

Age Dispute Project

End of Year Report 2014



**SUPPORTING AND
EMPOWERING
REFUGEES**



About

At the Refugee Council Children's Section, we see the child first and the asylum seeker second. Our mission in the Children's Section is to protect separated children by providing assistance navigating the complex immigration process and ensuring they are cared for by local authorities.

The Age Dispute Project allows children to access the rights and freedoms they are entitled to under UK law. We work with unaccompanied children who seek refuge in our country but are treated as adults in the UK immigration system. This may mean they are unlawfully detained or are not receiving support from social services in light of an absent family unit.

Who we are

The Age Dispute Project was developed within the Refugee Council's Children's Section in 2010, following an on-going concern for separated children whose age is not accepted. The consequence of being disbelieved as a child is detrimental to their physical and emotional wellbeing and these children will not be cared for under the Children Act 1989¹. With no family or responsible guardian this piece of legislation ensures all children receive support, placing the responsibility of their care with the local authority: this is regardless of a child's immigration status.

Children are extremely vulnerable; there is law in place to protect them. Disbelieved children, treated as adults, do not receive the support of children's social services, cannot access mainstream education and are processed through the immigration system as adults. They are either in detention centres or placed in inappropriate accommodation with adults, having no one to ensure their welfare.

Advisers within the Age Dispute Project have the expertise to provide advice and to advocate on behalf of children faced with this immensely distressing and unsafe situation. The project provides invaluable support, both emotional and practical. We visit children in detention centres and

facilitate their release. We liaise with social workers, solicitors and various other organisations and charities to ensure these children are able to rebuild their lives and fulfil their potential.

Why is this project needed?

Without the Age Dispute Project acting as a mediator, voice and advocate to facilitate their access to supportive services, these children would be extremely vulnerable and alone. The project staff are highly experienced dealing with 'age disputed' children.

There are a myriad of circumstances that lead to a dispute over a child's age. Determining a child's age is a notoriously difficult task; the process of age assessment is not an easy feat. There are many circumstances that can complicate the determination of age. Some of these are: the chronological concept of age, lack of documentation and children having the physical appearance of being over 18 years of age.

- The concept of chronological age, and time for that matter, is not a concept applicable cross culturally. Western understanding of age, and the concomitant relational concepts of child and adult do not apply globally. The idea that turning eighteen means you are an adult with which comes greater responsibilities and authority may seem strange to someone from a different background, for which adulthood is something to be earned through action or ritual. For example, in Afghanistan most citizens do not know their date of birth, nor is it recorded or celebrated in the way Western culture may understand a birthday. In some parts of Asia, people calculate their date of birth from conception or they are thought to be age one at birth, which may complicate the translation of their age when decision makers are not aware of these significant cultural differences.
- Many children seeking asylum do not have

¹ <http://www.legislation.gov.uk/ukpga/1989/41/section/17>

The Refugee Council is one of the leading charities in the UK working directly with refugees, and supporting them to rebuild their lives.

documentation. Where documents stating a child's date of birth exist, they may not have time to obtain them prior to fleeing their country of origin. If the documents did accompany them, they may have been lost or stolen on their dangerous and long journeys. Documents may also be forged, displaying a false date of birth. These include cases where smugglers or traffickers encourage children to state that they are adults under the presumption it may make their journey easier. Some countries can lack the infrastructure to issue documentation.

- Physical appearance can be misleading. The age at which puberty begins varies widely. Environmental and emotional factors may cause a person to appear older than they are. Trauma, difficult journeys and circumstances in their country of origin, such as weather or physical labour, will often make appearance seem older.

This is not a question that can be resolved medically either. Medical examinations alone have been discredited as an appropriate method of determining age: The Royal College of Paediatrics and Child Health acknowledge that the margin for error can be as large as five years². These can be employed as part of a larger holistic³ assessment that will evaluate many different factors

A particularly vulnerable group of teenagers, who are unable to prove otherwise and based on appearance, are considered by Home Office policy to be 'significantly over 18'.⁴ This group is largely made up of teenage boys aged 15-18 who are often placed in detention pending their asylum application.

In our experience, some of these children held in detention have been found to be as young as 14. Immigration Removal Centres are large secure facilities run by security companies not dissimilar to

prisons. These will house anywhere between 300-615⁵ adult detainees with whom these children are detained.

The original purpose of this Home Office policy was to identify those who were not borderline cases, people who are undoubtedly adults. Despite the fact that physical appearance is a notoriously unreliable mechanism to assess the age of an individual⁶, this method has been applied on a regular basis. Its persistent, frequent and at times questionable use fails to ensure that the welfare standards relating to children are met.

Those deemed to be 'significantly over 18' under this policy are not reported statistically as age disputed. Human Rights Joint Committee endorsed the call for full, disaggregated statistics to be provided for all age dispute cases, to enable these to be tracked through the system.⁷ Unfortunately this is still not the case.

The Age Dispute Project is the only one of its kind specifically focusing on the fight for these children's freedom and to ensure they are granted the advice and support they need and are entitled to by law.

2 Royal College of Paediatrics and Child Health, Child Protection Companion, Children from Minority Section 14.3.1.7, 2nd Edition, 2013
3 www.ilpa.org.uk/data/resources/13266/ILPA-Age-Dispute-Report.pdf
4 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf Section 2.1.1
5 <http://detentionaction.org.uk/aboutus/about-harmondsworth-detention-centre>
6 <http://www.bailii.org/ew/cases/EWHC/Admin/2009/939.html>
7 <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/907.htm> Paragraph 87

An Adviser will accompany the young person to court proceedings and prepare them before the hearing.

What we do

Children are largely referred to the Age Dispute Project in two ways: through the drop-in service run by the Refugee Council Children's Panel, or by specialised charities who visit detainees in the various immigration removal centres.

An Adviser can then meet with the individual to get an understanding of the client's needs. This often entails the Adviser travelling to the detention centre to meet with the client on a face-to-face basis. The young person is given the phone number of an Adviser and the option to speak in their own language whenever they need to. As every individual's experience is unique, it is important we meet the client to ascertain the nature of their particular case, and ensure that we establish how their needs must be met.

Initially, for those who have been detained, the priority is securing their release from detention and an assessment by local authority children's services. Each case may vary in complexity; the Adviser will then tailor their response accordingly to each individual's need. Often our role involves helping these children obtain access to proper legal representation. As a last resort, it may involve us assisting the child to take legal action. An example could be because of imminent removal directions set to a third country⁸ or to their country of origin. Unfortunately, unaccompanied young people seeking asylum are extremely vulnerable to receiving poor quality legal advice.⁹ The Project ensures this is avoided by referring them to a trusted solicitor with a wealth of experience in age disputed cases. These experts can challenge decisions taken against the child's best interests.

When we are supporting a young person, an Adviser will accompany them to court proceedings

and prepare them before the hearing. We can sometimes provide a small stipend to age disputed young people where they are not receiving any other support, which they can use for food, clothes and transport.

The Project ensures that all our clients are given a lawful¹⁰ age assessment, a process of evaluation that has been deemed fair and appropriate to children in this situation. Our Advisers are tasked with guiding children through the complex and often perplexing process of asylum and being age disputed. We aspire to ensure our clients have access to the best welfare and immigration advice in relation to their individual needs, so that they can fulfil their potential, as children, as quickly as possible. Our strength lies with the flexibility of our approach; this is evident in the results we achieve and the spiralling demand for our project. We aim to ensure children are given the benefit of the doubt¹¹ and hopefully provide the mechanisms to ensure that professionals working with these young people maintain an open mind with regards to their backgrounds and experiences.¹²

8 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257471/thirdcountrycasesreferring.pdf

9 Kamena Dorling and Anita Hurrell, Navigating the System: Advice Provision for Young Refugees and Migrants, 2012, Coram Children's Legal Centre

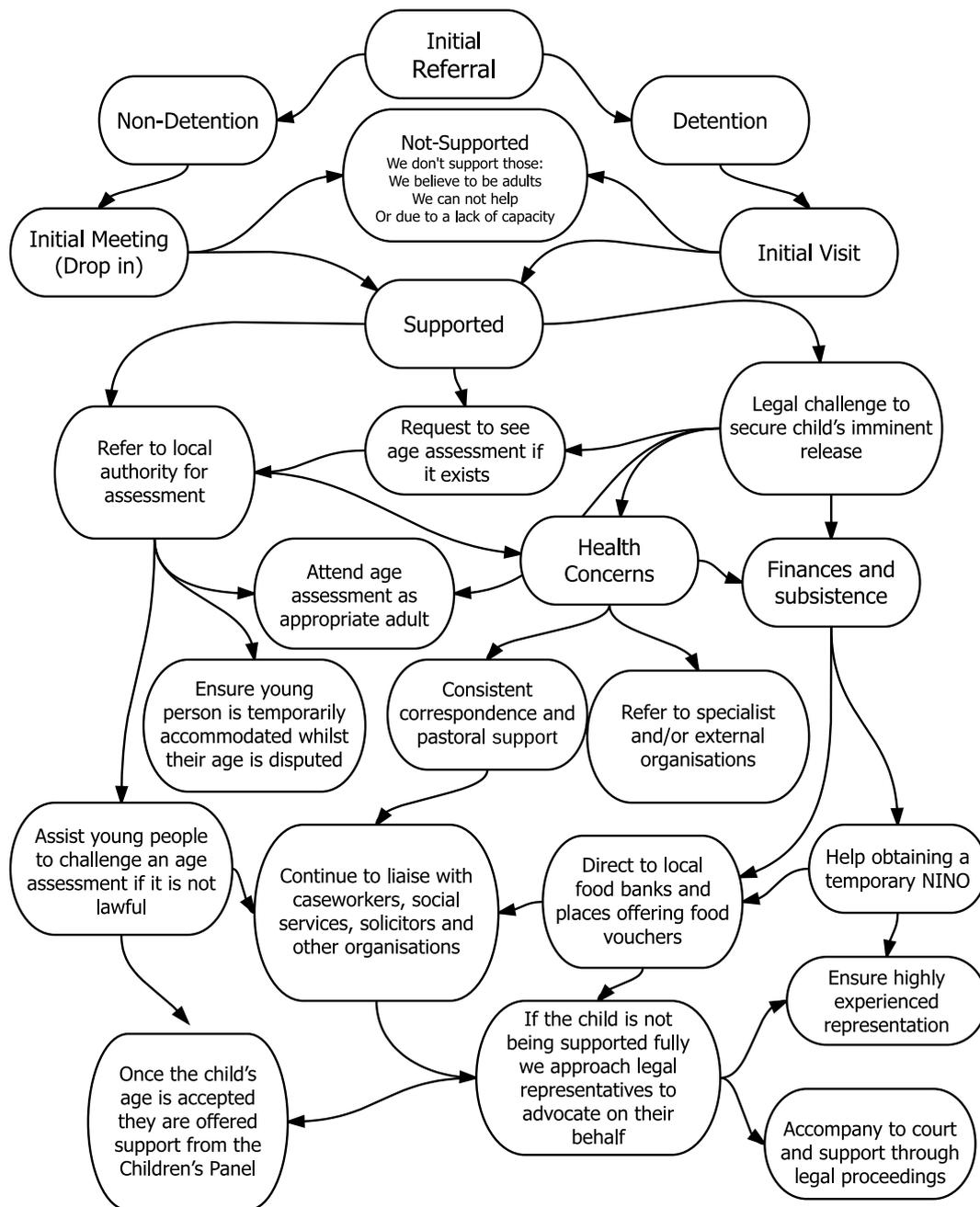
10 <http://www.bailii.org/ew/cases/EWHC/QB/2014/2483.html> Summarized by Shu Shin Luh in paragraph 78

11 <http://www.bailii.org/ew/cases/EWHC/Admin/2009/939.html>

12 "...Home Office has a 'culture of disbelief' that influences the way that staff approached the issue of age dispute"

Independent Chief Inspector, An Inspection into the Handling of Asylum Applications Made by Unaccompanied Children, February – June 2013

The support we provide is complex and must be tailored to each individual case



Case Studies

Fawad*

I left Iraq because I did not feel safe. My name is Fawad and none of my family are alive. They were killed in the war that came to our village and left many people dead. I fled the country with a friend, hoping to find a better life and a place of safety. I am fifteen years old.

My journey here was not an easy one, my friend and I were separated along the way. I didn't know where I was or where I was going, I only knew I could never go back. Immigration officers found me in Dover. They immediately detained me because in their opinion I looked like I was over 18. I tried to explain that I was only a child but they didn't listen. They said because you shave you must be a grown man. I did not know what was going on and I was not given a chance to prove my age.

The detention centre was a scary place. There were huge grey buildings inside tall metal fences. A wall surrounded it and I could not see anything beyond the detention centre walls. You had to walk within certain lines around the premises and had to be accompanied by an officer when you left your cell. It was cold. I barely slept. I was afraid; there were so many adults of all ages speaking many different languages and I felt so isolated.

On the second day, a Children's Adviser from the Refugee Council came to see me. We met in a room and he explained that he would help get me out of this place. He used an interpreter over the phone, it was a joy to hear my own dialect and I began to feel hopeful. When he had to go I was scared because I was alone again, but by the third day I was released.

Once released, I was moved to a place where lots of people were living. The Adviser from the Refugee Council explained to me that I would be staying

here temporarily while they got to the bottom of the age issue. Only adults lived in here. The men who stayed at this accommodation would often stay up late and drink alcohol. They would sometimes have arguments and I did not feel safe. The place was dirty and dark. I often felt anxious and jumpy in this place. I just wanted to be around people my own age.

It took six months of hard work by the Refugee Council and the solicitor they had found me, to finally get an age assessment. What kept me going during that period, why I did not run away or worse, was that I could ring the man who helped me at the Refugee Council and visit the office in Croydon to see him and hang out with other young people. I made friends who understood my situation and encouraged me to stay hopeful. I was frustrated by how long I was in this place. I know the man from the Refugee Council was working hard to get me out and I didn't understand why I was still here. He explained that there were issues with the local authority and the Home Office and they could not yet assess my age.

When the man from the Refugee Council called to say I had a date for my assessment I was overjoyed. But I was anxious because I knew it was not the end. The assessment lasted three days and I had to recount a lot of difficult experiences from my past.

I am finally continuing my life as a child. My age was accepted and I have now enrolled in college. I have friends my age, some from the Refugee Council and some new ones from school. I visit the Refugee Council frequently to see those who helped me when I was in a desperate place. I do not like to think what would have happened if they had not been there to help me.

**Names have been changed to protect the identity of the young people who helped us by sharing their stories.*

'I was detained by the police and taken to a detention centre. They told me I was lying about my age.'

Rauf*

My name is Rauf and I am from Syria. I am fifteen years old. I left my country because of conflict. I had never before witnessed such violence. My father had been taken by an extremist group and, as the eldest male; my family was under threat if I remained with them. I do not know what happened to my father. I left my family to look for a place where I would be safe.

I came from a wealthy and well-educated background. My parents hoped I would live a happy and successful life, but unfortunate circumstances made this increasingly unlikely. On my way to the UK I was subject to horrific abuse at the hands of those who I thought were helping me make the journey. Due to this physical and emotional trauma I became violently ill. I was alone, afraid and depressed.

I had hoped to be helped once I reached the UK, but on arrival, I was detained by the police and taken to a detention centre. They told me I was lying about my age. A social worker came to see me and asked me several questions; she also did not believe my age. I was in shock. I had never given much thought to my age but it had become the problem of most significance in my life.

After eight days I was moved to another detention centre, I finally saw a doctor there. I was then referred to the Refugee Council Children's Section. One man phoned me to say he would come to visit me. He was kind to me and gave me a number I could call him directly on. He spoke to me in my own language. He sent a doctor to see me and check my health. Within a week of meeting him, he helped me get released and was there when I needed him.

He was the only person who listened to me. Once I was released, he ensured I had the proper age assessment. My age was accepted, an age more than three years younger than the one they had given me. The man from the Refugee Council helped me get hold of many school certificates and other documents, some of which were sent from Syria, in order to convince the assessors I was telling the truth.

I was detained for a total of 14 days in an extremely vulnerable state. I was detained in a room with several adults and I was scared to go to sleep. There are no words to describe the horrors of detention: it was a prison. I struggled, and I still receive emotional support from the Refugee Council and others. I do not know how long it will be before I fully recover. I still have nightmares.

Thanks to the Age Dispute Project I continue to receive support from Helen Bamber Foundation and the Refugee Council Children's Section. I consider myself so lucky in this circumstance. I don't know how someone can decide your age in 10 minutes. Detention is devastating.

Project Achievements

The Age Dispute Project has firmly established itself as a safeguard for many vulnerable children, as a driver of good practice and as a challenger of those who are prepared to take risks which leave children vulnerable. Despite having extremely limited resources the Project holds a deserved reputation for being the first point of call to many children and those who are supporting them when there is an issue around age. A combination of compassionate, timely and knowledge based direct work with young people, and an excellent relationship with external stakeholders which allows for the continued and profound impact of the Project.

Achieving remarkable results in 2014, Advisers have supported 55 children in various complex circumstances. We were able to secure the release from detention of 25 of the children we supported. Of these, 17 have now been accepted as children and are under full care of the local authority whilst eight have assessments pending. We have, and continue to support, 26 children who were not detained but whose age was still in dispute; of these nine have already been accepted as children and we continue to assist in the struggle of those with on-going cases. Already in 2015, we have secured the release of 10 children from detention.

The support from our generous donors has enabled the Age Dispute Project to accept a higher number of cases than previous years, which otherwise would have been overlooked due to lack of capacity. Unfortunately, with an increasing amount of referrals of age disputed children, the project is struggling to meet the demand for the service.

The project's continued success keeps this issue highly visible, ensuring that decision-makers within the Home Office, Local Authority and elsewhere are continually pushed toward better practice. Advisers have been able to establish good working relationships with some of the local authorities

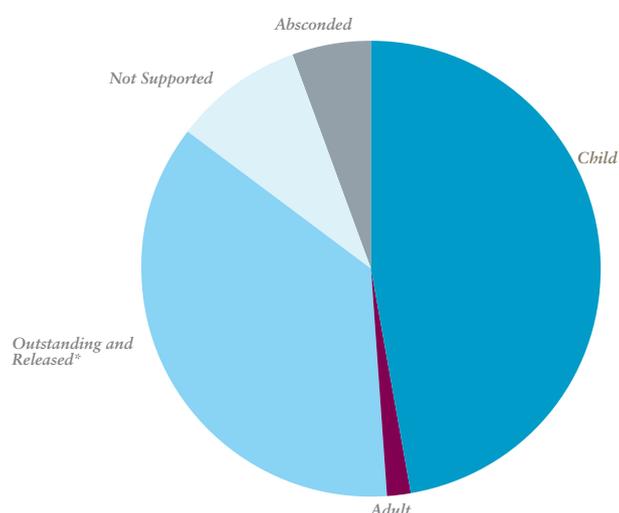


Table above represents age dispute status at the time of writing for a total of 55 supported cases in 2014. This year 47% have already been accepted as children.

**Detention only cases who have been released and are also outstanding*

‘The project has been incredibly helpful statistically in identifying the amount of age disputed cases initially identified as significantly over 18 which will not be reflected in Home Office statistics as age disputed’.

our clients are referred to. We have also been able to expand our services in order to cover a larger geographical area.

The project can now provide additional support with our new Volunteer Advisers in Leeds and Birmingham, regions where many unaccompanied young people may be dispersed or detained.

One of the biggest achievements of the Age Dispute Project has been the statistical data it has been able to generate. After increased pressure from the Refugee Council and other organisations, the Home Office began publishing the number of age disputed cases in their official statistics. Unfortunately those deemed ‘significantly over 18’ and detained are not represented as ‘age disputed’ in these official statistics. Within this gap, the Age Dispute Project is the only source for statistical data concerning this group. Adrian Matthews, Principal Policy Advisor (Asylum & Immigration) for the Office of the Children’s Commissioner¹³ states this succinctly: ‘The project has been incredibly helpful statistically in identifying the number of age disputed cases initially identified as significantly over 18 which will not be reflected in Home Office statistics as age disputed’.

The Refugee Council report published in 2012, *Not a minor offence*¹⁴, used our collated statistics and other information to affect change to The Detention Service Order.¹⁵ This order provides guidelines to immigration officers and Home Office officials, with a view to preventing the unlawful detention of children. Those working in detention wanted these guidelines in order to act appropriately. However, our continued experience shows that this policy is not always being enacted in practice. Although it was an achievement to have provisional measures amended in writing, our work this year shows that there is much more to be done.

The project remains in a privileged position: our frontline services transform lives at a direct level and offer an insight into the goings on of this hidden scandal within the asylum process. In turn, this enables us to develop and adapt our capabilities. Maurice Wren, CEO of the Refugee Council states ‘this circulatory process is essential to permitting system change: the project is the link between direct services and the ability to lobby the Home Office.’

The Project has worked closely with Harmondsworth Immigration Monitoring Board and other stakeholders. The IMB report of 2014 notes that age disputed young people in Harmondsworth are taken into the care of Hillingdon social services much more speedily. It is vital that children are released as soon as possible and the Project continues to push to ensure that this happens.

13 http://cdn.basw.co.uk/upload/basw_114754-10.pdf

14 http://www.refugeecouncil.org.uk/assets/0002/5945/Not_a_minor_offence_2012.pdf

15 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257718/age-dispute.pdf paragraphs 11 - 14

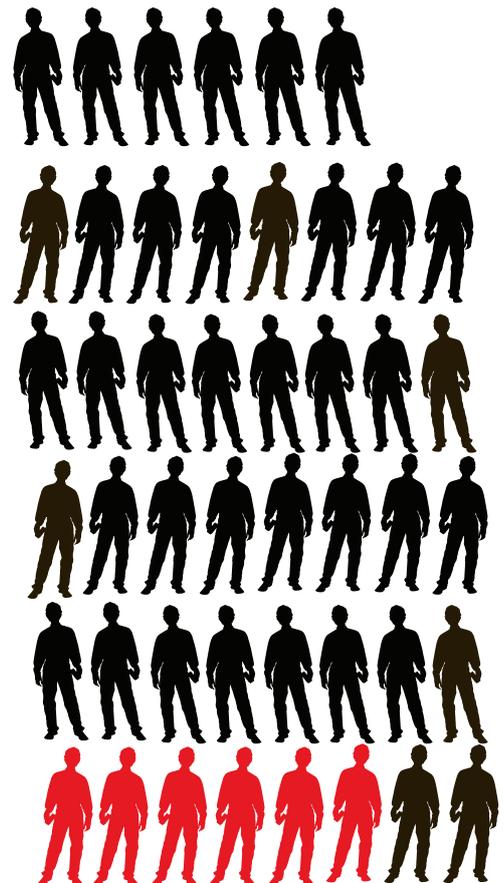
16 Harmondsworth Independent Monitoring Board Annual Report 2014, 6.2 <http://www.justice.gov.uk/downloads/publications/corporate-reports/imb/annual-reports-2014/harmondsworth-2014.pdf>

Future of the Project

The main goal of the Age Dispute Project is to protect children. One of our biggest challenges is to advocate for the eradication of the 'significantly over 18' policy and the absolute end to the detention of age disputed cases. Along with many legal experts and other organisations, we see the termination of these practices as a priority. With the continued generosity of our funders, we hope to increase the staff and resources available, in order to assist every child. The Project is currently struggling to provide support for a staggering number of referrals received. We are one of the leading charities facilitating the release of those detained and re-assessment of age. The ethos is to support all of those we believe to be children, which we are currently and regretfully unable to provide due to lack of capacity. Many geographic areas in the country have no access to our services. With increased resources, we could cover priority locations, where many children are allowed to fall through the cracks without recourse to any support.

To give a sense of what we are currently up against, from January-March 2015 we have received 46 new referrals to the project. Of these we have agreed to support 31 cases, 17 of whom are in detention. However, at the time of writing there are six cases who have been referred to us which we are unable to attend to due to the issue of a lack of capacity. We do not know the individual situations of each of the referrals, although two remain in detention.

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Since January -March, 2015 we have received 46 new referrals, out of which 6 young people have not been able to receive our support due to lack of capacity.

Project Staff

Francesco Jeff

Francesco has been working in recent years with children from a range of countries such as Afghanistan, Iran and Iraq. He speaks a number of languages including Kurdish Sorani, Arabic, Farsi, Dari and Italian and this has been of great benefit to many of the children he has helped.

Due to his extensive experience working with age disputed young people Francesco is also very knowledgeable about other legislation and case law relevant to age, to the asylum process for separated children, and to support for young people. This has helped him to achieve the best possible outcome for the children he has been working with.

'Working in the Age Dispute Project has been one of the most rewarding professional experiences I have had, giving me the opportunity to help vulnerable children get out of detention and into the care of social services, but it is very hard work. Kids are kids; some of them call me twenty times a day just expecting to hear one word: that they will be released. We are the only organisation dealing with separated children in detention and supporting 31 cases in the January-March 2015 quarter alone. We have dealt with about 300 cases in the last four years. The numbers referrals of age disputes has increased as has the demand for our project which is in need of support.'

Olivia Hutchinson

Olivia has been volunteering with the Refugee Council as the Age Dispute Adviser based in Leeds since the start of 2015. In September she graduated with a Masters degree in Russian Studies from UCL and she speaks French and Russian.

'Volunteering with the Refugee Council's Age Dispute project has been an eye-opening experience for me. Separated children seeking asylum experience crushing isolation. Living in adult accommodation, without anybody else who speaks their language, unable to go to school or even have the opportunity to learn English, these young people will often not have seen or spoken to anybody for days on end. Being one of the few people looking out for them is a huge responsibility and it is immensely rewarding knowing that you have made such a difference to someone's life.

The hardest part about the work is telling a client that we are unable to support them due to lack of capacity. This is a problem I experience keenly. As the only Age Dispute volunteer in the North of England, my remit covers a very wide geographical area and there are a great many young people in need of our help but whose cases I am unable to take on.

The importance and pace of the Age Dispute Project's work has made my experience working with the project stimulating and exciting: I am looking forward to the many challenges it brings.'

'I have never seen a teenage boy so vulnerable and shaken as the boy I met fresh out of detention on my first day as a volunteer in the children's section'

Eleanor Foster

Eleanor has been working on the Age Dispute project since the start of November 2014. She is a recent graduate from the University of Manchester with a degree in Social Anthropology. She also does youth work with children in South London.

'Working for the Age Dispute Project has been an amazing and fast paced experience. As soon as I began, I realised the huge and urgent demand for the Project and its need for me to learn quickly and act competently as an Adviser. Being thrown in at the deep end might be one way to describe the start of my time as a volunteer; however, I have welcomed the challenge and have actively and confidently supported several young people.

I have been appalled at the experiences that these young people have been subject to once within the UK. Detention is no place for children. It is no place for any vulnerable individual seeking refuge, but it is shameful that we are locking up children in the UK. I am proud to be enabling these children to access better services and have a better quality of life.

I have never seen a teenage boy so vulnerable and shaken as the boy I met fresh out of detention on my first day as a volunteer in the Children's Section. That same young boy is now more relaxed, living with foster parents and laughing once again. The transformation in this boy and the new possibilities he now has ahead of him, is the very reason why the Age Dispute Project is so important.'

Laura Durán

Laura started volunteering for the Age Dispute Project in early 2015. She is also a student at Goldsmith's University of London.

'When I think back to migrating from Colombia to the United States at the age of 18 and how daunting that was, I am overwhelmed by what these young people I work with are going through. At 15 my biggest concern was finishing my schoolwork and some boy I loved: for separated children, their concerns are escaping war, months of traveling by land or sea, and when they finally arrive to a place they thought was safe they are dragged for months or years through the process of being age disputed. It is distressing to witness how the system regularly fails to protect the most vulnerable.'

Acknowledgements

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This report wouldn't have been possible without the young people who gave their time to contribute. We also like to thank Adrian Matthews (Principal Policy Advisor for Office of the Children's Commissioner), Azeem Suterwalla (Monckton Chambers) and Detention Action for their invaluable expertise and assistance.

The Refugee Council is one of the leading charities in the UK working directly with refugees, and supporting them to rebuild their lives. We also speak up for refugees using our direct work as an evidence base, and ensure refugees have a stronger and more influential voice in decisions that will affect them. We work with a range of partners and in collaboration to ensure we can best support our clients.

Drawings by two young people who received support from the Children's Panel.







**SUPPORTING AND
EMPOWERING
REFUGEES**

British Refugee Council, (commonly called the Refugee Council) is a company limited by guarantee registered in England and Wales [No 2727514] and a registered charity [No 1014576]. Registered office: Gredley House, 11 Broadway, Stratford, E15 4BQ, United Kingdom VAT registration no: 936 519 988