support, all of which pose serious safeguarding risks for children. In 2010, the Refugee Council helped secure the release of 26 children wrongly detained as adults and in 2011 helped 22 children in this situation. Dennis, J. (2012) *'Not a minor offence: unaccompanied children locked up as part of the asylum system'*. London: Refugee Council.

²⁸ UKBA Asylum Policy Guidance - *Processing an Asylum Application from a Child* paragraphs 11.1, 13.4

²⁹ UKBA *Processing an Asylum Application from a Child*, paragraph 13.4

Young people's experiences suggest that these guidelines are not being adhered to consistently in practice. The young people we spoke to found their interviews with UKBA upsetting, confusing and stressful. Many of them told us that the interviews involved a lot of questions and took a long time – a few reported interviews taking up to eight hours. It is good practice to keep interview times as short as possible. The Immigration Law Practitioners' Association suggests a maximum of 30 minutes for younger children and no longer than 90 minutes for older children.³⁰

Some young people found the questioning easier than others but the majority felt that the questions were confusing and difficult to understand. Some considered the questions to be private and intrusive. They said they felt under pressure and that they could not ask questions themselves. A number of young people said that their interviews were very upsetting with a few of them saying that they had bad memories of their interviews, which continued to give them nightmares. One young person said:

"At the asylum interview I was scared. Now whenever I have a meeting I hate it. I didn't understand why they were having this meeting. I had meetings every day. Sometimes when I was telling my story he [the Home Office official] was laughing at me. It made me very angry; I thought he thought I was lying. I didn't understand what was happening, nobody explained any of it to me."

In developing a more effective process for children seeking protection from abroad, the UKBA should consider other approaches for engaging and interviewing vulnerable children, including those who experience language and cultural barriers to communicating and participating effectively. For example, guidance on obtaining the best evidence from children through interviews in criminal proceedings³¹ advises an approach which is more flexible and supportive of the child. Techniques that allow the child to use drawings and props to explain their accounts can allow for more detailed and accurate evidence as well as supporting those who struggle to communicate verbally and in writing.³²

The guidance also explains the importance of initiating an uninterrupted free-narrative account. In addition, government guidance on safeguarding disabled children, including children with communication difficulties, could be used. This advises using particular resources or different methods of communication to facilitate and maximise children's communication to ensure their wishes, feelings and rights to participation are taken into account.³³ This could be done by using videos, images and icons to convey complex information.

Difficulties with interpreters

Without good quality interpreting young people struggle to understand the forms and questions they are asked and cannot engage in a meaningful way. UKBA guidance states that it is the duty of the case owner to ensure that the interpreter and child understand one

³⁰ Crawley, H. (2012) *Working with Children and Young People Subject to Immigration Control: Guidelines for Best Practice* London: Immigration Law Practitioners' Association p.53

³¹ Ministry of Justice (2011) *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing victims and witnesses, and guidance on using special measures*

³² Ministry of Justice (2011) *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing victims and witnesses, and guidance on using special measures* pp. 89-90

³³ Department for Schools, Children and Families (2009) *Safeguarding disabled children: Practice guidance* London: HM Government

another sufficiently.³⁴ However, a recurrent issue we found was that interpreters lacked experience of working with children and young people as well as knowledge of the asylum system and its processes. Many young people said that their interpreters had difficulty explaining what was happening, did not understand the forms and were not sure about words or concepts that were specific to the immigration process. This left young people feeling insecure about information they did receive from officials and the information they gave. Some worried that their experiences had not been accurately presented and this made them anxious about how decisions about their lives were being made. As one young person reflected:

"How can they make the right decision with the wrong information?"

As young people did not always have access to a responsible adult³⁵, they were forced to over-rely on interpreters to understand the asylum process and forms.

UKBA guidance also states that the case owners "*must confirm... that the interpreter and the child understand one another and that the interpreter's manner is appropriate*".³⁶ The role of all interpreters employed by the UKBA is to provide "*an accurate and impartial translation from English into the foreign language and vice versa*" and case owners "*should tell the interpreter not to add to, assist or edit what is said on either side, nor offer information, opinion or comment of his own*"³⁷. Yet several young people we spoke to told us that their experience of interpreters was problematic. One young person said:

"Interpreter from the Home Office was asking some questions that were different from other interpreters... e.g. when I first came my case was different from the others [from my country] ... interpreter said I was a liar and I was thinking it's my interview and I am not lying and why are you saying this? I was upset with the interpreter."

A number of young people said that they were provided with interpreters who did not speak the correct language or dialect and this had an impact on their case:

"They use interpreters with different dialects; they can't explain exactly what I want to say. Some words are totally different and it changed my story."

Often young people will not realise that mistakes have been made through interpreting errors until it is too late. This appeared to be a common problem and a number of young people only realised this at a later stage, when their English had improved. However, by this point they had signed forms or statements, often because they were told to do so by interpreters who they had entrusted to translate on their behalf.

"I now understand better English [three years later]... the interpreter didn't speak the language and it was wrong and he pretended to understand and say right things. But he

³⁴ UKBA Asylum Process Guidance - *Processing an Asylum Application from a Child* paragraph 13.3

³⁵ This term generally refers to someone who the child trusts, whose role is primarily to ensure that the welfare of the child is paramount during an immigration interview. It will usually be a social worker, a voluntary sector worker or a foster carer. It should not be the child's legal representative and should always be someone independent of the Home Office. For further information on this role, see [ILPA Good Practice guide](#).

³⁶ UKBA Asylum Process Guidance - *Processing an Asylum Application from a Child* paragraph 13.3

³⁷ UKBA Enforcement Instructions and Guidance – *Chapter 39 Interpreters* paragraph 39.3

said wrong things ... I said this is important for my life and it needs to be right. And you can't prove it's not the right thing -- they think you are lying or changing your story."

Complaints and feedback

Part of children and young people's development involves obtaining autonomy and independence. As adolescents they are more easily influenced by the advice given to them by others, including adults in their surroundings and their peers. From our direct experience we have found that many children seek to 'do the right thing' in order to please adults. And in some cultures it is not considered acceptable to complain, to be critical of or to question adults and officials. Similarly, young people seeking asylum will have fled regimes where doing so could threaten their lives. Many may also have been warned against speaking to anyone by traffickers or agents who brought them to the UK. As one young person explained:

"When you first come to the UK you don't know the language, you don't know what will happen, you just do as you are told and you don't ask questions."

A few of the young people we consulted said that they had complained, for example about their interpreter, and they were pleased with the quick responses of the UKBA to remedy this. It made them feel listened to. However, the majority felt that it was hard to speak up if they felt something was wrong or that they simply were not aware of what was going on.

Many of the young people lacked confidence and feared that questioning or complaining to the UKBA would have negative repercussions for their case. When asked about whether they would want to provide feedback about their experiences of the asylum process most felt that the whole experience had been a long, traumatic and upsetting process which they did not like or want to think about again. Some continued to have distressing memories of being detained, having been accused of lying or being treated poorly by officials and did not want any further contact with the UKBA. One young person said:

"When I first came I was so scared. I didn't feel I could complain and didn't know how."

The UKBA should develop an independent process for children and young people to complain if they feel their rights have been breached or that the UKBA staff have treated them unfairly. Again, the UKBA could look to other already established complaints and advocacy systems. For example, local authorities have a statutory duty to provide advocacy services for children in care by making formal complaints through an independent reviewing officer or an independent advocate with a specific provision for children with communication difficulties.³⁸ In addition, the Children's Rights Director in England has independent statutory duties to ascertain and report the views of children living away from home or in care, to advise on children's rights and welfare, and to raise matters he considers significant to the rights or welfare of the children in his remit.

In order to work effectively, and for young people to be confident in using it, any such system would need to carefully consider issues around independence, anonymity and confidentiality. It is particularly important that when young people complain or give negative feedback that

³⁸The Children Act 1989, the Adoption and Children Act 2002 and the Children (Leaving Care) Act 2000 and its accompanying guidance emphasised the role of advocacy in supporting young people through complaints procedures.

this does not have an adverse impact on their protection claim or access to support and services.

Conclusions and recommendations

The findings from our consultation suggest that young people are not getting the information they need about the asylum process in a format that is accessible to them. This leaves them feeling powerless and insecure about vital decisions that affect their lives and their futures. They find it difficult to complain about the treatment they receive because there are no clear channels through which they can do this and they are anxious that any complaints they make will have a negative impact on their asylum claim.

Our findings suggest that the current asylum process does not take sufficient account of children's rights, their evolving capacities and unique protection needs. Although there is some good practice, for example a different approach to processing applications from unaccompanied children and specialist case workers, Home Office policy and procedures do not take sufficient account of children's unique needs. Children are seen as just another 'vulnerable group'. However, we believe their fundamental difference to adults should make a major, not token, difference to how they are treated within the asylum process. Far more needs to be done to embed an understanding of children and young people's developmental stages into the current process.

The following recommendations would lead to a better, more child-centred asylum process:

Recommendations

- The UKBA should develop application forms and other written communication, such as letters, in an accessible, 'easy read' format, designed for children and young people, and in consultation with them. Asylum applications should allow child applicants the opportunity to present their evidence through a chronological narrative supplemented with drawings and other props, where appropriate.
- The Home Office should establish a system of training and accreditation for interpreters working with children within the immigration system in the UK.
- The UKBA should update the information guide provided to children and young people applying for asylum in the UK and ensure that it is updated regularly. This should be done in conjunction with children's rights experts and in consultation with young people who have experienced the asylum process.
- The government should establish an independent, child-friendly complaint and feedback system for children going through the asylum and immigration process to inform Home Office policy affecting children at all stages of the immigration process. This should be done in consultation with children's rights experts, voluntary sector agencies, independent inspectorates and other stakeholders. Any such system should ensure that making a complaint would not have an adverse impact on the outcome of a child's claim or access to services.
- The Independent Chief Inspector for the UKBA and the Office of the Children's Commission should carry out an independent review of the government's implementation of the Section 55 duty to safeguard and promote the welfare of children in relation to its immigration, asylum, nationality and customs functions to date.

- The Home Office should develop a pilot initiative to assess the impact of the asylum process on children's well-being, including their subjective well-being as a way of capturing and monitoring their impact on children according to what they say and experience.
- The government should put in place a system of independent legal advocates or guardians to ensure that all separated migrant children are provided with support from the moment they come into contact with any authority until they leave or become settled in the UK. A legal advocate should be one person with parental responsibility who can help them navigate the immigration system, ensure their welfare needs are met and instruct solicitors in their best interests.
- Ministers and UKBA should work to address the 'culture of disbelief' that is still pervasive throughout the system, and take steps to ensure that children and young people are treated fairly and given the benefit of the doubt in their asylum cases as well as with respect to their age.

About us

Established in 1881, The Children's Society is a leading children's charity working to promote the well-being of some of the most disadvantaged children and young people living in the UK. Today these children include victims of abuse and neglect, children living in poverty, disabled children, and young people seeking sanctuary in the UK. Our aim for young refugees is to ensure that child protection laws and policies help to keep them safe and protect their rights as children, regardless of their immigration status or nationality. We work with almost 2,000 young refugees and migrants each year through our eight specialist centres across England as well as other mainstream services such as children's centres and children's rights services.

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