



The Refugee Council's response to the Home Office consultation:

Implementation of Council Directive 2003/9/EC of 27 January 2003 "Laying Down Minimum Standards for the Reception of Asylum Seekers"

December 2004

## About the Refugee Council

The Refugee Council is the largest non-governmental organisation supporting asylum seekers and refugees in the UK and promoting refugee rights in the UK and abroad. Our members range from small refugee-run community organisations to international NGOs, such as Christian Aid, Save the Children and Oxfam.

The Refugee Council welcomes the opportunity to respond to the Home Office consultation on the implementation of Council Directive 2003/9/EC on laying down minimum standards for the reception of asylum seekers. We would welcome future consultations on implementation of the other elements of the common European asylum system that have yet to be transposed by the UK, including the Temporary Protection Directive.<sup>1</sup>

We have divided our consultation response into three sections. The first contains our general observations on the consultation process and on the UK's role in negotiations on the EU Reception Directive. The second section focuses on issues relating to the compatibility of the proposed implementation of the Directive with the general principles contained in the Directive's preamble. The third contains our specific responses to the proposals contained in the consultation document and follows the structure of the consultation document.

### Section One: Observations on the negotiation of and consultation on the reception Directive

The Refugee Council welcomes the UK's participation in the Reception Directive. We believe that the adopted text provides, in the main, an adequate minimum standard of reception for applicants for asylum. The implementation of the Directive in EU member states will be a significant step towards establishing a common European asylum system. Once it is implemented, there will be greater similarity between member states' reception systems and the situation of asylum seekers should improve substantially in EU states where reception facilities are currently under-resourced.

However, the Refugee Council regrets the fact that during the course of negotiations the minimum standards contained in the Commission's initial proposal were substantially watered down by member states. We have previously expressed our concern about the UK's role in lowering the standards within the Directive.<sup>2</sup> As a result of UK pressure, the Directive was amended to allow for children to be educated outside mainstream schools in accommodation centres. We believe that as a result of the UK's negotiating position there is a risk that other countries may alter their existing policies and segregate asylum seekers' children, educating them in accommodation centres.

We are further concerned by the role the UK played in pressing for negotiations on the Directive to be re-opened in order to accommodate the policy introduced in

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<sup>1</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

<sup>2</sup> See, for example, the Refugee Council's briefing on the common European asylum system, available at: [http://www.refugeecouncil.org.uk/downloads/briefings/intl/common\\_euro.pdf](http://www.refugeecouncil.org.uk/downloads/briefings/intl/common_euro.pdf)

Section 55 of the Nationality, Immigration and Asylum Act 2002. As a result of UK pressure, all EU Member States will be able to introduce policies similar to Section 55, a policy that recent UK case law has found to have led to breaches of Article 3 of the European Convention on Human Rights (ECHR).

The Refugee Council welcomes the Home Office initiative to consult widely on implementation of this EU Directive. Such consultation represents best practice that we will share with our NGO partners across Europe. However, the Refugee Council would have welcomed additional formal consultation at a much earlier stage. The Refugee Council understands that the UK sought to ensure that the EU Reception Directive would not require changes to UK reception arrangements. As a result, the UK is obliged to make only minor adjustments to UK practice in order to comply with the Directive. Formal consultation on the initial Commission proposal would have enabled the UK to benefit from stakeholders' expertise in formulating its negotiating positions.

## Section Two: Observations on the compatibility of UK reception conditions with the general principles contained in the preamble to the Reception Directive

The Refugee Council would like to comment on the compatibility of the proposed implementation of the Reception Directive in the UK with some of the general principles contained in the preamble to the Directive. We will focus our comments in this regard on principles 7,10,15,16 and 17. Comments on other principles are addressed in Section Three of this response paper.

*7. Minimum standards for the reception of asylum seekers that will normally suffice to ensure them a dignified standard of living and comparable living conditions in all Member States should be laid down.*

The Refugee Council notes that the Directive still leaves considerable scope for member state discretion in the application of some provisions of the Directive such as access to employment. As a result, we are concerned that living conditions will not be comparable in all EU member states and that asylum seekers in countries where standards are lower will be disadvantaged.

*10. Reception of applicants who are in detention should be specifically designed to meet their needs in that situation.*

People should not be detained if there is no immediate prospect of their removal. Applicants who are detained should be held in appropriate accommodation designed for the purpose. There has been growing evidence of people being held in police cells for periods of several days. These cells are not designed for anything other than overnight stay, lacking essential facilities, and this has led to considerable distress. Similarly, asylum seekers continue to be held in prisons inappropriately.

Where people are detained appropriate arrangements should be in place to ensure that they are able to access reception provision should they be released on bail. The

situation should not be allowed whereby people remain locked up because they are unable to access reception provision (for example because no assistance is available to complete a support application).

*15. It is in the very nature of minimum standards that Member States have the power to introduce or maintain more favourable provisions for third-country nationals and stateless persons who ask for international protection from a Member State.*

The Refugee Council notes that the Directive establishes minimum standards for the reception of asylum seekers and that EU countries are free to introduce or retain more favourable reception provisions. Prior to member states reaching agreement on the Directive the Refugee Council called for the inclusion of a 'standstill clause' that would prevent states from reducing national standards to match the minimum standards outlined in the Directive. In the absence of such a standstill clause, we urge the UK government not to reduce UK standards where they are higher than the minimum level. Further, we urge the UK to use its influence to discourage other EU Member States from reducing their national standards where they are currently higher than minimum standards established by the Directive.

*16 [... ] Member States are also invited to apply the provisions of this Directive in connection with procedures for deciding on applications for forms of protection other than that emanating from the Geneva Convention for third country nationals and stateless persons.*

The Refugee Council is disappointed that it is left to the discretion of member states to apply the Directive to those applying for subsidiary forms of protection or to cases awaiting removal under the Dublin II Regulation. We are particularly concerned that paragraph 2.5 of the consultation document states that while the Directive 'provides scope to apply the Directive to other requests for protection there are no plans to do so in the UK'. The Refugee Council seeks clarification on this point. Given that there is a single procedure for asylum applications in the UK we would welcome confirmation that all applicants will continue to be entitled to the same level of reception conditions. Further, we ask for confirmation that asylum seekers awaiting removal under the Dublin II Regulation will be entitled to the same assistance as other asylum applicants.

*17. The implementation of this Directive should be evaluated at regular intervals*

The Refugee Council would welcome further information about the way in which the Home Office will evaluate implementation of the reception Directive, and about how often such evaluation will take place. We would welcome the opportunity to contribute to regular evaluation.

## Section Three: Response to proposed implementation of the reception Directive

### General provisions on reception conditions

#### **Information (Article 5)**

The Refugee Council welcomes the Home Office work to expand, amend and improve the information provided to asylum applicants. However, we have concerns that asylum seekers need only be provided with written information *'in a language they are likely to understand'*. In practice, this may mean that some asylum seekers will be provided with information that they do not actually understand. Every effort must be made to ensure that asylum seekers are all provided with information that they do indeed understand. In relation to information provision for illiterate asylum seekers, the Refugee Council urges the Home Office to ensure that current best practice is maintained and that oral information is provided to those that need it through the use of a qualified interpreter.

We would also like to point out that destitute asylum seekers are placed in a difficult situation if they are given information about organisations and groups providing advice on their entitlements, but are not given the means to travel to those organisations. This makes it very difficult for destitute asylum seekers to get to the services they need to access reception support.

We welcome the efforts of the Immigration and Nationality Directorate (IND) to "expand, amend and improve the information provided to applicants", and would like to have an opportunity to comment on the information produced. We also welcome the proposal to amend the Immigration Rules to include an IND obligation to provide information.

#### **Documentation (Article 6)**

The Refugee Council welcomes the proposal to add an obligation to provide information into the Immigration Rules. We note that there are no plans to issue documents for applicants who are in detention. We assume that the UK government ensures that all asylum applicants are issued with application registration cards at the time they are released from detention to prevent any difficulties accessing the services to which they are entitled.

The Refugee Council is concerned that the UK does not plan to implement the optional provision of the Directive, which allows asylum seekers to be issued with travel documents when serious humanitarian reasons arise that require their presence in another state. In many cases, family members get split up in the chaos of flight and seek asylum in different countries. In our experience, it is of utmost importance that people are able to visit relatives in other countries, particularly when relatives are seriously ill or have died. The Refugee Council therefore urges the UK to adopt this optional provision so that asylum seekers with pressing humanitarian reasons to travel can do so, for example to visit seriously ill relatives or attend relatives' funerals in other countries.

## **Residence and freedom of movement (Article 7)**

Although freedom of movement exists in theory for asylum seekers in the UK, the low level of financial support provided imposes constraints which effectively restrict asylum seekers to the area to which they are dispersed. This has the effect of cutting off access to legal advice and to support from communities elsewhere.

We are concerned about the threat of increasingly restrictive measures designed to keep track of people – in particular the recent announcement of electronic monitoring through voice recognition and tagging. These measures do impose considerable restrictions on the actual freedom of movement. This can be of great significance if people are separated from friends, family and community whom they may wish to visit. Arrangements need to be sufficiently sensitive and flexible to ensure that people's private lives are not infringed.

We would also like to take this opportunity to raise our concerns about restrictions on freedom of movement once asylum seekers have been granted status. We are concerned that Section 11 of the Asylum and Immigration Act 2004 has the effect of restricting freedom of movement by preventing those granted leave to remain from choosing the local authority they wish to approach for assistance. Whilst we recognise that this is a freedom not available to the population at large, the population at large can be said to have chosen the region where they live whilst asylum seekers allocated dispersal accommodation have not. This policy also undermines the Government's other policy initiatives on integration and community cohesion as asylum seekers subsequently granted leave to remain are prevented from seeking assistance from local authorities in areas where they may have community and cultural ties to support them - especially as the Secretary of State is prohibited from taking the wishes of an asylum seeker into account when providing accommodation.<sup>3</sup>

## **Families (Article 8)**

The definition of family members in the Directive is much narrower than that contained in the Asylum Support Regulations 2000. The UK is planning to restrict the definition and confine it to spouses or unmarried partners, their minor children or the minor children of the asylum applicant. The Refugee Council takes this opportunity to remind the Home Office that there is no compulsion to reduce or restrict national standards to reflect the minimum standards in the Directive. Following refugees' flight from their country of origin, the period during which they seek asylum in the UK is a time of deep insecurity. It is of utmost importance that the principle of family unity is upheld and that a broad definition of family is retained so that relatives are kept together wherever possible. We believe that the definition of a family unit should be flexible and culturally-sensitive and not be limited to the nuclear family. As advocated by the European Council on Refugees and Exiles (ECRE), it should include people who normally reside together and those who are dependent upon other family members.<sup>4</sup>

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<sup>3</sup> Immigration and Asylum Act 1999 Section 97 (2)a: the Secretary of state may not have regard to "any preference that the supported person may have as to the locality in which the accommodation is provided".

<sup>4</sup> ECRE position on the reception of asylum seekers. Para. 51-52.

We would welcome clarification on the implications of introducing a much narrower definition in the UK. If, as the consultation document asserts, the Home Office does not believe that the change in definition will impact on current policy or practice, the Refugee Council would question the necessity of restricting the definition.

### **Medical screening (Article 9)**

The Refugee Council is concerned that many asylum seekers are unable to access medical screening in the UK. Not all asylum seekers are screened at entry ports and while the Refugee Council welcomes the medical screening provided at induction centres, not all asylum seekers go through induction centres and thus cannot avail themselves of medical screening in this way.

Specific groups of asylum seekers who miss out on medical screening include those on subsistence-only support and those housed in emergency accommodation, particularly in London. Asylum seekers in temporary accommodation, such as Bed and Breakfast hotels, are usually provided only with temporary registration with a GP. This means that, unlike patients who are permanently registered, they are not automatically called for health screening and cannot automatically access health promotion programmes. Whilst the Refugee Council is opposed to compulsory medical screening, we believe much needs to be done to ensure that all asylum seekers are able to access screening services. Persons carrying out medical screening should be trained to recognise refugees' special needs and to act with cultural sensitivity.

### **Education (Article 10)**

The Refugee Council does not accept that education provided in an accommodation centre is provided under "similar conditions" to education provided in mainstream schools. The Refugee Council is concerned that large-scale accommodation centres will have a dehumanising, institutionalised effect on residents, and we have proposed an alternative model for accommodation centres that taps into existing local services – including schools.<sup>5</sup> We are also concerned that there is no mention in the consultation document of the educational entitlements of unaccompanied asylum-seeking children. We would welcome clarification that unaccompanied asylum-seeking children have the same entitlements as children who are part of an asylum-seeking family.

The Refugee Council welcomes the confirmation that all local education authorities (LEAs) have a duty to provide education to all children of compulsory school ages in their area and that children of compulsory school age in the UK as part of an asylum seeker family are entitled to attend school.

The Reception Directive stipulates that minor children should be granted access to the education system under similar conditions as UK nationals. We are concerned that the consultation document does not refer to education entitlements for minors aged 3 to 5 years (under compulsory school age). We would like clarification from the Government that 3 to 5 year olds will continue to have the same entitlements as

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<sup>5</sup> *Refugee Council proposal for a community based pilot*, available at: [http://www.refugeecouncil.org.uk/downloads/policy\\_briefings/accom\\_proc\\_may02.pdf](http://www.refugeecouncil.org.uk/downloads/policy_briefings/accom_proc_may02.pdf)

UK nationals. In addition, the consultation document makes no mention of the entitlement to education for 16 to 18 year olds who do not live in accommodation centres but live in the community.

The Reception Directive stipulates that access to education shall not be postponed for more than three months from the date of an asylum application. This period may be extended to one year where specific education is required to facilitate access to the education system. The consultation document makes no reference to these time scales. The Refugee Council is aware of considerable problems faced by asylum seeking children in gaining access to school, particularly for those aged 14 to 16. However, we are also aware of sufficient examples of good practice, DfES guidance and domestic legislation that mean that the maximum time-frames outlined in the EU Directive are achievable in the UK. We urge the Government to use the implementation of the Reception Directive as an opportunity to implement good practice in relation to access to education within the three month time period that would benefit all.

In relation to minors who require specific education in order to facilitate access to the education system, the Refugee Council is of the view that for many minors access to a short-term induction course is good practice. Again, we are concerned that no mention of this is made in the consultation document. In particular, we fear that some of the alternative provision already available, which does not meet good practice standards, will continue to be implemented without challenge. A short induction course, tailored to the needs of the individual, provides space for adjustment and acclimatisation, information about how schools work and expectations, language and learning skills. Cognitive development, acquisition of language, learning and psycho-social development, however, all take place most efficiently when children are fully integrated into the school environment.

The Refugee Council is pleased to note that the Learning and Skills Council have agreed to meet the course fees of 16 to 18 year-old asylum seekers 'whose needs cannot be adequately met by the provision in accommodation centres'. However we are disappointed that the Home Office proposes that "this will only apply to exceptional cases where the applicant is suitable for entry into the appropriate level of learning in the community". It is in the best interest of these children that such arrangement is the norm rather than the exception.

## **Employment (Article 11)**

The Refugee Council is deeply disappointed that the UK government decided to withdraw the employment concession on 23<sup>rd</sup> July 2002.

Asylum seekers are an economic asset. They bring a wealth of experience, high level qualifications and useful skills, which are inadequately tapped into by the UK labour market. Refugees and asylum seekers have made an impressive contribution to the social and economic life of the UK for many years<sup>6</sup>. It makes economic sense to allow them to work. It is important to do so especially because they face huge barriers to post-16 education, employment and self-employment, and need help to get their

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<sup>6</sup> Refugee Council. *Credit to the Nation*. 2002. Refugee Council. London summary available at: [http://www.refugeecouncil.org.uk/downloads/rc\\_reports/credit.pdf](http://www.refugeecouncil.org.uk/downloads/rc_reports/credit.pdf)

qualifications recognised to further their education and to improve their employment prospects. Excluding asylum seekers could put them at risk of social exclusion and deprive the country of a potentially useful workforce.

The Refugee Council strongly recommends that the Home Office permits all asylum seekers who are 16 years old or over to work, preferably from the day they apply.

### **Vocational training (Article 12)**

The Refugee Council is disappointed that although the EU Directive allows asylum seekers to access vocational training, the UK is choosing not to allow asylum seekers access to vocational training unless they also have access to the labour market. For many 16 to 18 year olds and adult asylum seekers, vocational training would enable them to develop a skill that would give them independence and self-sufficiency, regardless of whether they go on to obtain status or are returned. Access to vocational training facilitates voluntary returns, as well as the integration of those granted status, and people are more likely to return to their country of origin if they can do so equipped with additional skills. Vocational courses are particularly important for many who have fled persecution in that they do not rely on high levels of English language acquisition.

The Refugee Councils recommends that the Home Office permits all asylum seekers to access government funded vocational training programmes such as New Deal and Work Based Learning for Adults. They should also be allowed to access other vocational training programmes that are funded through the European Social Fund. Such an entitlement should be given to asylum seekers as soon as they make an asylum application together with their Application Registration Card (ARC) and not later than at six months from the date of their application.

### **Requirement to provide support (Article 13)**

The Refugee Council does not accept that the support already provided for asylum seekers in the UK is sufficient to meet the requirement of Article 13 (2) that provision of support should "ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence". Currently, support provided by the National Asylum Support Service is at 70 per cent of income support levels. Elderly or disabled asylum seekers receive an even lower level of support proportionate to their counterparts on mainstream benefits. Given that income support is the minimum amount needed to subsist it is clear that asylum seekers do not have a standard of living "capable of ensuring their subsistence".

Nor do we accept that it is reasonable to withhold support where an asylum application has not been made as soon as practicable. We agree with the view taken in the recent court case of the SSHD vs. Limbuela that the implementation of this policy is contrary to Article 3 of the ECHR.

Support should be provided until applicants are either able to access mainstream support (after a positive decision) or they have left the UK (if unsuccessful). Currently, there are many applicants at the end of the asylum process living in destitution. The Section 4 grant (so-called 'hard case grant') provision should be

enhanced so that support levels match that of normal asylum support and the criteria extended to widen access to it.

The Refugee Council welcomes the proposal to convert the power to provide support into a duty.

### **Accommodation (Article 14)**

We agree that accommodation must be fit for habitation as defined in the Housing Act 1985 and should meet all regulatory standards. However, we are concerned that housing providers may resort to providing substandard housing which cannot be let on the market. We therefore welcome the provision for rigorous contract management and random inspections to prevent malpractice, but are concerned that in reality the resources available may not be sufficient to prevent it.

The Refugee Council has developed a model for the introduction of accommodation centres, suggesting a larger number of smaller centres in urban locations where asylum seekers can access pre-existing local services. We are concerned that the introduction of large, rural accommodation centres with all services provided on site may have a stigmatising, institutionalised and dehumanising affect on the asylum seekers accommodated, and will impair their subsequent integration both into the UK (if granted status) and in their country of origin (if removed). Furthermore, we feel strongly that children should not be segregated from the mainstream education system. As mentioned previously, the needs of asylum-seeking children are best served through education in local schools, as this favours normal contact with other children and best facilitates children's learning.

### **Health care (Article 15 and Article 20)**

Whilst free health care is, as outlined in the consultation document, available for asylum seekers in the UK, in practice asylum seekers experience considerable difficulty in accessing the health care services to which they are entitled. Asylum seekers are a particularly vulnerable group and while many of their health requirements are the same as those of nationals, specific health problems arise as a result of the circumstances that force asylum seekers to flee. Some will have experienced or witnessed torture, rape and other forms of violence, giving rise to specific physical and mental health needs.

The Refugee Council has found that many asylum seekers need assistance with registration and access to GPs. As GPs are the gateway to health services in the UK, difficulties registering with a GP lead to difficulties accessing specialist services. Some GP practice staff are unclear about refugees' and asylum seekers' health care entitlements. Additionally, GPs are within their rights to refuse to register patients, and may do so for a variety of reasons. In some cases, they may be concerned about the extra time and resources that may be involved in registering and treating refugees and may fear that asylum seeker registration will hinder their ability to meet targets. NHS staff require additional training on refugee and asylum seeker health needs and entitlements, and these issues require addressing by the Department of Health and primary care trusts.

Asylum seekers may encounter additional difficulties in accessing health care services as a result of the limited availability of interpreters. Although surgeries do not bear the costs of interpreting services, the Refugee Council's experience is that some are reluctant to involve interpreters as they fear that consultations will take longer. Further, there is often an unmet need for culturally appropriate interpreters, for example female interpreters for female patients. The lack of information about health service entitlements in refugees' own languages, which are different from mainstream ethnic community languages, is a further barrier to asylum seekers accessing health care.

The Refugee Council notes that victims of torture and asylum seekers who have otherwise been traumatised, are largely dependent on voluntary organisations to provide the services they need. Statutory services in the UK do not offer appropriate services and voluntary sector organisations face increasing difficulties in obtaining adequate funding for their services. There is an urgent need for the Department of Health to develop specialist services for asylum seekers and refugees within the NHS.

### **Reduction or withdrawal of reception conditions (Article 16)**

The Refugee Council regrets the negotiating position adopted by the UK during the EU negotiations on the refusal of reception conditions. We note that the UK re-opened negotiations on the Directive to insert a provision identical to Section 55 of the Nationality, Immigration and Asylum Act 2002. As mentioned above, the Refugee Council does not accept that support may be refused where an applicant has failed to apply for asylum as soon as practicable. Recent case law in the UK (Court of Appeal SSHD vs. Limbuela) has found that this policy is in breach of Article 3 of the ECHR.

The Refugee Council is also concerned that there are insufficient safeguards in place to prevent the withdrawal of support where it is not warranted. We believe that support should only be withdrawn as a last resort, and that decisions should be taken individually, objectively, impartially, subject to proportionality and after a full investigation of a recipient's reasons for failing conditions of support. In our experience support is frequently withdrawn inappropriately

The Refugee Council agrees that the term "abandon" implies something more than the periods of absence described in 20 (1) (e) of the asylum support regulations, but would welcome more detail about how the Home Office propose to amend this regulation to accommodate the directive.

### **Failure to travel**

We welcome the proposal to extend the policy of holding open offers of support in dispersal regions for families with children that have failed to travel to single adults and childless families.

## **Intentionally destitute**

We welcome the proposed revoking of this provision. As described in the consultation document, cases of asylum seekers intentionally making themselves destitute are extremely rare and this provision is unnecessary.

## **Provisions for persons with special needs**

### **General principle (Article 17)**

The Refugee Council welcomes the proposal to include in the ECA order an overarching provision for IND to take account of the specific situation of vulnerable applicants. The Refugee Council would like to draw particular attention to the need for NASS to provide appropriate accommodation for clients with special needs and to ensure that asylum seekers with special needs are referred to social services for a community assessment.

Part 6.2 of the consultation document states that asylum seekers can apply to the local authority "if they think they have a need for community services" and that "If they are found to have such a need then they will be able to access specialist care facilities. Furthermore for such cases "Accommodation is provided by Local Authorities". This is an important mechanism for ensuring that asylum seekers with special needs get the community services and housing they require, but there are still no clear guidelines as to which needs should be met under the NASS system of support and which should be met by the local authority. We believe this is a serious barrier to the effective provision of support to asylum seekers with community care needs, as the ambiguity may allow local authorities to pass responsibility for some asylum seekers with community care needs back to the NASS.

### **Minors and unaccompanied minors (Articles 18 and 19)**

The Reception Directive lays down the provisions for unaccompanied minors and states that member states should, as soon as possible, take measures to ensure the necessary representation of unaccompanied minors by legal guardianship, or, where necessary, representation by an organisation which is responsible for the care and well-being of minors, or by any other appropriate representation. The Refugee Council regrets that the Home Office consultation document only presents the lower standard of these three possibilities in its summary of the Article. The consultation document refers to the Refugee Council's Panel of Advisers, which we believe is, at best, the second option "representation by an organisation which is responsible for the care and well-being of minors" but probably nearer to the third option "any other appropriate representation". The consultation document provides no indication as to why the Home Office believes that legal guardianship is not appropriate or not possible. We would welcome further information on this issue.

Our concerns in terms of UK implementation of the Reception Directive relate to the level of authority that the Refugee Council has. The Children's Panel perform a valuable service to some of the most vulnerable and isolated children arriving in the country. The adviser plays a key role in assisting an unaccompanied child through the asylum process and helping him or her to access essential support services. For

many of the children we see, their Children's Panel adviser is the only adult in the UK with whom they have an ongoing relationship. However, the Refugee Council has no legal responsibility for the child, no rights with regard to their care and little say in the asylum process. Currently there is no independent person to represent the best interests of the child as part of the asylum process. The Refugee Council urges the Home Office to address this lack of independent representation.

Whilst Social Services have a higher level of responsibility than the Refugee Council's Children's Panel, they do not have parental responsibility for the vast majority of asylum-seeking children and young people they look after. There remains, therefore, a disparity with other children in the UK.

Under current practice, there is no assurance that a child will be allocated to a named worker at the Refugee Council or indeed at Social Services. Indeed, although all unaccompanied minors are referred to the Refugee Council there is no assurance that our Children's Panel will even see a child who has been referred to us, as we often have no means of tracing them. A referral will often not have an address and significant numbers of unaccompanied young people apply for asylum and are not heard of again. The Refugee Council would like to see an independent body appointed by the Government to provide a legal guardian to every unaccompanied child entering the UK, to represent their best interests in all proceedings for the time that child remains in the UK.

Every agency in contact with an unaccompanied child should be mindful of its responsibility for the safety of that child. Procedures need to be introduced to ensure that children do not apply for asylum and then lose contact with the agencies responsible for them.

The Refugee Council supports the provision of services to trace family members of unaccompanied minors. We hope that the proposed restricted definition of 'family' will not affect a child's ability to trace his or her relative. Our understanding is that the statutory authorities meet the requirements of Article 19 (3) by linking unaccompanied minors with the family tracing service provided by the Red Cross, and we agree that this practise should continue.

## **Appeals**

The Refugee Council notes that the consultation document makes no reference to the provision of legal assistance in appealing negative decisions on the granting of benefits under the Directive. Currently the Legal Services Commission will not fund legal representation at an appeal against a decision to refuse support, and without representation at the hearing, a right of appeal is of limited value. Furthermore the chief Asylum Support Adjudicator has previously expressed concerns about the quantity of unrepresented asylum seekers appealing to the ASA.

## Additional issues not raised in the consultation document

### **Cooperation with the Commission (Article 22)**

The Refugee Council would welcome further information as to how often the UK intends to provide the Commission with the information outlined in Article 22 in order to comply with the requirement to do so 'regularly'.

### **Staff and resources (Article 24)**

As mentioned previously the Refugee Council are concerned that many organisations responsible for implementing the directive have insufficient staff and resources to implement it effectively. Areas of concern include the levels of support available to asylum seekers, the resources available to the NASS to effectively contract manage all accommodation providers, a lack of specific funding for schools to provide support to asylum seeking children, and restrictions on funding for legal representation to appeal against decisions to refuse support.

## Conclusion

On the whole, the Refugee Council welcomes the UK's adoption of the EU Reception Directive, which we believe sets out a broadly adequate minimum standard for the reception of asylum seekers. In some areas, we believe existing UK practise meets or exceeds the requirements of the Directive and would urge the UK to maintain these higher standards. In other areas, we believe the UK does not meet the requirements of the directive, or disagree with provisions of the directive itself (such as Article 16 (2)).