



The Refugee Council's response to the Government's Green Paper:

"Every child matters"

November 2003

About the Refugee Council

The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. We not only give help and support, but also work with asylum seekers and refugees to ensure their needs and concerns are addressed. The Refugee Council board of trustees includes strong refugee representation. We are a membership organisation. Since 1983, the Refugee Council has increased its membership base from 50 to nearly 180, a significant number of which are refugee community organisations. We regularly consult with our membership base.

We are a strongly independent organisation and registered as a charity. We are financed by a variety of sources including government departments, the European Commission, trusts and members. We believe asylum seekers and refugees should be treated with understanding and respect. Our services aim to reflect this.

Introduction

The Refugee Council believes that the current Green Paper entitled *Every Child Matters* is both a welcome and timely initiative. We welcome the Government's commitment to improving services to children and in particular the desire to raise the life chances of the most disadvantaged and vulnerable children within our society.

The Refugee Council is aware that many children living in Britain today, whether refugees or not, do not have the opportunities that we believe they deserve. Indeed for a minority of children, their very safety is compromised. A key principle in our work with refugee children is, quite simply, that they are children first and foremost. Although they have undergone the experience of exile, this should not be the defining point of their identity. We therefore support the Government in raising standards of care, and opportunities for development, in relation to all children and believe that in doing so the wellbeing of refugee children will also be protected and promoted. We do not seek higher standards of provision for refugee children, only that they should be fully and equally included in the universal standards that we expect for all children.

The Green Paper quite rightly makes a number of references to the tragic death of Victoria Climbié. Victoria was not an asylum seeker. However, her circumstances mirror those of many of our young clients: she was not being cared for by her immediate family; she moved between a number of London boroughs; her parents did not have contact with her; there was weak accountability regarding the statutory sector's response to her. Staff at the Refugee Council Children's Section come face to face with as many as 10 to 15 children per day whose circumstances are similar to Victoria's. There is real concern that the next time we read in horror about the death of a child at the hands of their carer the victim will be a refugee child.

The Refugee Council believes that if this Green Paper really is to make a difference in safeguarding and improving the life chances of all children, specifically including refugees, the Government has to do two inter-related things. Firstly, it must ensure that all aspects of *Every Child Matters* are applied equally to refugee children; secondly, and in order to accomplish the first point, all decisions and actions concerning refugee children must place the child's best interests as the paramount concern.

Background

The numbers of unaccompanied children claiming asylum in the UK has increased quite dramatically over the last decade from an official figure of 192 cases in 1992 to about 6,000 in 2002. This increase is a matter of concern to the Refugee Council as it reflects the dangers and desperate situations facing many children around the world. We believe that until conflict and human rights violations around the world cease and we see erosion of the fundamental inequalities in wealth and standards of living between the affluent and emerging nations, it is likely that significant numbers of unaccompanied children will continue to arrive in the UK.

The Refugee Council's work with children and its relevance to the Green Paper

The Refugee Council has a long tradition of work with children. We believe that every refugee child in the UK should

- feel safe, secure and loved, be listened to and have a responsible guardian to turn to;
- receive accurate advice, appropriate guidance and support throughout the asylum determination procedure thus ensuring the fairest outcome for them;
- be seen as a child and a refugee rather than primarily a refugee.

In addition, our work is underpinned by the following principles:

- Every child will be seen as a unique individual.
- We will listen to children and involve them in the design of our services.
- We will acknowledge and validate the experience of the children we work with.
- We will strive to provide the opportunity for every child to achieve his or her full potential.
- We recognise that a child's social, emotional and developmental needs are interrelated and cannot be addressed in isolation from each other.

The Refugee Council Children's Panel

The Refugee Council Panel of Advisers for Unaccompanied Refugee Children (Children's Panel) has two broad functions.

Firstly, it supports unaccompanied refugee children through the asylum determination procedure. In practice, this means arranging for a child to have competent legal representation or to discuss areas of concern regarding the quality of existing legal support. Advisers are not able to instruct children to change legal representatives; rather they can offer guidance and advice about how a good representative should perform. The adviser's task also includes attending interviews a child may have with the Immigration and Nationality Directorate (IND) where they offer support, advocacy, and ensure IND follow their practice guidelines for interviewing unaccompanied refugee children. Advisers are also responsible for explaining the complexities of the asylum determination procedure to children and seek to offer emotional as well as practical support when children receive unfavourable decisions.

Secondly, it assists unaccompanied refugee children access other appropriate services. This area can loosely be broken down into statutory and voluntary services. Examples of involvement with statutory services would be referrals to social service departments, helping children access education and, depending upon entitlement, obtaining welfare benefits. Within the voluntary sector, advisers would usually seek to introduce children to their own community groups and, for example, advise them of the services of the Red Cross or other international agencies that may facilitate family contact or reunion.

The most vulnerable young people referred to us will be allocated a caseworker that will assist them on a one-to-one basis in the two broad functions outlined above. Children are visited in or close to their homes if this is possible. Efforts are made to ensure that the caseworker is from the same linguistic and cultural background as the child if this is possible. Caseworkers will help children who arrived or are living anywhere in the UK.

1. Overview

The Refugee Council trusts that as every child matters, the scope of this Green Paper will be apply to all children, including those who happen to be refugees. Thus all the diverse initiatives whether, for example, they refer to better early years support for disabled children, enhancing sporting opportunities for children, protecting children or tackling bullying etc will apply equally, as appropriate, to refugee children. This would fit comfortably for the Refugee Council, as it is consistent with our view that refugee children should be treated primarily as children, and refugees as a secondary consideration.

Significantly, we would like to make the general observation that we fail to see how the Green Paper can deliver better services, opportunities and safeguards to refugee children whilst the UK maintains its reservation on the United Nations Convention on the Rights of the Child (CRC) relating to immigration. The reservation, entered by the UK government upon ratification of the convention in 1989, states that

“The United Kingdom reserves the right to apply such legislation, in so far as it relates to entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time.”

In practice, this means that in making decisions concerning children subject to immigration control, the maintenance of that control will take precedence over the best interests of the child (Article 3 of the Convention). Whilst the reservation remains in force we have a two-tier system, one tier of children for whom their best interests are the paramount consideration, and another for those whose best interests are a secondary consideration. The Government should clarify whether refugee children, and other children subject to immigration control, do matter as much as other children. If they do the reservation should be lifted immediately. If they don't they should re-title the paper.

Recommendations:

- The Government should lift the UK's reservation to the UN Convention to the Rights of the Child regarding its application to children subject to immigration control.
- All the proposals and provisions within the Green Paper must be applied without discrimination to refugee children.

2. Strong foundations

2.1 Child poverty

Whilst we congratulate the Government for rising to the challenge of eradicating child poverty and for setting an ambitious target of achieving this by 2020, we believe that aspects of recent immigration and asylum legislation undermine these efforts.

The 1999 Immigration and Asylum Act transferred the provision of accommodation and essential living needs for asylum seekers to the Home Office, and created the National Asylum Support Service (NASS). Asylum-seeking families are not eligible for child benefit, disability and lone parent premiums or child tax credits, in addition general subsistence levels are lower than for other groups with general subsistence pitched at 70 per cent of normal income support rates. Current Home Office proposals to deny support to asylum seeking families at the end of the asylum process will seriously undermine efforts to tackle child poverty and indeed many of other objectives set out in this Green Paper.

Recommendations:

- Asylum seeking families should receive levels of support equivalent to support to families with children in the mainstream benefits.
- Asylum seekers should have the right to engage in legitimate paid employment.
- The Government should withdraw their proposal in the Immigration and Asylum Bill 2003 to deny support to families

2.2 Raising primary and secondary school standards and participation in post 16 learning

The Refugee Council wholeheartedly agrees with the Green Paper that 'Excellent education is vital to the lives of vulnerable children' (page 27 of the Green Paper). We feel that an additional benefit for refugee children is that placing them promptly with peers in an educational setting is an important step in reintroducing stability into their lives. It is an important part of the process in helping a child to rebuild their life and is essential if the child is to successfully integrate into the host community. "... [S]chool is the highlight of children's lives, with many of them hungry for learning."¹

¹ Save the Children and Greater Glasgow Council: *Starting Again*. September 2002, p.22.

We support the initiatives to improve school attendance and reduce truancy, but point out that many refugee children are not in school because they have not been allocated a place rather than as a result of truancy. Sometimes a refugee child may have an allocated place but the family is unable to afford the costs of travel to school or the funding of a school uniform. This problem is exacerbated by high levels of mobility as a result of dispersal policy and processes (NASS).²

In July 2001, we estimated that 2100 refugee children in Greater London were not in school³. Some schools and local education authorities (LEAs) are excellent in finding spaces for refugee children, but others appear to be less successful. Schools may be put off by the additional needs that refugee children present with such as English language support, adapting to a different curriculum, dealing with depression or trauma or simply adapting to a new way of learning. Making the necessary resources available to schools to support the refugee child through the initial stages of a new school in a new country is essential to raising levels of participation. In addition, there is evidence to suggest that a small minority of LEAs, schools and professionals are not aware that refugee children have the same rights to mainstream education as British children.

Whilst the proposed 'extended schools' are likely to have positive outcomes for some children. It is difficult to see how they can benefit the refugee child who has not been allocated a school place.

We welcome proposals within the Green Paper to develop strategies for supporting bilingual learners and to provide teachers with knowledge and skills and the necessary support to close the achievement gaps of minority ethnic pupils. These proposals support the DfES vision for raising the achievement of Minority Ethnic pupils. Our direct work supports the view that some groups of refugee children are underachieving in the classroom. In partnership with Save the Children (UK) we have produced a resource pack entitled *In Safe Hands* to aid the support of refugee children in school and would wish to promote this material as a useful tool for all education practitioners. In addition, we would urge the DfES to give higher profile to its publication *Educating Asylum Seeking and Refugee Children: Guidance on the education of asylum seeking and refugee children*.⁴

We are pleased that the Government is seeking to raise standards in post-16 learning. We feel very strongly that a barrier to refugee children, particularly unaccompanied children, doing well at school beyond the age of 16, is the anxiety that surrounds many of them concerning their immigration status. Many are given discretionary leave until they turn 18, after which their future becomes less stable. Some young people find it hard to concentrate on their studies under such circumstances. In short their temporary status excludes them from being stakeholders within our communities. We believe that the award of discretionary status should not be used as an option to avoid making an accurate and sustainable decision on a child's asylum application. We feel that the Green Paper has missed an opportunity to promote the notion of tailored educational packages for the over 16 year-olds, an initiative which we believe would be of benefit to all teenagers not just those who are refugees.

Recommendations:

² Ofsted. *The education of asylum-seeker pupils*. HMI 453, October 2003, p.5.

³ Jill Rutter. *Working with Refugee Children*. 2003, Joseph Rowntree Foundation.

⁴ DfES. *Aiming High: Raising the achievement of Ethnic Minority Pupils*. Consultation, March 2003.

- The Government must endeavour to ensure that all refugee children are allocated school places, that LEAs and schools are aware of their statutory duties and the rights of refugee children, and that schools have the necessary resources to support them in the classroom.
- *In Safe Hands* and *Educating Asylum Seeking and Refugee Children* should be distributed widely throughout schools, and teaching and all other staff as appropriate should receive training on the needs of refugee children and how to work with them.
- Tailored educational packages should be designed to meet the specific needs of youngsters who may be forced to leave the UK upon turning 18.
- The practice of awarding discretionary leave to remain 'up to the 18th birthday' should be reviewed.

3. Increasing access to primary health and specialist health services

We welcome plans to expand the capacity of the Child and Adolescent Mental Health Service (CAMHS). Many if not most refugee children will have experienced trauma, war or violent repression, destruction of their homes, death of family members, separation from parents or siblings and forced displacement. In addition, most will have already experienced long periods of uncertainty and mobility. A recent comparative study in Oxford suggested that "more than a quarter of refugee children had significant psychological disturbance – greater than in both control groups and three times the national average."⁵ Evidence also suggests that children can experience post traumatic stress disorder (PTSD) particularly associated with the violent death of family members and symptoms can manifest themselves when decisions on asylum applications are awaited.⁶

Recommendations:

- Health care professionals should receive training on meeting the specific needs of refugee children and families.

3.1 Ensuring children are safe

We welcome the Green Paper's resolve to tackle bullying in school. Refugee children are regularly the victims of bullying and we believe they will benefit from attempts to reduce its incidence. For example, of 32 children, many of primary school age interviewed in Hackney in 1996, 19 report being victims of racial harassment and seven had moved as a result.⁷

We welcome the emphasis in this Green Paper on supporting child victims and witnesses going through the criminal justice system. Court proceedings can be an intimidating experience for young people. Refugee children, particularly

⁵ Fazal, Mina and Stein, Alan. *Mental health of refugee children: comparative study*. Section of Child and Adolescent Psychiatry, University Department of Psychiatry, Warneford Hospital, Oxford, May 2003.

⁶ Ellen Heptinstall, Department of Child and Adolescent Psychiatry, Institute of Psychiatry, University of London.

⁷ Richman as cited in Rutter.

unaccompanied children often find themselves in hearings before special adjudicators. In the course of an appeal witnesses can be called to give evidence and be subject to cross-examination. A child may thus have to outline to the 'court' the reasons behind their asylum claim. This may mean recounting violent and traumatic events, subsequently followed by a series of questions, often challenging and doubting what the child has said. We believe that Government should apply initiatives in this Green Paper, including, special court entrances for children or facilities to enable the giving of evidence via video link to be considered in the context of immigration appeals. As a minimum requirement we would urge the Government to review current practice regarding refugee children in appeal courts.

The Refugee Council is pleased with the commitment in the Green Paper to end bed and breakfast accommodation for homeless families with children. In the same section, it is noted that 16 and 17 year olds who are not supported by social services will now be treated as vulnerable and in 'priority need' under homeless legislation. These are positive initiatives, which we fully support. We do feel that this doesn't go far enough though if we are to see real benefit within these proposals for refugee children.

Perhaps, due to resource implications, which we understand but would not wish to condone, many 16 and 17 year olds, and alarmingly some 15 year olds, who are supported by local authorities, are currently placed in bed and breakfast accommodation. Our extensive experience of working with these particular youngsters is that many of them receive minimal support from social services. Most have no allocated social worker. They collect their subsistence payment, perhaps fortnightly, from an administrative assistant and can only access a social worker through the duty system. Their 'local authority support' is to all intents and purposes, notional.

We believe that the Green Paper should seek to ensure that all unaccompanied children, and indeed those children who are not refugees but need to live apart from their families, are not be placed in bed and breakfast accommodation. They should be deemed vulnerable and in priority need for appropriate accommodation regardless of the level of social service involvement. We would urge social service and housing departments to work closer together, thus embracing the local authority role of corporate parent, in providing appropriate accommodation and support for unaccompanied children.

NASS, and not housing departments, are responsible for the accommodation, as well as the subsistence needs, of asylum seekers. As part of the accommodation allocation process, most asylum seeking families are placed in emergency accommodation for what is envisaged will be a short-term period. This procedure is similar to the current provision of temporary accommodation for homeless families. In both instances, despite best intentions, the emergency short-term accommodation can become long term. The Refugee Council believes that in practice much of the emergency accommodation, and some longer term accommodation used by a host of providers to house asylum seekers is essentially the same in quality and standards as bed and breakfast provision. We thus feel that the Government needs to use the standards and aspirations set out in the Green Paper as a platform from which to review the accommodation provided by NASS through its various providers to refugee families.

We are totally opposed to the detention of refugee children. We would like to see the Government's commitment and imaginative approach to limiting the detention of young offenders similarly applied to the practice of detaining refugee children. Hence

we believe that alternatives to detention in the form of regular reporting and residence at a specified address should be used instead.

Our concerns about the impact of detention on children are shared by Her Majesty's Chief Inspector of Prisons who said in her recent report on Dungavel: "We are separately concerned about the welfare and development of children within a locked-in custodial setting, where there is a high level of insecurity, and without the freedom to engage with wider society and establish other social and cultural relationships. It remains our view that, however conscientiously and humanely children in detention are dealt with, it is not possible to meet the full range of their developmental needs. We therefore remain of the view that the detention of children should be an exceptional course, and only for a very short period – no more than a matter of days. We also believe that the guiding principles that underlie international and domestic law on children should be brought into decisions to detain, and to continue to detain, children and families".⁸

A significant number of unaccompanied children are detained each year, often where their age is disputed. We are concerned that the procedures for resolving such disputes are ineffective and can be protracted leading to a prolonged period of detention. The Refugee Legal Centre raised this in its evidence to the National Audit Office: "In our experience such disputes often become protracted and take a significant amount of effort and resources to resolve. Leaving aside the cost of such disputes, we are particularly concerned that Home Office intransigence leaves minors in a vulnerable position, often in detention."⁹ And yet age disputes are almost always resolved in the child's favour. In a recent survey of cases conducted in our Leeds office, of the 23 cases in which age was disputed 14 have been resolved and 9 remain outstanding. Of those resolved, 13 were eventually conceded by the Home Office and in 8 cases the court ruled in our favour. One case was ruled in the Home Office's favour.

In addition, some disputed minors may be imprisoned as a result either of entering the country, or trying to leave, using false documentation. For a whole range of reasons children are often unable to obtain legitimate travel documents from their country of origin and their actions are often the result of inappropriate advice from unscrupulous adults. Still worse, they are often advised to plead guilty by duty solicitors ill informed of the potential protection of Article 31 of the 1951 Refugee Convention¹⁰ and receive a mandatory minimum 6 months custodial sentence. We are aware of very frightened teenagers being sent to secure training centres where they have to mix with some experienced 'street wise' young offenders. We are both astounded and alarmed by this practice and feel that it is an excessive redress for a relatively minor offence. We know that professionals within young offenders' social work teams share these sentiments. They believe it is a totally inappropriate response, particularly given that these are first offences without antecedents. The Refugee Council has anecdotal evidence that judges and magistrates also feel uneasy with this sentencing policy and we call on the Government to lead on stopping this practice forthwith.

⁸ HMIP Report on Dungavel. August 2003, p.45.

⁹ Evidence from RLC to NAO, July 2003.

¹⁰ Article 31(1) states: "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

We feel that whilst it is right that the Green Paper seeks to develop alternatives to custody for children who may have committed serious crimes it is unjust that at the same time the practice of detaining refugee children is allowed to continue unchecked. This is a particular concern for the Refugee Council given that the offences are to all intents and purposes merely administrative, and in any event have not caused harm, injury or offence to any individual.

We would like to see the Immigration Service embrace the spirit of the Green Paper and end the practice of detaining refugee children. We expect that the initiatives within the Green paper to develop alternatives to custody will be applied with equal fairness to all children.

Recommendations:

- As a matter of some urgency we call on the Government to review the current practice of the Immigration Appellate Authority's procedures regarding tribunal appearances by unaccompanied children, and further ask Government to apply the same standards applicable to other children in court settings.
- All 16 and 17 year old unaccompanied children should be deemed to be in priority need for housing regardless of the level of support they receive from the social service department.
- The standards of accommodation provision available to asylum seekers via the various NASS contracts should be reviewed against the aspirations outlined in the Green Paper.
- The detention of refugee children on the grounds of their immigration status is never in their best interests. It is likely to be harmful and abusive and may contribute to an increased risk for children. The Government must end this practice.
- Children held in any form of IND accommodation or detention centre must be allowed access to mainstream education.

4. Supporting children entering the country

4.1 Training for immigration officers

There is a reference in *Every Child Matters* to additional training for immigration officers but not to other Home Office staff who deal directly with children or who may be called upon to make decisions on a child's asylum application. The provision of training is appropriate particularly given the moves towards greater co-operation and information sharing between the Home Office and social service departments, but we want to see this extended to other relevant Home Office personnel.

However we recognise that the role of an immigration officer is a challenging task. Thus, it is both unfair on the service and inappropriate to expect front line officers to become skilled in matters of child protection, as this is a very specialised role. We appreciate that training does exist for Home Office staff who work with children but we remain entirely unconvinced that the purpose of this training is to enable all actions

and decisions to be made in the best interest of the child. We feel that training is offered as a tool to assist primarily in the maintenance of immigration control.

Once again, the reservation entered against the CRC prevents immigration officers and their colleagues in the Home Office acting in the best interests of the child. Decision-makers need to raise their awareness and knowledge about forms of child specific persecution and call for specific training on this area. We would also like to see extensive training for Home Office staff dealing directly with children that enhances their abilities to support and protect children and place the child's best interests at the heart of the agenda.

Recommendations:

- The Immigration service should receive training that enables them to recognise the rights of children and thus place this at the top of their agenda.

4.2 Safe Case Transfer Scheme

The Refugee Council acknowledges the pressure on resources faced by a number of local authorities, particularly, in London and the South East of responding to the needs of unaccompanied children. However, we are clear that new initiatives must be based on the principle of the best interest of the child and not on the needs of service providers.

The key to safe case transfer in our view is an accurate and thorough assessment of the needs of the presenting child. If it is felt that these needs can be more effectively addressed by placing the child outside the authority where they arrived then safe case transfer may be an appropriate outcome.

If every child matters then unaccompanied children must not be dispersed as a result of economic or bureaucratic necessity but placed in a planned and fully thought through manner. The receiving authority should not only be aware of the child's arrival within their boundaries but also must acquire case responsibility for them and meet these responsibilities to the same standards that they would strive to achieve for all children that they support. It, of course, remains essential good practice to consult and listen to the child's wishes throughout the entire proposed case transfer process.

Recommendations:

- All safe case transfers must be guided by the best interests of the child following a careful assessment and preparation of a care plan.
- Receiving authorities must acquire case responsibility.

4.3 Building on the work of the Panel of Advisers

The Refugee Council is understandably pleased that the Green Paper acknowledges the contribution the Panel of Advisers has made over the last decade to the support of unaccompanied refugee children. We are proud of this service. We believe that the Panel has made a real difference to the lives of many children whilst maintaining its credibility, and a genuine commitment to working in partnership with other providers. The team frequently works with children who have suffered unimaginable atrocities and they do this with skill, integrity, and compassion.

Unaccompanied refugee children need strong independent advocacy for a number of reasons. By definition they are alone and the provision of social service support and care for all but a tiny minority of them is through sections of legislation that do not confer parental responsibility on the local authority. Additionally, unaccompanied children rarely have an historical link to a particular local authority and they are often caught up in 'boundary disputes'.

Sadly, the Refugee Council has learned from our direct work that many practitioners do not feel that unaccompanied children should be allowed access to the same services as citizen children. Most unaccompanied children will have to deal directly with the Home Office and has already been outlined above this department is not primarily a child welfare agency and the level of appropriate training for working with children across the department is, in the main, lacking. These issues can be exacerbated by linguistic and cultural factors and by the child's total lack of knowledge surrounding customs and practices within the UK. We are thus fully supportive of the Government's desire to build on the work of the Panel.

In the last twelve months the Children's Section received in excess of 5,000 referrals and provided direct support to around 3,000 individuals. We acknowledge the commitment on the part of the Immigration Service and staff at IND headquarters to refer children to our service. Yet we are seriously concerned that many children are allowed to leave the Asylum Screening Unit without safeguards in place to ensure that they are going to arrive at a safe environment.

Even where we are able to establish contact with a child that has been referred to us, the Panel has its limitations. It is unable to offer a comprehensive service to all the children referred to it because of a lack of resources. The Panel is London-based and we are unable to provide the same level of support to children in the regions as we can to those within the capital. The scope of the Panel's work is limited by the tight definition of an 'unaccompanied' child. We believe that there are many children who are vulnerable and at risk, but are not identified as such owing to a tenuous connection to a relative, that is either unable or unwilling to provide appropriate care. However, the two main issues are that the work is time limited and advisers do not have a level of authority similar to the holding of parental responsibility.

4.4 Developing more comprehensive and consistent support

We believe that all unaccompanied children should be appointed an independent guardian promptly upon their arrival who will offer a service to the child until they turn 18. Sometimes social workers deny Panel advisers access to children and we would want the guardian to be able to act with authority. In order to be able to do this, the guardian should acquire parental responsibility or in any event the role should be consistent with that of a reasonable parent. The role of the guardian should be clarified and clearly understood by all parties including the child.

In building on the Panel function we would like the guardian's role to be as follows:

- To ensure that all decisions are taken in the child's best interest
- To ensure that the child has competent legal representation

- To consult and advise the child, to advocate on their behalf if necessary and to empower the child and assist the child in expressing their views in a meaningful way
- To ensure that the child has appropriate care, accommodation, education, health care provision, language and cultural support
- To contribute to a durable solution and to explore the possibility of family tracing and reunification if this is in the child's best interest
- To be a focal point for the various organisations who provide services for the child

In order for guardians to be able to work efficiently, there would need to be systems in place for the effective recruitment, training and on-going support of guardians and consideration of initiatives to encourage guardian applicants from relevant minority communities.

It is difficult to see how the 'best interest' principle can be adhered to without the appointment of effective independent guardians for unaccompanied children. There has been a tendency to lower the standard and level of support offered by referring to 'representatives' or 'advisers'. This falls far short of appointing a responsible adult with the legal authority to act solely in the best interest of the child without reference to the requirements of central or local government.

The European Union would appear to share this view and in recognition of the importance of providing unaccompanied children with guardians the EU Council Directive on Temporary Protection (2001/55/EC) Article 16 places particular responsibilities on member states relating to guardianship. The Directive requires steps to be taken to ensure the necessary representation of unaccompanied children by legal guardianship or by any other appropriate and responsible representation.¹¹ Article 20 of the CRC notes that children who are separated from their families are entitled to receive special protection.

Given the importance that we ascribe to the role of the guardian we believe that any proposed system to provide this function should be developed thoughtfully and we would recommend that a wider process of consultation be entered into as a necessary stage in developing this service.

The Refugee Council would welcome further specific consultation with the Government on the running of any enhanced advocacy or independent support initiatives for unaccompanied children. Our initial view is that we could manage a guardianship scheme, perhaps at arms length, in which the guardian would oversee the needs of the child. The Panel would continue to undertake much of the direct work with the child on behalf of the guardian, such as accompany the child to appointments with IND, establish contact with their communities, make referrals to the Red Cross. The Panel would keep the guardian fully informed of the outcomes of their work and they would in effect work to their direction.

Recommendations:

¹¹ EU Council *Directive on Minimum Standards on the Temporary Protection of Asylum Seekers*, 2001.

- We call for the establishment of an independent guardianship scheme for all unaccompanied children who wish to receive this service. The guardian should acquire a similar status as that of a person holding parental responsibility and should support the child until they turn 18 or beyond in certain cases if appropriate.
- Recruitment should be imaginative and on going training and support should be available for guardians.
- We call on the Government to enter into further consultation in the development of such a service.

4.5 Trafficking in children

The reference to trafficking in the Green Paper is timely. The Government's wish to address this, is laudable and necessary. Trafficking in human beings, particularly children, for the purposes of various kinds of exploitation is a rapidly expanding global phenomenon. According to a recent UNICEF report, it is estimated that 1.2 million children are trafficked annually.¹²

The very nature of trafficking being a clandestine operation, is a major block in trying to portray an accurate picture of the numbers involved. This is compounded by the reluctance of the victims of trafficking to identify themselves for fear of reprisals against themselves or their families. Furthermore, the tactics of the highly organised gangs behind much of the illegal and exploitative global movement in people, for example the movement of girls working as prostitutes from city to city, makes it very difficult for victims of trafficking to come to the attention of the welfare agencies. Most trafficked children are hidden and the Refugee Council does not have widespread experience of working with this group.

The fact that nobody really knows who these children are or where they are living makes it hard to protect them, and, equally hard to target, track and monitor them. The Green paper makes a number of references to improving the tracking of children. This is good, but to be frank the Home Office does not have a good track record of knowing where asylum seekers are and this will be compounded in the case of trafficked children as someone has a vested interest in keeping them hidden. The production of the Toolkit is an excellent step forward though we believe that training is needed for the relevant practitioners if it is to be applied to best advantage. The call for greater inter agency working building on the joint protocols and the introduction of specific offences for those guilty of trafficking in children are to be welcomed.

We would like to see a greater emphasis placed on trafficked children being treated as victims rather than criminals and the development of a strategy for raising awareness of this emphasis. Linked to this, we feel it appropriate that Government take a clear lead in promoting the view that the response to trafficking in children should be seen as a child protection matter. We would also wish to see an explicit commitment from Government that trafficked children will not be subjected to criminal proceedings against them and that procedures must ensure that the threat of removal is never

¹² UNICEF. *End Child Exploitation, 'Stop the Traffic*. 2003.

used to gain the child's co-operation during a criminal investigation. Appropriate training and awareness rising should be given to all staff who may come into contact with trafficked children.

Recommendations:

- Trafficked children should be seen as victims rather than criminals. They should not be subject to accelerated immigration procedures and should be allowed access to all mainstream services.
- The UK should share information on trafficking with other states, and immigration authorities should develop closer working relations with each other. Appropriate training and awareness raising should be given to all staff who may come into contact with trafficked children.

5. Supporting parents and carers

The Refugee Council shares the views expressed in the Green Paper that "the bond between the child and their parents is the most critical influence on a child's life"¹³ and "all children deserve the chance to grow up in a loving, secure family"¹⁴. These points are particularly relevant for unaccompanied children who arrive without the security of family.

They are often equally relevant for children within families where, perhaps owing to trauma and their experience of exile, parents have temporarily lost their parenting skills, or where the relationship to the extended family member with whom a child arrives is tenuous and the child is effectively unaccompanied. If every child matters, we would urge the Government to be more proactive and flexible in its approach to family reunification. We feel that hitherto the UK has had a lax approach to family reunification and has tended only to pursue this when reunion is to take place in the child's country of origin.

Once again we see the reservation to the Convention on the Rights of the Child as a major obstacle in the Governments desire to provide children with a secure loving family and a block to the inclusive application of this Green Paper.

In order to appropriately care for those refugee children who are unable to live with their families in an environment that can respond to the child's cultural needs and validate their experiences as a refugee, local authorities need to recruit, support and retain foster carers from a range of refugee communities as appropriate. They too will need specific skills and tailored training. We would like the strategies prepared by fostering agencies as required by the National Minimum Standards for Fostering Services to reflect the need to recruit appropriate carers for children.

We welcome the initiatives around the provision of specialist parenting support, as it is likely that owing to experiences both in the country of origin and upon arrival in the UK some refugee families will need additional support. The Green Paper outlines that "it is important to provide support to parents or carers who are facing particular difficulties

¹³ Every Child Matters p39

¹⁴ Every Child Matters p8

because of their, or their children's, circumstances and experiences"¹⁵. Home visiting programmes, parenting helplines, and home start, for example, will need to be mindful of the need to work through interpreters and to make allowances for cultural considerations.

Specific training will be required for staff involved in these programmes. Initiatives around supporting young carers are particularly relevant for some refugee children. Our direct services report that it is not unusual for teenagers to be deemed responsible for younger brothers and sisters. Indeed the asylum process itself often defines an older child as a principle applicant, and younger children as dependants of this applicant. Within families, children often adapt quicker than adults, particularly around language and in consequence often take on responsibilities within their families normally inappropriate for children. This can detrimentally skew the parent-child relationship sometimes with long-term consequences.

Recommendations:

- The Government should be more proactive and flexible in facilitating family reunification.

6. Early interventions and effective protection

6.1 Improving information collection and sharing

The Green Paper correctly highlights poor communication and sharing of information between relevant agencies as a key contributory factor in the tragic death of Victoria Climbié and indeed other children who have, over the years, needlessly died at the hands of their carers.

We understand the Government's determination to introduce legislation to enable a freer information exchange as a necessary step to improve the protection of children and we see the potential for this to be a useful tool. Although there is no specific reference in the Green Paper to the Immigration Service, we note that they are not included in the Information Hub diagram, we assume that, particularly for refugee children, they would be expected to play a role in the protection of children. We are anxious to clarify that where the Immigration Service share and receive information, this will solely be for the purpose of child protection, and not to aid immigration control. We would argue that to do otherwise would be an unethical abuse of the child protection service.

It could also inhibit the protection of refugee children as communities may become wary of raising concerns about children if they were fearful that it could impact on either their own or the child's immigration status. The Refugee Council believes that guarantees need to be in place to ensure that the sharing of information concerning refugee children relates solely to their well being. Perhaps a 'code of conduct' or other guidelines would be appropriate. We would also like to point out that basing a single identification number to support information transfer on an NHS or national insurance number will not safeguard all refugee children as many of them do not automatically have these identifiers.

¹⁵ *Every Child Matters*, p.42.

Recommendations:

- Guidelines should be developed to ensure that the sharing of information is solely with regard to keeping children safe.
- Matters of child protection should never be compromised by the child's, or the parent or carers' immigration status.

6.2 Developing a common assessment framework

Many of the young people who present at the Refugee Council seeking support, wearily outline to us how many times they have had to describe their current circumstances and backgrounds as part of an agency's assessment process. They often feel very negative about this process particularly as they frequently do not receive a service at the end of it.

We thus see a tremendous merit in developing and implementing a common assessment framework. However, despite the reference above to the number of assessments children seem to undergo we are concerned about their quality. At times, we feel strongly that assessments of refugee children are not thorough and are often based on assumptions that merely by successfully travelling alone to the UK the child has demonstrated that they can look after themselves with minimal support.

At the Refugee Council, we appreciate the challenges facing front line staff working in the welfare professions. Indeed, we have first hand experiences on a daily of the volume and range of difficulties, many needing immediate outcomes, which the public can present. We are also aware of the many competing demands within the sector for the limited resources available and of the financial constraints facing many local authorities.

However, we can not condone, for example, that

- assessments of refugee children are undertaken over the telephone;
- they last up to 5-10 minutes;
- they are undertaken by administrative staff who present their 'findings' to a social worker;
- they are undertaken without an interpreter even though clearly needed;
- children are told to wait for up to a week before they can be assessed.

These are scenarios, which we regularly have to confront in our direct work with refugee children. We would want assurances that refugee children will be fully included in attempts to improve the assessments of children who are potentially in need or at risk. We also think that it would be relevant to draw up an appendix of the additional criteria that may need to be pursued in the assessment of a refugee child. This is not because we seek different or better outcomes for refugee, rather than other children, but because we recognise that this group of children is likely to have particular needs owing to their experiences as refugees.

Recommendations:

- All unaccompanied children and refugee children within families should receive a comprehensive assessment of their needs.
- Assessing officers should be mindful of the recent Department of Health guidance that the starting point is that unaccompanied children should be accommodated under Section 20 of the Children Act unless there is compelling evidence to do otherwise.

7. Accountability and integration

7.1 Involving children in developing services

The Refugee Council believes that the meaningful participation and empowerment of children is a key pillar in the maintenance of their rights. We further believe that despite widespread acceptance of this principle, all too often there appears to be a lack of will to place the child's right to participate at the heart of policy development.

We would therefore like to congratulate the Government for seeking to include the views of children in the Green Paper. We are confident that the pay back for involving children is that it is likely that by doing so the development of services will be more relevant and workable than if their views were excluded. However, the Green Paper is not so clear as to the processes for the continued participation of children and how it proposes to create the right environments to encourage the involvement of children in developing services.

Involving children in processes is not easy and extra difficulties arise when the children are refugees or asylum seekers. These may include cultural attitudes, language barriers, gender issues, youngsters not really knowing how outspoken or honest they can be given that for many of them their status may be unclear etc. The *Separated Children in Europe Programme* is a joint initiative between some members of the International Save the Children Alliance and UNHCR, and of which we are members. It is currently developing a management tool for the effective participation of separated (unaccompanied) children and we would like to draw the Government's attention to this pack. We believe that if the principle enshrined in the Green Paper truly applies to all children, all asylum-seeking children should have the opportunity to state their views. This is if they choose to do so, and these views should be taken into account when decisions are made about their immigration status or proposed repatriation. We acknowledge the age of the child should be taken into consideration and would recommend that where appropriate specialist assessments should be used to establish the child's ability to participate effectively in the determination process.

Recommendations:

- All unaccompanied children should have the opportunity to state their views if they choose to do so and these views should be taken into account when decisions are made about their immigration status or proposed repatriation.

- In order for this to be effective the Government must ensure, through legislation and guidance as appropriate, that the asylum determination procedures are child friendly.

7.2 Local safeguarding children's boards

The creation of local safeguarding children's boards to replace area child protection committees seems a sensible move given the functions and structure that the new boards will be expected to adhere to. The Refugee Council takes the protection of children seriously and has its own *Child Protection Policy*. It states that, whilst the Refugee Council is not a statutory childcare agency and it would not be appropriate for staff to carry out investigations into suspicions of child abuse themselves, it is our duty to take appropriate action and to make referrals to specialist agencies.

The policy adds that it is very important that Refugee Council staff understand that if a child has been harmed or is at risk of being harmed by a parent or carer, the law on child protection applies equally to those of all cultural and linguistic backgrounds and however difficult the individual circumstances of the carer may be. It is the responsibility of all staff to act if they have concerns about the safety of any child.

We believe that it is essential that the remit of the local safeguarding children's boards must cover all forms of accommodation provided by the Immigration Service. Regardless of whether these are induction, accommodation, detention, removal centres or any other accommodation units as may subsequently be developed in the future, they must be within the safeguarding boards' remit. Anything short of this would be to discriminate against the refugee child and would be contrary to the Green Paper.

It would give a clear message that refugee children do not matter as much as non-refugee children and that the government was prepared to compromise on their protection. We wonder whether there would be any role for voluntary sector agencies to be part of the new local safeguarding children's boards as and where appropriate. For example, the Refugee Council could have members of a local board, possibly as a non-decision-making member, in area where an induction centre is located.

Recommendations:

- Detention, removal and accommodation or similar centres must fall within the remit of the local safeguarding children's boards.
- Consideration should be given concerning the involvement of the voluntary sector in the Local Safeguarding Children's Boards.

8. Workforce reform

A significant theme that runs throughout the Green Paper is the reference to the need to provide training across the whole range of personnel working with children. Although the core of work with refugee children is similar to working with any child there is no doubt that meeting the varying needs of this group is a specialist function. It presents different challenges and requires different responses to adequately meet their needs. These challenges are set within the complexities of a range of cultural, linguistic and religious backgrounds.

The Refugee Council believes that working with refugee children and their families is now part of the core business of most local authorities. This is particularly true in large urban areas but following the practice of dispersing refugees throughout the country, social workers, teachers and other professionals are likely to have refugees on their case loads or in their classrooms in all but the most remote areas of the UK. We trust that specialist training on the issues that impact on refugee children and how to work effectively with this group will be part of the training agenda arising out of the Green Paper. As a key first step we would like to see 'working with refugee children and families' included in professional social work training courses and recommend that CCETSW review current training provision with this in mind.

Recommendations:

- All personnel who are likely to have contact with refugee children should receive training in how to assess their needs and how to work with the child and family as appropriate to address these needs.
- Professional training bodies should review their provision and where appropriate revise their training in order to meet the needs of refugee children.

9. Conclusion

The Refugee Council believes that the Green Paper broadly sets out an appropriate vision for protecting and promoting the welfare of children. There has clearly been a lot of hard work in developing the strategy and we hope that this effort soon begins to bear fruit and bring about real change for children and their carers. We see the potential for refugee children to benefit from the proposals and welcome the document and its timing.

Historically, unaccompanied children have been marginalised in two ways - as children, to whom societies tend to ascribe fewer rights, and as refugees or migrants, who are invariably denied, usually by legislation, the same rights as host community nationals. Children within families are often 'emotionally unaccompanied' but in the main only suffer from the latter source of marginalisation. The difficulties of unaccompanied children are further compounded because they have no one to care and provide for them or to act as advocates on their behalf.

In short, refugee children, as the Green Paper points out, are often an exceptionally vulnerable group. The title of this Green Paper provides some optimism that this may be about to change if the Government is serious about the inclusiveness implied in the title.