

The care and protection of asylum-seeker and trafficked children in Wales

Agenda for action

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I. Introduction

Background

Save the Children believes that asylum-seeking, refugee and trafficked children should be protected by policy and legislation that places their best interests as children before their immigration status.

In 2005, Save the Children published *Uncertain futures*, a report into the circumstances of separated children and children in families seeking asylum in Wales. The report explored their experiences of living in Wales and provided a baseline assessment of the extent of policy development, service provision and current practices relevant to asylum-seeker children. Findings highlighted a diversity of children's experiences that encompassed both stressors such as racism, poverty, isolation and uncertainty alongside evidence of children's coping and enjoyment of living in Wales such as feeling safe, friendships, and aspirations. Practitioners in the study identified a range of care and protection issues facing asylum-seeking children in Wales. These ranged along a spectrum of concerns about children's wellbeing and quality of life issues to significant harm issues, for example trafficking, child protection from honour based and cultural forms of abuse, and the detention of children. The report also highlighted the varied range of skills and knowledge that frontline practitioners in Wales had to address these care and protection issues. Although there were notable examples of good practice, concerns were highlighted about the skills' deficits featured in both mainstream services within the dispersal areas and within non-dispersal areas.

Although immigration and asylum are non-devolved in Wales, the provision of the majority of services that asylum-seekers receive is the responsibility of Welsh Assembly Government, local authorities and other public bodies in Wales.

Scoping exercise

In 2008 Save the Children commissioned an all-Wales scoping exercise to build on this previous study. Its purpose was to determine the issues facing frontline workers in relation to securing the care and protection of trafficked, separated, and children and families seeking asylum, identify critical gaps in the knowledge and skills of these workers and practice development opportunities. These include social workers, education professionals, police, legal professionals, health professionals, voluntary / community sector workers, housing providers, UK Borders and Agency (UKBA) staff.

A research team¹ was commissioned to undertake this exercise, assisted by a reference group with membership from key service providers and agencies working with young asylum-seeker children in Wales. The research team produced an extensive background research paper based on the findings of a scoping exercise. This summary report is a summary of those findings and concludes with a number of recommendations targeted at the Welsh Assembly Government, local authorities, Wales Strategic Migration Partnership (WSMP) and other commissioners and service providers in Wales. It also identifies a number of policy and funding issues to be addressed. Despite some noticeable developments in policy and practice many of the highlighted issues have been previously identified in *Uncertain futures* and elsewhere with other studies. This poignantly illustrates the longevity of these issues despite research and campaigning for the realisation of children's rights and improvement in children's wellbeing.

In total 131 staff from a wide range of service areas were involved in the study. Of these 81 were practitioners from both dispersal and non-dispersal areas, 32 were members of Local Safeguarding Children's Boards and 18 were representatives of key organisations which were also consulted such as Office of the Children's Commissioner for Wales, Welsh Assembly Government, WSMP, UKBA, Welsh Local Government Association (WLGA), Asylum Justice, Welsh Refugee Council, and the NSPCC.

Throughout the scoping exercise there was demand to discuss the issue of care and protection of children who arrive with their parents as EU accession nationals or economic migrants. Although there are common issues, the legal and financial status of migrant children present different issues. A Migrant Children's Practitioners Network has been established² to facilitate research and practice policy development in this area.

Recent developments in legislation and policy

- **Safeguarding Children: Working Together Under the Children Act (2004)** (Welsh Assembly Government 2006) provides statutory guidance on safeguarding duties and responsibilities on statutory and other service providers.
- Welsh Assembly Government **Common Assessment Framework** - a pilot multi agency tool, aiming to ensure all children in need, and in particular those with additional needs, receive early identification of need and appropriate services.
- In August 2008 the Home Office have announced their intentions to align the UKBA with those agencies already subject to the Section 28 of the Children Act 2004 by placing a legal duty on the organisation to safeguard and promote the welfare of children as part of the forthcoming **Citizenship and Immigration Bill (2008)**. This will replace the draft UKBA Code of Practice that had intended to implement new measures to safeguard children within the immigration system.
- **Removal of United Nations Convention on the Rights of the Child Reservation** - In September 2008 the UK government announced it would lift its reservation on Article 22 of the UNCRC. In summary Article 22 commits Government to give asylum-seeker children the same rights as citizen children. The Government reservation affected the rights of children subject to immigration control and was entered when the UK ratified the UNCRC in 1991.
- **Welsh Assembly Government Refugee Inclusion Policy** – Launched in June 2008, there is a dedicated section for children and young people. There is a welcome

¹ Tracey Maegusuku-Hewett, Louise Kalicinski, and Dr Nina Maxwell, Centre for Social Work and Social Care Research at Swansea University.

² Facilitated by Children in Wales.

development of a funded all-Wales specialist adviser post for practitioners working with asylum-seeker and refugee children based at the Wales Strategic Migration Partnership. The findings of this report will identify key priorities for this post to take forward.

- **UASC Reform**³ - In 2007, the UK government announced its intention to disperse separated children to 'specialist authorities' across the UK as part of wider plans to overhaul the legal asylum and support system for separated children. It also proposes to revise the discretionary leave policy with an aim to increase the numbers of separated children returned to their countries of origin. There has been little progress, although the UKBA now state their current aim is to have these reforms in place by 2009.
- **New Asylum Model (NAM)** - Since 2007 newly arriving separated children and children and families arriving to the UK will have experienced being 'processed' within the 'New Asylum Model' / Asylum Model (NAM). The process represents a major restructuring of the asylum system. Faster processing is the ultimate objective with decisions made within 30 calendar days from the date of application and the rapid removal of failed cases with increased use of 'end to end' management and detention. It introduced a requirement for all separated children age twelve and over to undertake a substantive interview.

Which children?

Separated children

Children who are under the age of 18 and do not have a parent, customary or legal caregiver in the UK are referred to as separated children or unaccompanied children. They apply for asylum in their own right and are the statutory responsibility of the local authority in whose geographical area they seek help. There is a statutory duty placed on local authorities under the *Children Act 1989* to assist 'children in need' and provide accommodation for certain groups of 'children in need'. The scoping exercise also examined care and protection for young people reaching 18, since the transition to adulthood brings specific care and protection issues, for example leaving care provision, access to higher education and potential enforced return to country of origin. Some separated children may have been trafficked into the UK (see below).

Trafficked children

Given the clandestine nature of trafficking activity, the incidence of child trafficking is reputedly difficult to quantify. There is a distinction between the concepts of smuggling and trafficking. Some children are smuggled into the UK clandestinely for the purposes of gaining access to the UK and avoiding border controls. Child trafficking is motivated by many issues such as sexual exploitation and also other forms of exploitation, such as organ transplants, domestic slavery, forced marriage, adoption, begging or drug smuggling. To date there has been limited Wales specific research to scope the extent of child trafficking. This scoping study explores what is known about the incidence of trafficking amongst practitioners and examines current practice in addressing actual or suspected cases.

Children in families

When children within families arrive in Wales, typically they will reside temporarily in a small reception accommodation before being dispersed to a UKBA contracted property in one of the dispersal areas of Wales. The four agreed dispersal areas in Wales are Swansea, Newport, Cardiff and Wrexham. Local Authority and private housing providers are

³ Unaccompanied Asylum-Seeker Children Reform Programme

contracted by UKBA to provide accommodation and support to support asylum-seeking families and single adults while their claims are being determined.

2. General findings

Practitioners' general level of knowledge of issues relating to separated children and children in families seeking asylum

- Practitioners having regular contact with asylum seeking children in dispersal areas were familiar with asylum policy and the complexities of working to promote and safeguard the wellbeing of these children.
- Significant differences exist in awareness of policy and practice relating to separated children between staff in dispersal and non-dispersal areas.
- Practitioners in non-dispersal areas have irregular contact and consequently limited knowledge of asylum issues.
- Whilst some staff had patchy knowledge others required explanation of key asylum terminology including 'asylum-seeker', 'refugee', 'migrant' and 'smuggling'.
- Respondents in North Wales perceived there to be an inequitable divide of resources and information sharing between the densely populated South Wales and the more rural and northern parts of Wales.

Demographics and children's arrival in Wales

- Currently there are 2146⁴ asylum-seekers dispersed to Wales, and 61% (1303) of these are classed as 'dependents', primarily these will be spouses or children.
- There are still no readily available exact figures of the number of separated children in Wales. Researchers found that statistics of the numbers of separated children in Wales were fragmented and came from multiple sources. Of the available statistics, the Welsh Assembly Government⁵ estimate that in 2006-2007 there were 160 separated children receiving support from social services across Wales.⁶ UKBA quantify that in May 2008 there were 41 separated children seeking asylum⁷ within the NAM system.
- Practitioners within non-dispersal areas have limited knowledge of the requirement for local authorities to complete the National Register for Unaccompanied Children (NRUC) or of the need to provide Welsh Assembly Government with numbers of separated children and young people within their area.

⁴ May 2008 statistics.

⁵ Source: email correspondence with Welsh Assembly Government July 2008.

⁶ This figure included a number of cases where young people were over 18, had refugee status, had absconded, were in prison or whose claims had failed. These young people were included in the survey at that time as they were, or had been, receiving support and there was therefore a cost element to the local authority concerned.

⁷ This figure relates only to those separated children claiming asylum in the NAM system.

Age assessments for separated children

In approaching the immigration authorities to seek asylum and / or when approaching social services for care and support, separated children may have their age disputed and therefore are subject to an age assessment (predominantly carried out by social workers) in order to decide therefore whether an age disputed child is (a) to be treated as an adult or child within the asylum system; and (b) eligible for support as a child. There are no statistics available to illustrate the percentage of age disputed young people residing across Wales.

- Anecdotal evidence suggests that age disputes occur more often within areas that have higher numbers of unaccompanied young people.
- Differences were noted in the ways in which age assessments were conducted. Bigger authorities were said to rely more upon short interviews and establishing credibility whilst smaller authorities tended to conduct longer assessments and focused more on pastoral elements.
- Many difficulties were noted around conducting assessments and establishing age. Most notably, difficulties were encountered as to the lack of cultural knowledge, and uncertainty as to who was responsible for the individual's immediate care.
- Several non-social work respondents were critical of the quality of some social services' age assessments and suggested the underlying motivations could be financially driven. This was refuted by one social work respondent who suggested that decisions on age are complex and require rigorous and fair assessments to minimise the risk to vulnerable children who may be erroneously deemed as adults and vice versa.
- In areas with lower numbers of separated children, 'age assessment' was a prominent anxiety for looked after children social workers, emergency duty team members, the police and practitioners from the youth justice system.
- Social-work practitioners in non-dispersal areas were unfamiliar with the Assistant Directors of Social Services (ADSS) protocol on age assessments and Merton compliance.⁸
- Practitioners identified concerns about the placing of children into adult accommodation (and the potential for people whose age is as yet undetermined being placed with children) until age disputes are resolved.

Support for separated children and young people

- Some non-dispersal areas place separated young people 'out of county' to more ethnically diverse areas in order to provide cultural and social resources. Practitioners highlighted that this could isolate young people from social work support.
- Some local authorities are taking a strategic approach to the care and support of separated children by devising policy, gaining information from local authorities in England, and setting up multi-agency working groups to ensure the adequate support of separated children and young people.
- Some Welsh local authorities are continuing to accommodate young people under Section 17 rather than Section 20 of the *Children Act* contravening Welsh Assembly

⁸ The Merton judgment was handed down by Burnton J. in the High Court on 14 July 2003, and gives 'guidance as to the requirements of a lawful assessment by a local authority of the age of a young asylum-seeker claiming to be under the age of 18 years'. All local authorities are required, following the Merton judgment, to ensure that their assessments are full and comprehensive, that the process for assessing age is clear, transparent and fair. More information on Merton Compliance can be found at:

<http://www.childrenlegalcentre.com/Resources/CLC/Documents/PDF%20A-M/Merton%20Note.pdf>

Government 2005 Guidance on support for asylum-seeking families and unaccompanied asylum-seeking children.⁹

- There are shortages in suitable accommodation for all looked after children and the number of foster parents, particularly for those aged 15 and over.
- The level of knowledge amongst practitioners that have had some direct contact with separated children varied but evidence showed that further clarity was needed around benefit entitlement, post 18 support and parallel / triple planning, the legacy case resolution programme, NAM / asylum processes, and the UASC reform programmes. In non-dispersal areas, practitioners and managers have limited contact with separated children and there was a feeling of 'being thrown in at the deep end'.
- Generally outside of the dispersal areas, practitioners had little or no awareness of the proposed UASC reform plans.
- Part-time provision of a Children's Advocacy Worker for separated children based at the Welsh Refugee Council is a welcome development. The Welsh Assembly Government funding is time limited and the service is currently not able to address the array of issues and support the number of separated children in Wales.

Support for children in families

- Most UKBA contracted housing providers are working in partnership with schools, social services and health.
- Statutory housing providers are adept at providing additional support to families, for example when they first arrive and need to settle into school, neighbourhood and local services.
- The WSMP are working with the UKBA Regional Housing Contracts Management Team to address the current limited requirements placed on housing providers to evidence how they are meeting the wellbeing and care and protection needs of young people and to improve their child protection policies.
- Families that have been granted refugee status as part of the legacy case clearing exercise are required to 'move-on' into mainstream social housing. This was the cause of some disruption to families in terms of needing to relocate. In one area an asylum housing provider was attempting to overcome this by arranging for families to remain in the same UKBA assigned properties where possible to avoid disrupting children's schooling, friendships and community integration.
- Variations exist in the quality of asylum accommodation provided and with the availability of essential maternity equipment for mothers and infants - e.g. cots and sterilising facilities.
- Some case examples illustrated a lack of privacy within shared housing e.g. a mother and new born baby were required to share a room with another woman.

⁹ <http://wales.gov.uk/1546306/circulars/2005/english/NAFWC23-05-e.pdf?lang=en>

3. Service specific findings

Education

Education plays a significant part in children and young people's lives and the *Uncertain futures* study found the majority of children and young people placed high value in obtaining an education. For many, school provides friendship, a stabilising routine and something from which to pin their hopes for the future.

- It appears that English as an additional language (EAL) support services have become well established and have developed some good practice around supporting asylum seeking children. One local authority provides an EAL worker to meet children when they first arrive in an area and help them settle into school.
- Mainstream teachers sometimes lack knowledge of relevant asylum care and protection issues.
- Some practitioners stated that schools do not always deal appropriately with student complaints of racist bullying.
- Good links with health and housing to promote wellbeing of children.
- Practitioners are concerned that young people are not always able to access post-16 further education and language acquisition classes, potentially limiting their opportunities for educational development and integration causing social isolation.
- Although many asylum-seeker children are offered a place in higher education, until these young people (or their parents) gain refugee status they are not allowed to work, access student loans, government grants or home student fee rates to attend university.

Interpretation services

Children should not be used as interpreters. This is made clear in several Welsh Assembly Government policies and guidance including *Safeguarding Children: Working together under the Children Act 2004*, the *Refugee Inclusion Policy 2008* and the *All Wales Child Protection Procedures 2008*. These state that 'there can be difficulties using family members or friends as interpreters and this should be avoided'. Welsh Assembly Government Child Trafficking Guidance 2008 states that children who have been trafficked are likely to need access to accredited interpreters.

- The dispersal area local authorities theoretically have adequate interpreting services and frontline staff are generally aware of how to access these services.
- Non-dispersal areas and mainstream services are not always aware of the availability of interpreting facilities or able to ensure that interpreters are appropriate for the context.
- Some service providers do not provide interpreters due to the associated costs, lack of awareness around the need for this provision, and a lack of knowledge about the interpreting services available.
- Some services are still using children to interpret and mediate for their parents, placing children in inappropriate situations. This is not in children's best interest, particularly where they are privy to what one respondent claimed as '*horrendous detail*'.
- Some services are using informal interpreters leading to concern around the potential risks to children of using unvetted and untrained interpreters in terms of sharing of

information and maintaining confidentiality and the quality and accuracy of interpretation.

- Midwives and other health professionals noted the difficulties in accessing interpretation services on an unplanned basis, which could have some serious implications.

Health

Asylum-seeker children have diverse health needs. Their health is determined by past experiences in the country of origin, current experiences in the UK such as poverty, lack of previous access to healthcare, undiagnosed conditions and consequentially untreated health needs. Within this scoping exercise, a host of health conditions were identified but concern for parental and children's mental health and wellbeing was prominent.

- In March 2008 Welsh Assembly Government announced access to non-emergency health care for 'failed asylum-seekers', however guidance to Local Health Boards has yet to be issued resulting in confusion on entitlements.
- Dedicated nurses' teams throughout the dispersal areas of Wales focus efforts on health access and promoting equitable access to health care.
- Health practitioners regard asylum-seeker adults and children as very resilient and that mental health issues were generally as a result of their circumstances and experiences, usually getting better as their situations improve.
- There is no specialist mental health provision for asylum-seeker children in Wales. The lack of CAMHS for asylum seeking children continues to be an issue with Welsh Assembly Government stating that community-based counselling services should be offered in areas of most need.
- Welsh Assembly Government has recently launched a strategy to develop tier-one counselling services in schools in Wales.
- Some children and young people are taking on caring responsibilities for their incapacitated parents and siblings.

Welfare subsistence and enforced poverty

Whilst they are awaiting the outcome of their asylum claim, applicants are prohibited from paid employment and rely on baseline welfare subsistence¹⁰ from the UKBA. This has significant consequences for children and families. Separated children rely on support from social services. If single applicants over 18 are refused asylum and exhaust all their rights to appeal and are ineligible or refuse to sign-up for so-called 'Section Four' support provided by UKBA¹¹, their status is that of 'no recourse to public funds' (NRPF).¹² This applies to a person who is subject to immigration control, does not have the right to work, and has no entitlement to welfare benefits, public housing or UKBA asylum support. Families who fail their asylum claim are currently still supported by UKBA. Local authorities have a statutory duty to provide care support, including accommodation and subsistence, to certain categories of people who have NRPF and are 'destitute-plus'. Destitute-plus describes people who have been assessed under community care and/or children's legislation as having a need for care and attention above 'mere' lack of accommodation and subsistence. This is a complex area of work involving the interface of immigration, community care and human

¹⁰ Set at 70% and 100% of Income Support levels for adults and children respectively.

¹¹ Section 4 of the *Immigration and Asylum Act 1999*, allowed for the provision of support to some former asylum-seekers. This support consists of accommodation and vouchers only with no cash support.

¹² One of the criteria for receiving S4 support is that the applicant must agree to return home voluntarily.

rights law. Interpretation of the law regularly changes as a result of case law. There is guidance for local authorities for example the NRPF website hosted by Islington Council.¹³

- Measures such as second-hand charitable clothing and toy donations, free school meals, a uniform grant, and in one area funding for children to attend school activities and trips, help to ameliorate the impact of poverty and social exclusion.
- The impact of reliance upon baseline welfare subsistence from the UKBA is being further exacerbated by current price rises especially in relation to dietary, nutritional needs and the provision of clothing for children.
- Practitioners stated that children and young people they are in contact with cannot afford to keep up with their peers or join mainstream clubs such as the scouts. This can result in children being stigmatised and socially excluded.
- Families granted refugee status experience difficulties in the transition to accessing mainstream benefits and social housing. In addition, they lack the financial infrastructure and extended family networks to ease their transition into Welsh society.
- Practitioners feel under extreme pressure when dealing with cases of 'no recourse to public funds' and find it challenging to provide or sustain services for individuals in these circumstances. Their awareness of how to assess NRPF is limited and the extent to which local authorities are using the guidance is unclear.

4. Asylum process

Asylum claimants who arrived in the UK since March 2007 have their claims dealt with under the New Asylum Model (NAM). All other existing claimants are being dealt with under the 'Legacy Case Resolution Programme'. In Wales, the Regional Asylum Team is based in Cardiff and covers Wales and the South West of England. Historically, practitioners' perceptions of the impact of the asylum process on children and families have not been positive.

- Majority of practitioners regard regionalisation as having improved working relationships with the UKBA.
- The Regional Asylum Team Case-Owners are perceived as trying to work collaboratively and to have regard to children's wellbeing.
- The announcement of the proposed new UKBA duty placing a legal duty on the organisation to safeguard and promote the welfare of children as part of the forthcoming Citizenship and Immigration Bill 2008 was welcomed. Practitioners however noted that UKBA staff need a full understanding of the issues around the care and protection of vulnerable children so that this duty can be implemented. They also noted that UKBA need to engage with other statutory agencies on a multi-agency basis in order to safeguard and protect children, for example representation on LSCBs.

Safeguarding children during the asylum interview

- UKBA highlighted some positive changes to the process of interviewing separated children e.g. case owners have discretion to delay a claim if they feel the child/young person requires more time to gather relevant evidence, for example medical or psychological reports.

¹³ No Recourse to Public Funds Network c/o Islington Council.
<http://www.islington.gov.uk/Health/ServicesForAdults/nrpf/>

- The NAM system appears to be giving children and young people one worker to deal with their claim as well as faster management of asylum claims. However, more research is required to assess the extent to which this is happening.
- Interviews are usually very long and case owners need to write a verbatim account by hand. This was seen as problematic to developing empathy with a child's situation.
- A crèche facility for children whilst parents are being interviewed is currently being piloted with a view to continuing and developing this service. This service is funded by UKBA and has received positive feedback to date.
- Practitioners were concerned that the NAM system will result in an increased number of appeal rights exhausted children and families, at an increased rate due to faster time scales resulting in the potential for poor decision making.
- There were concerns about the lack of knowledge and information that case owners have about countries of origin and child specific forms of persecution.

Legal representation

Practitioners regard the lack of specialist legal representation and the limited access to what is available to be a key issue in the care and protection of asylum-seeker children.

- A representative from Asylum Justice, an independent Wales based charitable legal organisation estimated that since 2005, the organisation had assisted over 2000 asylum-seekers on a *pro bono* basis. Many of these are children in families and age-disputed separated young people.
- There is a lack of legal representation. This is especially pertinent for separated young people who may experience detrimental outcomes on turning 18.

Failed asylum-seekers

Social workers are encouraged to play a key part in parallel / triple planning by emotionally and practically preparing separated young people for the prospect of a return home or longer- term settlement in the UK.

- Some practitioners were of the opinion that preparing young people for return to country of origin is beyond the ethical basis of the profession. Others, however, viewed it as a form of harm reduction.
- Some practitioners perceive that conducting parallel / triple planning can place a strain on the working relationship with the young people who may perceive them as someone not to trust. Some young people also potentially want to avoid the reality of such plans.
- Separated young adults who are appeal rights exhausted and refusing to co-operate with assisted return or are ineligible for Section 4 support may subsequently become destitute, usually relying on peers, acquaintances and voluntary and faith based groups to provide shelter and food. They can be very vulnerable and may resort to illegal employment.
- Many appeal rights exhausted families are on Section 4 support and subsistence in the form of vouchers.
- The Association of Directors of Children's Services (ADCS) and Association of Directors of Social Services (ADASS) Asylum Task Force state that *'we accept that care plans and pathway plans must consider the possibility that the child's future will be in their country of origin, but UKBA must find a way to return young people at age eighteen in a humane and compassionate way. We cannot accept former looked after children having no*

*recourse to public funds leading them to destitution and make them vulnerable to exploitation.*¹⁴

- Appeal rights exhausted families, though they are currently supported by UKBA, may not want to return home or may fear forcible removal and may simply disappear becoming destitute and extremely vulnerable.
- In March 2008, Welsh Assembly Government announced that it would permit secondary health care to those denied asylum.

Enforced removals and detention of children & young people

It is estimated that 2000 children in families across the UK are detained each year for immigration purposes¹⁵. Asylum-seeker children from Wales are detained for a varied length of time in detention centres in England in order to effect their removal from the country. Children are removed from familiar and supportive settings and detained with adults, with limited access to education, health services or legal support. The length of detention varies between seven and 268 days yet current safeguards are inadequate for ensuring that children in detention are protected from harm. Bail for Immigration Detainees (2008)¹⁶ estimate that during 2005-2006, over 40% of children at Yarlswood were detained unnecessarily. The Children's Commissioner's Office for Wales is increasingly advocating and lobbying in relation to individual asylum-seeker children's cases. We were unable to gain the perspective of the regional enforcements department of the UKBA in relation to policies and measures that officers abide by within their role of enforcement and removal of children and families, and of separated young adults that have become appeal rights exhausted.

- Despite claims to the contrary, practitioners cited a number of examples of children and families actual or attempted removals that raised serious concerns about the children's well-being.
- Practitioners also gave examples where children on the child protection register were placed in detention or removed to their country of origin within the care of the adult to which the protection concerns related to.
- A major problem has been with the impact of children's experiences of enforcement and detention in the UK. Practitioners state that many children are left traumatised by the experience and become depressed, experience bed wetting, headaches, panic attacks, fear in the mornings (because of the experience of so-called 'dawn raids'), problems eating or comfort eating, feeling sick and listless.

5. Protection and significant harm

In addition to focusing on the care and protection concerns that arise as a consequence of children's location within the asylum system, the scoping exercise provided opportunity to explore practitioners' perceptions of significant harm that may arise as a factor of cultural or religious observances and / or as a consequence of children's increased vulnerability as forced migrants. These factors were prevalent in the findings of the 2003 Laming Inquiry¹⁷ into the death of Victoria Climbié. We looked at current practice in working with children

¹⁴ E-mail correspondence WLGA August 2008

¹⁵ No Place for a Child, Save the Children, 2006

¹⁶ <http://www.biduk.org/>

¹⁷ Refer to Secretary of State for Health and the Secretary of State for the Home Department (2003).

and families in addressing these issues with the aim of identifying key concerns and aspects of best practice.

- Practitioners identified potential protection issues arising from cross-cultural child-care differences such as physical chastisement and parents leaving children home alone.
- There are concerns that Local Safeguarding Children Boards (LCBSs) are not filtering relevant information and guidance down to frontline practitioners.
- South Wales Police stated that there had been 30 cases of honour based violence in Wales in 2007 affecting both males and females. We were unable to ascertain the ages due to confidentiality issues, though we understand it to be an issue which affects young people.
- Domestic violence is a particular issue as women and children may be forced to remain in an abusive home, as they are dependent on the main asylum applicant. Others may have arrived clandestinely and are afraid of reporting abuse in case they are arrested and removed. There is a problem in providing refuge provision and section 17¹⁸ support to women and their children with “No Recourse to Public Funds”.
- Practitioners in non-dispersal areas have limited knowledge about cultural forms of abuse such as female genital mutilation (FGM) and honour based violence.
- One worker had encountered two asylum claims on the basis of female genital mutilation and others had intuitively suspected that girls had endured FGM but did not feel they had adequate evidence to take their concerns forward.
- Practitioners expressed concerns about referring child protection concerns to social services for fear of being seen as ethnocentric or racist.
- Some practitioners spoke of racist attitudes and values amongst colleagues.
- In 2008, Welsh Assembly Government issued updated *All-Wales Child Protection Procedures*,¹⁹ which contain guidance on cultural and religious forms of child abuse. They also published supplementary guidance on ‘*Safeguarding Children from Abuse Linked to a Belief in Spirit Possession*’.²⁰
- The UKBA and the WSMP recently delivered child protection training in South Wales for a number of voluntary and statutory organisations.
- South Wales Police are particularly pro-active in their work with minority ethnic communities, and have developed expertise in honour based violence. They have recently devised a training package on honour-based violence for all UK police forces,²¹ SWP have also developed a risk assessment and protection plan in collaboration with Henna Foundation, BAWSO and Mewn.²²
- Measures to address cultural differences and inform new arrivals about child protection laws in the UK have been introduced in some Local Authority areas with information being provided in induction packs for newly arrived families, predominantly in the dispersal areas.
- A child protection worker is in post based at Children in Wales to work with refugee community organisations to develop their capacity in relation to the care and protection of children.

¹⁸ Children Act 1989

¹⁹ <http://www.ssiacymru.org.uk/index.cfm?articleid=298>

²⁰ <http://new.wales.gov.uk/topics/childrenyoungpeople/publications/guidance/2693593/?lang=en>

²¹ South Wales Police (2007) *Forced Marriage and Honour Based Violence Training*.

²² South Wales Police (2006) *Forced Marriage and Honour Based Violence Risk Assessment and Protection Plan*.

6. Trafficked children

We asked practitioners of their experiences or knowledge of any actual or suspected cases of child trafficking, and gathered information on current practices and policy in addressing trafficking concerns.

The incidence of child trafficking across Wales

Quantifying the numbers of actual or suspected cases of trafficking was difficult. Practitioners perceived that child trafficking was a 'huge issue'. Clarification of specific data proved difficult as practitioners often gave anecdotal evidence of one-off cases they had come across, heard about or had suspected. The office of the Children's Commissioner for Wales has commissioned ECPAT²³ to undertake some Wales specific research on the incidence of child trafficking. Early findings indicate that the police have more hard data than other professionals.

- Of 131 participants in this scoping exercise, there were five reported cases of child trafficking. We were unable to verify whether this figure relates to five separate cases or whether respondents reported the same case.
- The difficulties in finding hard statistical data are exacerbated by frontline staff lacking the skills and knowledge as to how to identify the signs of whether children were victims of trafficking.

Recognition and awareness of trafficking

- There is a wide gulf in awareness of the issue of child trafficking and practitioners had varying degrees of knowledge. Practitioners in non-dispersal areas were unsure as to the differences between trafficking and smuggling and had limited knowledge about the nature and issues of child trafficking.
- Some practitioner's knowledge of trafficking was limited to issues of sexual exploitation.
- There is a presumption amongst practitioners in non-dispersal areas that trafficking only occurs in densely populated cities of south Wales despite recent evidence that trafficking gangs have operated in Denbighshire, Conwy and Anglesey.²⁴
- It was reported that all children arriving from outside of the UK are potentially vulnerable to trafficking and it is difficult to identify victims because of inadequate documentation, children failing to arrive in dispersal areas or going missing once placed.
- The alleged use of a 'common story' about the circumstances in which children have arrived in the UK in order to present the best possible claim for asylum (and to protect the identity of traffickers and smugglers) means it is not always possible to discern individuals at risk. Furthermore there is a fear of removal if children have arrived clandestinely and later alert the authorities of having been trafficked.
- Anecdotally, there are isolated cases of unregistered private fostering arrangements in the UK for non-citizen children illustrating either that adults were purposeful in avoiding registration and / or that there is a need for local authorities to promote more pro-actively the requirements of parents under *The Children (Private Arrangements for Fostering) (Wales) Regulations 2006*.

²³ <http://www.ecpat.org.uk/>

²⁴ <http://report2007.amnesty.org/eng/Regions/Europe-and-Central-Asia/United-Kingdom>

Trafficking: current policy and practice development

Recent policy and practice developments give the issue of child trafficking specific and deserved attention. There are several service developments at a UK level and in Wales.

- The Child Exploitation and Online Protection Centre (CEOP).
- The Child Trafficking Advice and Information Line (CTAIL) based at the NSPCC and in partnership with the Child Exploitation Online Protection Centre (CEOP) and ECPAT UK (End Child Prostitution, Pornography and Trafficking) to offer an appropriate response to children who have been victims of human trafficking and training packages for professionals.
- In Wales, Barnardo's SERAF Project is a Wales-wide outreach service that works with children and young people experiencing sexual exploitation. This can provide some outreach support to trafficked children if they are referred to the project.
- Cardiff LSCB were the first to devise a multi-agency protocol on trafficking in January 2008.
- The Welsh Assembly Government also launched 2008 guidance on safeguarding children who may have been trafficked.²⁵ These guidelines are supplementary to the revised *All Wales Child Protection* procedures (Welsh Assembly Government 2008a). This guidance consolidates legislation and policy developments and provides a summary table to enable practitioners to identify a list of key actions to be considered. In the non-dispersal areas, practitioners were predominantly unaware of the Welsh Assembly Government's child trafficking guidance. This suggests the document has not been effectively disseminated as yet.
- Evidence suggests that of those who would recognise trafficking, they would at the least make a referral to social services or the police if they were concerned for a child's safety and wellbeing.
- Some practitioners expressed that they would feel 'out of their depth' in dealing with a trafficking case. Others stated that the volume of policy guidance and strategies on care and protection of children can be overwhelming.
- Despite the Welsh Assembly Government 2008 Guidance outlining the expectations and responsibilities of various disciplines, practitioners from many different disciplinary backgrounds were concerned about barriers to multi agency working and information sharing.
- Information sharing in relation to trafficking and other forms of significant harm are regarded as problematic due to the need to balance the need for information with the need for maintaining confidentiality.
- South Wales Police (SWP) is pro-active in their dealings with trafficked children and other forms of child protection. In dealing with trafficking SWP works with other forces of Wales and the UK on operations.

²⁵ <http://new.wales.gov.uk/topics/childrenyoungpeople/publications/guidance/trafficked/?lang=en>

7. Recommendations

Demographics and asylum seeking children's arrival in Wales

➤ **Statistical overview**

The Welsh Assembly Government should co-ordinate a statistical overview of the situation in Wales, including ensuring that the relevant agencies in Wales are supported to use the National Register for Unaccompanied Children (NRUC) and to ensure local authorities complete timely returns on the numbers of separated children in care. These statistics should be made available on a regular basis to enable services to be developed appropriately.

➤ **UKBA**

UKBA should collect and publish data on the number of age disputed cases in Wales.

➤ **Practice checklist**

The WSMP in partnership with relevant organisations should develop a checklist to assist out of hours emergency duty teams and frontline police to address the statutory care and protection of separated young people at first point of contact.

Age assessment

➤ **Training**

Local authorities should ensure all relevant staff are receive ongoing age-assessment training based on current best practice.

➤ **Protocol**

The WSMP should work with relevant partners to convene a working group to develop proposals for a Wales wide protocol or policy on conducting age assessments, utilising current best practice.

➤ **Peer support**

The WSMP should facilitate the development of peer support mechanisms that provides social work practitioners with skills relating to the practical steps and resources to completing a quality age assessment to complement the current provision of training around the principles of age assessments.

Quality accommodation and support

➤ **Section 20**

Social services departments should routinely provide a thorough assessment of children's needs and the provision under Section 20 of the *Children Act 1989*.

➤ **Parallel / triple planning**

Social services departments should ensure staff are aware and implementing the principles of parallel / triple planning for young people approaching 18.

- **Appropriate placements**
Local authorities should maximise their access to suitable placements. Where appropriate, maximising their use of the Children's Commissioning Support Resource (CCSR) based in the WLGA. Local authorities should also seek to work co-operatively and with the WLGA and Welsh Assembly Government to develop additional suitable foster placements for this group of children using learning from the SEWIC²⁶ Fostering Regional Collaboration Project.
- **Specialist advocacy**
Welsh Assembly Government should ensure the provision of specialist advocacy for asylum-seeker children in Wales in line with the commitment made in the Welsh Assembly Government Refugee Inclusion Policy 2008.
- **Guardianship**
For the UK and Welsh Assembly Government to secure a legal duty for every separated child to have a statutory guardian to provide support to advise on the child's best interests in line with the UN Concluding Observations 2008.
- **Funding**
The UK Government should commit sufficient funding to enable local authorities in Wales to secure adequate care and support for separated children and young people leaving care as called for by the Assistant Director Social Services and within the context of the proposed UASC reforms.
- **Private fostering regulations**
Welsh Assembly Government should undertake a review of the implementation of the Children (Private Arrangements for Fostering) (Wales) Regulations 2006 and examine their implementation with reference to safeguarding non-citizen children.
- **Safe accommodation for children in families**
UKBA should stipulate and publish requirements for their contracted housing providers to safeguard children within contracted properties. This should include a clear duty for accommodation providers to report child protection concerns in line with the All Wales Child Protection Procedures Care and Protection Protocol.
- **Young carers**
Young carer service providers across Wales should ensure the promotion of their services within asylum-seeker and refugee networks.

Education

- **Frontline professionals**
As key frontline professionals all teachers should be trained to ensure their full understanding of care and protection issues relating to asylum-seeker children including WAG guidance on issues such as trafficking and dealing with bullying.

²⁶ South East Wales Improvement Collaborative

- **Student funding**
For the Welsh Assembly Government to enable asylum-seeking children to receive Education Maintenance Allowance and other associated student grants and bursaries.
- **ESOL**
English as a Second Language provision should be made available to young people aged 16-18 both to limit their isolation and as a practical tool to enhance their protection.

Interpretation services and language

- **Good practice**
Welsh Assembly Government should strengthen current guidance to clarify that all agencies and practitioners refrain from using children for the purposes of interpretation.
- **Wales Interpretation and Translation Project**
Welsh Assembly Government should ensure that this project addresses the issues relevant to safeguarding asylum-seeker and trafficked children for example by providing quality interpreters through a centrally held database of Criminal Record Bureau (CRB) checked and professionally approved interpreting services.

Health

- **Specialist nurse**
Specialist nurse provision must be secured with a commitment to long term funding to enable equitable access to health care.
- **Training**
Health trusts should ensure ongoing equality and diversity internal training adequately addresses health issues relevant to asylum-seeker and trafficked children.
- **School based counselling**
Welsh Assembly Government to include training for all school based counsellors within the tier-I school based counselling service to better understand the experiences of children and young people seeking asylum.
- **Specialist mental health**
The mental health needs of refugee and asylum-seeker children and young people should be taken into account by those agencies jointly commissioning CAHMS in line with the Welsh Assembly Government Refugee Inclusion Policy recommendations.

The asylum process

- **Using technology to support children**
UKBA should consider extending the use of interpreter video conferencing and digital recordings rather than handwriting notes during interviews.

- **Child care facilities**
UKBA should commit to long term funding for the ‘child-care’ facilities during the interview process. Contracts with providers should ensure the service adheres to relevant good practice childcare standards.
- **Draft Immigration and Citizenship Bill**
Clear operational standards must be in place to ensure the relevant clauses relating to the ‘safeguarding and promotion of child welfare’ are implemented both within the UKBA and in respect of their contracted service providers. Review arrangements must be in place to ensure compliance.
- **Detention**
The UK Government should end the detention of children. The UKBA must review the conditions in which children and families are transported to removal centres and ensure that children are safeguarded and their welfare needs are met at all times.
- **Returns**
Separated children should be returned to their country of origin or third country only if this is demonstrably in the child’s best interests. UKBA must have regard to safeguarding issues for children on CP register when considering the return of children in families.
- **No recourse to public funds**
Welsh local authorities should be monitoring the costs incurred associated with supporting children (and others) who have ‘no recourse to public funds’ status so that reliable figures are available and the extent to which this is an issue in Wales can be assessed. They should also ensure all frontline practitioners are accessing information on ‘no recourse to public funds’ policy and practice developments to support improved outcomes for children affected by such measures.²⁷

Local Safeguarding Children Boards (LSCBs)

- **Raising profile**
LSCBs to ensure their membership are aware of the needs of asylum seeking and trafficked children and to encourage membership from agencies with a specific remit relating to asylum-seeker children for example the WSMP, Welsh Refugee Council, UKBA Regional Teams, Refugee Community Organisations (RCO).
- **Partnership working and information sharing**
LSCBs should ensure that their duties to establish partnership working and information sharing include the issues affecting asylum-seeker children e.g. local protocols around FGM and other significant harm issues.
- **Disseminating information**
LSCBs to meet their requirement to disseminate information by disseminating the updated All Wales Child Protection Procedures (Welsh Assembly Government 2008a), Guidance on safeguarding children from Trafficking (Welsh Assembly Government

²⁷ http://www.islington.gov.uk/Health/ServicesForAdults/nrpf_network/default.asp

2008d) and guidance on abuse linked to a belief in spirit possession (Welsh Assembly Government 2008g).

- **Engaging the Refugee Community Organisations (RCO) sector**
LSCBs to address the perceived fear of cultural difference and to promote dialogue between RCO communities and formal services, as part of a broader strategy to strengthen arrangements with the broader BME community.

Trafficked children

- **Status**
UK Government should ensure that trafficked children are protected as victims of exploitation and / or abuse when they are identified rather than treated as illegal immigrants.
- **Monitoring**
In the absence of a UK wide system, Welsh Assembly Government should work with police and the Association of Chief Police Officers in Wales (WACPO), UKBA and other key frontline agencies to develop systematic mechanisms for the identification and recording of suspected or known cases of trafficking e.g. a central register in order to monitor recorded referrals and establish a more accurate picture of numbers and emerging patterns.
- **Baseline training**
Initial professional training for relevant professional disciplines (e.g. social workers, housing workers, health workers and teachers) should incorporate awareness of child trafficking. Agencies whose staff are potentially a point of contact for trafficked children should ensure all staff undertake basic training as to identifying signs of trafficking and the immediate responsibilities they have in terms of their care and protection.
- **UKBA**
Should have a clear and transparent remit for each nominated UK Regional Trafficking lead including an obligation to ensure all frontline staff receives appropriate training on child trafficking.
- **Welsh Assembly Government**
Should identify resources to support the effective local authority implementation of the All Wales Protocol Safeguarding Children and Young People at Risk of Sexual Exploitation 2008 which advocates the use of the Barnardo's SERAF Risk Assessment Framework and also ensure that LSCBs review progress in local implementation of the new Protocol.
- **Specialist services**
Welsh Assembly Government should review the levels of provision in Wales for all victims of child trafficking e.g. Barnardo's SERAF project who can support child victims of sexual exploitation, and identify potential gaps in provision.

Ongoing advice, policy updates and information

- **Local lead expert**
Local authorities should consider the identification of a lead member of staff responsible for maintaining expertise and gathering and disseminating information in relation to asylum seeking children. This could ensure a local context is maintained and develop the capacity of local authorities expertise.
- **All Wales Asylum and Refugee Children's Practitioner Network**
WSMP should review the terms of reference and ensure the Network has a balance of practice and policy. WSMP should also review how they ensure practitioners in north and mid-Wales get support from this Network.
- **Asylum-seeker children policy and practice information updates**
The WSMP should continue to disseminate these updates following the handover from Save the Children at the end of 2008.

Training

- **Initial professional training**
Training on care and protection of asylum seeking and trafficked children should be a compulsory part of professional qualification for relevant professionals e.g. social workers, teachers and other education professionals, police, health workers.
- **Care Council for Wales**
As the regulator of social work training, Care Council for Wales should bring this report and its recommendations to the attention of all social work degree and post-qualifying programmes in Wales, requesting they review how the implications of the report should be reflected in their curriculum.
- **Care Council for Wales**
Should ensure the report and its implications are considered when the National Occupational Standards for Social Workers are next reviewed.
- **Ongoing professional training**
Employers and accredited bodies should ensure regular update training on care and protection of asylum seeking and trafficked children.
- **Multi agency training**
LSCBs should lead the facilitation of multi-agency training to clarify joint-working and information sharing protocols in each local authority area.
- **WSMP children's worker**
This role should facilitate capacity building and knowledge development by working with and utilising a range of resources and posts within the sector e.g. Children in Wales Refugee Community Organisations Child Protection Policy and Advice Development Officer, rather than undertaking all the work directly. This should include the facilitation of one-off training and information sharing event for social workers and other professionals in the non-dispersal areas.

Practitioner identified training needs

- **Diversity and difference**
Cultural awareness, working cross-culturally, promoting race equality.
- **Asylum specific**
Age assessments, cultural awareness and age assessments, benefits and entitlements, parallel / triple planning, developing good practice with separated children, NAM process and legacy case resolution programme, asylum legislation and practice as it affects children.
- **Trafficking**
Basic awareness raising and training on trafficking and supporting children, training on private fostering regulations.
- **Other child protection issues**
Information sharing, basics, developing information sharing protocols, multi disciplinary approaches, working with black and minority ethnic families around child protection, female genital mutilation- awareness raising and training, Honour based violence - awareness raising and training, child abuse linked to a belief in spirit possession - awareness and training.

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