

# **NSPCC Submission to the Independent Asylum Commission's Review of the Asylum Process**

## **NSPCC Response – October 2007**

### **1. Executive Summary**

The NSPCC's comments on this review are based on our expertise in safeguarding children and promoting their welfare and rights.

We have examined the asylum process and challenged its ability to meet the needs of separated children. We have looked in detail at the need for separated children to be afforded the same rights and protections as other children. We have identified child protection issues and child rights issues throughout the asylum process. In addition we raise concern about the treatment of families and our call for the end of detention of children in immigration removal centres.

### **Summary of NSPCC Recommendations**

- There should be a clear child protection and children's rights approach to all separated children including those who have been the victims of trafficking involved with the asylum process.
- Separated children should be afforded the same rights as all other children. Section 11 of the Children Act should be extended to cover Border and Immigration Staff so that there is a statutory duty to safeguarding their needs and promoting their welfare.
- The UK Government must demonstrate its commitment to protecting children from harm by abolishing its reservation on article 22 the UN Convention on the Rights of the Child.
- All separated children should have an independent legal guardian appointed to act in their best interests and to support them through the process of assistance and protection.
- Multi-agency teams with child protection staff should be placed at all ports of entry in order to identify concerns about trafficking.
- A thorough needs assessment should be undertaken for all children who are separated.
- In age disputed cases children should receive the benefit of doubt and the asylum process delayed until it is resolved.
- In considering any return there should be a determination of the best interests of the child in terms of finding a durable solution for that child.

In some circumstances it will be in the child's best interests to return where their safety, security and development is guaranteed. In other situations it may put them at risk of further harm.

- Trafficked children should have the right to remain, should they wish, where there is evidence that they have been trafficked.
- There should be guidance and minimum standards set down to ensure all separated children have their support needs met and accommodated in safely.
- Children should not be subject to dispersal unless it is in their best interests
- Children should not be left destitute because of their asylum status
- Children should not be detained.

## **2. The NSPCC**

2.1 The National Society for the Prevention of Cruelty to Children (NSPCC) is the UK's leading charity specialising in child protection and the prevention of cruelty to children. The NSPCC's purpose is to end cruelty to children. We seek to achieve cultural, social and political change - influencing legislation, policy, practice, attitudes and behaviours for the benefit of children and young people. This is achieved through a combination of service provision, lobbying, campaigning and public education.

2.2 The NSPCC exists to end cruelty to children through a range of activities designed:

- to help children who have suffered abuse overcome the effects of such harm;
- to prevent children from suffering abuse;
- to prevent children from suffering significant harm as a result of ill-treatment;
- to help children who are at risk of such harm; and
- to work to protect children from further harm.

2.3 The NSPCC has more than 180 teams and projects throughout England, Wales and Northern Ireland. Their work includes:

- family support, assessment, counselling and therapy to children and families experiencing abuse;
- investigations into allegations of child abuse; and
- work within schools and other youth organisations to provide a voice for children and advocate their rights.

### **3. Introduction**

3.1 This submission to the Independent Asylum Commission's review of the asylum system is a summary of the NSPCC's direct experience and policy work. In particular, we have drawn on our practice experience of working with separated children who we work with in many of our young people's centres, our advocacy projects and our therapeutic projects. We are submitting evidence in relation to category four: the treatment of vulnerable groups. Specifically, we are giving evidence on the treatment of separated children and children who are trafficked, based on consultation with our services and service users. We have concentrated on a number of key areas of concern and our response examines the impact on all separated children with particular reference to trafficked children where necessary. We have made small reference to the treatment of families in relation to the impact on children.

3.2 In addition we have worked closely with the Borders and Immigration Agency (BIA) to develop child protection policies and procedures in immigration removal centres. We advised the Home Office on the development of the code of practice for safeguarding children in the asylum process and the NSPCC is an active member of the Refugee Children's Consortium.

3.3 The NSPCC has substantial experience of cases of trafficking for the purposes of sexual exploitation. The Street Matters/Bfree service was started in 1999 and has a team of six workers offering a variety of support to young women under the age of 18 who are sexually exploited or at risk of being sexually exploited. The service also offers training and consultation to professionals around sexual exploitation. In addition, our Independent Enquiry and Assessment Service also works on issues related to child trafficking and has supported the police and other agencies in this area, most notably on Operation Paladin Child with the Metropolitan Police Service in 2003.<sup>1</sup> At a policy level the NSPCC is a member of End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes (ECPAT UK)<sup>2</sup>. In October 2007 the NSPCC launched the National Trafficking and Advice Line which is part funded by the Home Office. This is a new service that offers advice and information for professionals with concerns about human trafficking.

### **4. Treatment of vulnerable groups**

4.1 Separated children<sup>3</sup> who have temporary status or are illegally resident are one of the most vulnerable groups in the UK. In our response we use the

---

<sup>1</sup> Operation Paladin Child was a unique study into the migration of children through Heathrow airport between April and November 2003. The NSPCC worked closely the Metropolitan Police Service, Hillingdon Social Services and the Immigration Service during this study

<sup>2</sup> ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes) is a coalition of nine leading charities in the UK.

<sup>3</sup> Separated children are children under 18 years of age who are outside their country of origin and separated from both parents or their previous legal/customary primary caregiver. Some children are totally alone while others may be living with extended family members. All such children are separated children and entitled to international protection under a broad range of international and regional instruments.

term 'Separated children' rather than 'Unaccompanied Asylum Seeking Children' (UASC) because this term includes those who are accompanied by an adult who is not their parent, guardian or primary carer. This difference is particularly important when discussing the circumstances of children trafficked for commercial sexual exploitation or other exploitative purposes. Some children are accompanied but not by a parent, guardian or customary care giver.

Separated children seek asylum for a number of reasons including:

1. fear of persecution
2. lack of protection due to human rights violations
3. armed conflict in their own country
4. trafficking (for sexual, labour or other exploitation)
5. escaping deprivation and poverty.

4.2 Children may be illegal residents because they entered the UK illegally or because their asylum application has been rejected. A number of children will also have temporary status to remain in the UK on humanitarian grounds. This status expires when the child reaches 18. Therefore, many adults whom are illegal residents were granted temporary status to reside in the UK and have integrated with the communities in which they live but lost their residence permit at the age of 18.

4.3 "Trafficking" has been defined in various ways over the years and by different groups. The NSPCC recognises the widely used definition from the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (also known as the Palermo Protocol). According to the Palermo Protocol, trafficking in persons is "the act of recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation." Thus child trafficking can be said to exist from the time a child is recruited to the time that s/he arrives, in a country and is exploited. Trafficked children arrive both legally and illegally. They may be smuggled in or they may be brought in to private fostering arrangements. The consent of the child victim to the trafficking is irrelevant – this is true even if none of the following means have been used: force, coercion, abduction, deception or abuse of power.

## **5. Trafficking**

5.1 We know from our services that there is demand for children for sexual exploitation, such as child prostitution and the production of child pornography, and for labour exploitation. Children are therefore particularly vulnerable to traffickers, especially organised gangs. Demand for child prostitutes and child pornography is increasing in EU member states and while police and judicial authorities are trying to combat this particularly

abhorrent form of abuse, traffickers and organised criminal gangs are becoming ever more profitable<sup>4</sup>.

5.2 The EU Experts Group on Trafficking in Human Beings<sup>5</sup> recently reported that it is easier for traffickers to target children than adults through coercion, deception or manipulation as they are more dependent on adults and have fewer possibilities to escape an exploitative relationship. Children cannot always rely on the protection of their families, who are often threatened and terrified of what the traffickers may do. Some groups of children are particularly vulnerable because of lack of opportunities, education and support in their country of origin. Groups such as street children, children living in institutions and children from minority and disadvantaged groups are particularly vulnerable to organised gangs.

5.3 The NSPCC is aware that it is very hard to obtain accurate data on the extent and nature of child trafficking, owing to the lack of standardised information collection systems based on common definitions, and the clandestine nature of the activities involved. Research by ECPAT UK found 35 cases in 17 London boroughs, but 32 out of 33 London boroughs were concerned about other potential cases.<sup>6</sup> The research suggested that there are many more reported cases of trafficking that go unidentified. The NSPCC would like to see better data collection and documentation on trafficking to form part of a national multi-agency plan on child trafficking.

5.4 While evidence from our services suggests a rise in the number of children being trafficked into the UK, our services also continue to find it difficult to gather reliable and accurate data on child trafficking. It appears likely that many children enter the UK without their experience of trafficking ever being identified. This could be for a variety of reasons. Practitioners may not be trained to identify trafficked children and may themselves need more information and guidance<sup>7</sup>, and the children involved may be less aware than adults of what has happened to them and can take a long time to come to the realisation of their situation. In general terms, children can be less capable of understanding the consequences of their actions. Even when a child 'agrees' to be trafficked and/or exploited, consent cannot be assumed and should never be used against the child<sup>8</sup>, as stipulated in the Palermo Protocol<sup>9</sup>.

---

<sup>4</sup> European Commission Report of the Experts Group on Trafficking in Human Beings, Brussels, 22 December 2004.

<sup>5</sup> European Commission Report of the Experts Group on Trafficking in Human Beings, Brussels, 22 December 2004.

<sup>6</sup> ECPAT UK (2004) 'Cause for Concern? London social services and child trafficking', London: ECPAT

<sup>7</sup> ECPAT UK (2004) 'Cause for Concern? London social services and child trafficking', London: ECPAT*ibid*.

<sup>8</sup> European Commission EU Experts report on Trafficking in Human Beings, 22 December 2004.

<sup>9</sup> The UN Convention to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol 2000)

## **6. Separated children and the UN Convention on the Rights of the Child**

6.1 Children are entitled to specific rights under a number of international instruments. The United Nations Convention on the Rights of the Child (UNCRC) is the most comprehensive of these instruments. Several articles specifically relate to the rights of the child to be protected from violence and exploitation, in particular:

1. Article 6 – the right to maximum survival and development
2. Article 8 – the right to identity
3. Article 9 – the right to family unity
4. Article 12 – the right to participate
5. Articles 19 - The right to protection from all forms of violence, injury, abuse, neglect or exploitation
6. Article 20 and 22 – the right to special assistance if the child is deprived of the family
7. Article 32 - The right to be protected from economic exploitation
8. Articles 34 & 35 – the right to protection from violence, abuse, exploitation, trafficking, etc
9. Article 37 – the limitation of detention as a measure of last resort
10. Article 39 - The duty of the government to take measures to ensure that child victims of armed conflict, torture, neglect or exploitation receive treatment for recovery and social integration

6.2 The UK Government has a reservation on Article 22 of the UNCRC, which it argues is necessary in the interests of effective immigration control. The NSPCC considers that the reservation undermines the rights of asylum-seeking and refugee children and young people. This view is shared by the Joint Committee on Human Rights, which stated that -

“Our principal concern is that the practical impact of the reservation goes far beyond the determination of immigration status, and leaves children subject to immigration control with a lower level of protection in relation to a range of rights which are unrelated to their immigration status.”

6.3 The NSPCC uses the UNCRC as the basis for its work and considers that the Government should adopt a human rights and children’s rights approach to policies designed to combat child trafficking. The NSPCC also urges the Government to adopt a children’s rights approach to its asylum and immigration policy. In our experience the victims of child trafficking are often ‘accompanied’ by their trafficker and are therefore not identified as being at risk of harm on entry to the UK.

## **7. Protection**

7.1 All asylum- seeking children are children first and foremost. As such they should be afforded the same rights and protections as all children in the UK. This is currently not the case. Although the UK Borders Bill is introducing a code of practice that will place a statutory duty on Borders and Immigration

Staff to safeguard children in the asylum process it does not place a duty on them to promote their welfare. This means that separated children are not afforded the same rights as other children. The NSPCC considers that the most appropriate way of ensuring protection and promotion of their welfare is by extending Section 11 of the Children Act 2004 to apply to border and immigration agencies.

## **8. Claiming Asylum**

8.1 The asylum system is a complicated and ever-changing system. Separated children are struggling to cope with the circumstances that have led them to flee their country of origin as well as experiencing loss and grief for their families and homeland. Many children find the experience of claiming asylum confusing and frightening. From talking to staff that work directly with children and young people we have identified a number of things that exacerbate the situation:

- Conditions in immigration screening centres are not child friendly
- There is a lack of understanding about the specific issues relating to separated children and child specific forms of persecution;
- There is a culture of disbelief and a view that children are migrating for a better future rather than fleeing persecution;
- Children are not aware of their rights and often do not understand the system they are being subjected to;
- There is a lack of child-orientated literature;
- Children do not have independent support to assist them making their claim;
- Children find it particularly hard to access quality legal advice.

8.2 Children have talked about not being believed, about there being a culture of misunderstanding and disbelief. Children who have been through horrific experiences may find that describing these experiences re-traumatises them. Children are much more vulnerable than adults to all forms of torture and abuse. In addition there are specific forms of persecution that can only apply to children such as being forced to become a child soldier.

8.3 The NSPCC believes that the asylum system should be reviewed to ensure a child right's approach to the asylum and immigration process and that staff who are involved in working with separated children are fully aware of the issues they face. All separated children should have a thorough needs assessment to ensure that their health, emotional well being and support needs are identified and met.

8.4 There should be child protection officers in every port or point of entry into the UK to identify and support victims of trafficking.

## **9. Independent Guardian**

9.1 The NSPCC recognises the need for all separated children to have access to an independent guardian who can provide emotional and practical

support through the asylum screening process and advise on the child's rights. There is currently some limited provision through the refugees children's panel but the emphasis is on access to legal provision and it is too under-resourced to reach most separated children.

9.2 If children are not aware of their rights they may also not know or understand the significance of disclosing information during the asylum-seeking process. NSPCC practitioners identified the need for children to have someone to advocate on their behalf and to "mediate for and support" them through the entire asylum process.

## **10. Discretionary leave to remain**

10.1 Only two percent of unaccompanied and separated children are granted asylum. On appeal, twelve percent are successful. This is a much lower figure than for asylum-seeking adults and suggests a need to review how the system meets the needs of children. It is highly unlikely that there are greater numbers of children than adults applying for asylum without having the justification for refugee status. This discrepancy would imply that either the system discriminates against separated children or that they are unable to understand the process sufficiently to pursue their application successfully. It again underlines the urgent need for effective legal support and independent guardians for asylum-seeking children. It also suggests that there is an assumption that large numbers of separated children are sent to this country as economic migrants rather than fleeing persecution. The NSPCC considers that the asylum-seeking process should enable each child to have the opportunity for their application to be heard without prejudice.

10.2 One contributing factor to the low numbers of separated children being granted asylum may be the opportunity to give separated children discretionary leave to remain. The process for unaccompanied minor asylum seekers is distinct from the process for adults. Usually the child is not given asylum but given temporary leave to remain until they are 17.5 years of age. This is known as discretionary leave to remain. At the end of this period the child will be expected to reapply to the Home Office for permission to remain on an indefinite basis. At this stage the young person will often have established a life and support systems in the UK and may have a much reduced level of contact with their own cultural community. In consultation the children and young women in the 'From There 2 Here' Group have strongly stated that time-limited leave causes further distress as they become settled and socialised into British society. Their links with their home countries naturally lessen, as they do not have the resources or knowledge to maintain contact, and are more unable to do so as they have lost their immediate families and are preoccupied with setting up lives here.

10.3 The NSPCC is concerned that the opportunity to grant discretionary leave means that decisions about a young person's asylum claim are left to be processed when they are adults and no longer afford the protection they received as children. This is exacerbated by the recent changes which allow discretionary leave to be granted only up until a child is 17.5. This means that

the age at which they risk being returned is earlier than their eighteenth birthday. It delays the process and means that children have this uncertainty hanging over their heads for long periods of time. The assumption that many children will probably be returned home when they are 18 also has a negative impact on the package of leaving care services they will receive or access they get to education as they approach this date.

10.4 If discretionary leave to remain is given to the majority of children and decisions about their long term future are delayed then it is essential that there are support systems in place to negate the negative impact this can have on children and young people. It is essential that there is not an assumption that they will only be in the country for a short period of time and that they are not denied access to key services. The transition from child to adult needs to be managed more effectively and there should be clear guidance about who is responsible for separated children as they become adults. Working agreements and protocols should be developed between local authorities and NASS to stop vulnerable children falling through the net. Discretionary leave to remain needs to be linked with a managed return programme. It is essential that in cases where it is considered in the child's best interests to return to their country of origin this process is managed and the safeguarding and support needs of the child are of paramount importance.

10.5 Case examples from our services show the emotional strain on young people who have made an extension of leave to remain. The process takes a long time which drags out the uncertainty and they often do not fully understand the process. Having their horrific experiences discussed in a tribunal, and their accounts challenged leaves young people emotionally and physically distressed. Their contribution to life in our society is often not recognised and local authorities do not always support young people through this process or provide concrete information about a young person's involvement and integration. This information is key, and crucial to the determination process. Many young people are let down during this process by a lack of quality advice and support.

10.5 Some young people are not aware of their right to extend their leave to remain. This then classifies them as overstayers and prevents them having access to any entitlements. During this period of appeal they may not automatically have a right to financial support and any children that they have may be denied access to services. Also, young people who have been supported by the local authority are not always eligible for financial support under Section 4 of the Immigration & Asylum Act 1999 (as amended) as adults whose asylum claim fails. This lack of clarity about who is responsible for these young people means that in addition to the emotional strain of waiting to see if they are granted asylum many young people face severe poverty and hardship. Our services tell us of young people with families of their own who have no form of subsistence. They are relying totally on the support of the project. This makes this group of young people particularly vulnerable to disappearing and other forms of exploitation.

10.6 Where young people have been granted discretionary leave to remain and they then make a further asylum application under adult procedures it is possible that NASS may take responsibility for housing and financial support from the local authority. This means that vulnerable young people may be at risk of dispersal and required to move from the area in which they receive support and have become settled.

## 11. Returns

11.1 Being forced to return to the country they have fled has been one of biggest difficulties highlighted by staff supporting separated children. The concerns focus on sending a person back to an environment that is unsafe and the impact that the process has on the young people. When considering the needs of separated children facing return to their country of origin, the best interests of the child must be the key consideration.

11.2 The Committee on the Rights of the Child has recently produced guidance on the treatment of unaccompanied and separated children outside their country of origin<sup>10</sup>. This guidance states that any decision on the return of a child must take into account the following:

- Safety, security and conditions; this encompasses the socio-economic conditions awaiting the child upon return;
- The availability of care arrangements for that particular child;
- The views of the child expressed in accordance with his or her right under article 12 of the UNCRC and those of the caregivers;
- The child's level of integration in the host country and the durability of absence from the home country;
- The child's right to preserve his or her identity, including nationality, name and family relations' under Article 8 of the UNCRC;
- The desirability of continuity in a child's upbringing and their ethnic, religious, cultural and linguistic background.

11.3 We consider that separated children should be returned to their country of origin only on a voluntary basis, following a risk assessment of their circumstances. If young people are voluntarily returned after the age of 18 to their country of origin there should be an obligation to help them to prepare for independent living in the society and culture to which they are returning, with recognition that they are vulnerable and must be appropriately consulted on how best to ensure that they are effectively reintegrated.

11.4 Evidence from the NSPCC's Bfree/Streetmatters service highlights these kinds of problems, as children who have been trafficked here face an unsympathetic and punitive asylum process. The service has a number of young victims of trafficking who did not claim asylum for trafficking upon their immediate arrival (they may not have identified themselves as having been trafficked, understood what had happened to them or used the word 'trafficking'). This has complicated their applications for indefinite leave, and diluted the support available to them. It now appears likely that they will be

---

<sup>10</sup> UNCRC (2005) Guidance on the treatment of unaccompanied and separated children outside their country of origin.

deported and returned to countries where they will have no support or means of survival. These young women will therefore be vulnerable to re-trafficking and placed at risk of further sexual exploitation.

11.5 Special consideration should be shown to trafficked children who are often rejected by their family and community, especially in cases of trafficking for sexual exploitation, as they are frequently re-trafficked. These children are particularly vulnerable and in need of international protection. The UK asylum process should recognise child trafficking as a cause of persecution on the child's return, and trafficked children should be seen as a distinct group. We consider that a child should have the automatic right to remain, should he/she wish to do so, where there is evidence that they have been trafficked.

## **12. Age determination**

12.1 Many young people arrive in the country with little or no identification on them. An age assessment then has to be carried out. The duty is placed on the child to prove that they are a child or they will be dealt with in the adult system. Disputes over age arise for various reasons:

- a) Not all countries and cultures attach the same importance to chronological age, and birth records are afforded less importance.
- b) Recording conventions and calendars are different in other countries and may not be easily reconciled with UK systems.
- c) Adults may wish to avail themselves of asylum processes and support arrangements made for children, as these are perceived to be more favourable.
- d) With other children there may be a need to assess their age for protection or care reasons. For example, traffickers may present young people as older or younger in order to avoid immigration controls or social services checks

12.2 We have a number of concerns about age assessments. Biometric age assessments are intrusive and do not lead to an accurate assessment of age. We are concerned that medical practitioners are being asked to undertake age assessments when this is not their role. The Royal College of Paediatrics and Child Health (RCPCH) considers that age determination is an inexact science, and that estimates of a child's physical age from x-rays of his or her dental development are capable of producing only a four-year age range for 95 per cent of the population. Children who have experienced trauma or persecution, have been separated from their families and their community, and have then managed to make their way to the UK, will often appear much older than they are just because of all they have been through. It is sensible to take an approach where someone claiming to be less than 18 should be given the 'benefit of the doubt'.

12.3 In age-disputed cases the Immigration Staff are supposed to give the young person the benefit of the doubt while an assessment is taking place. We have reports from our practitioners that this is not always happening and 16 and 17 year old age-disputed separated children are being taken to

Oakington Immigration Removal Centre. Only when a separated child challenges a decision is a more comprehensive assessment undertaken, yet many children are not aware that they can challenge their age assessment. The child's challenging of a decision is dependent on appropriately funded legal representation, which is often lacking, as stated above. Our Time Out service in Solihull identified long waiting lists for solicitors. In our view the current system operates within a culture of disbelief, and there is a presumption that the majority of separated children are over 18. Such an approach is direct discrimination against children because of their age and asylum-seeking status.

12.4 The impact of an inaccurate age assessment can be devastating. If children are wrongly assessed as being over 18 they will be processed through the system as adults and will not have their safeguarding needs considered. They could potentially be detained in an Immigration Removal Centre as part of the fast-track process. One example can be seen in the stories of two boys in contact with one of our Young People's Centres. The boys had their age disputed for more than a year. One of these boys was placed in National Asylum Support Service (NASS) accommodation. He was a vulnerable child, yet he was placed in unsupported accommodation with adults. Neither of the boys was able to receive support from the local authority and as such their safeguarding and emotional wellbeing needs were not met.

12.5 The NSPCC recommends that in all age-disputed cases the benefit of the doubt should be given to the child. Age is part of an individual's identity and challenging it has serious consequences. In age disputed cases time should be taken to ensure a thorough assessment is made. In the meantime children should be given access to all the help and support they need to overcome their ordeals. The processing of asylum claims should be delayed until the age dispute has been resolved, to prevent children being dealt with in the adult system. This needs to be independently monitored to ensure that it is happening.

### **13. Access to legal advice**

13.1 Changes in the way that legal advice is funded have a disproportionate impact on separated children. The complexity of processing a child's application and the need to go at a pace slow enough to ensure that the child is able to understand the process makes it increasingly difficult to do this properly.

13.2 All of the services spoken to for the purpose of this review identified lack of specialist high quality legal advice as a key concern. The NSPCC considers that all children should have access to fully funded legal advice. The amount of time they get with a solicitor should be determined by individual need rather than a pre-determined quota.

## **14. Access to support services**

14.1 There is no clear guidance about what services separated children are entitled to from their local authority. Areas that have a port or point of entrance into the UK can have the demographics of the local community of children looked after completely changed over a short period of time. There are two key considerations. While there is the opportunity for expertise to be developed to meet the needs of these young people there is an essential need for additional resources so that young people are not scattered and they can access help locally. This has been an issue for children and young people accessing our Time Out service in Solihull. Getting access to medical help, counselling and education has proved difficult. As a result children often receive sub- standard support.

14.2 Our practice experience demonstrates clearly that separated children need to be placed where services exist. Practitioners report high levels of vulnerability experienced by separated children, in particular the feelings of isolation and cultural dislocation they experience. The separated children and young people who access NSPCC services are traumatised and in need of therapeutic support to enable them to recover from their experiences. One example, is a 17 year old boy who fled Pakistan after his mother was murdered by family members. The uncertainty of his future, fear of his family if he is returned and the grief and loss for his mother and his former life in his homeland have combined and contributed to him having suicidal thoughts. All support provided by the service is now focused on preventing him from committing suicide. Many young people experiencing similar feelings have not got access to help and support. The NSPCC considers that there should be a national infrastructure of therapeutic services so that every separated child has access to the help they require to overcome their traumatic experiences

14.3 The NSPCC is concerned that currently there is no clear and comprehensive guidance for social services to identify trafficked children and to act to protect them. We would like to see a national strategy developed for a multi-agency approach from a child protection perspective. This would put in place multi-agency training programmes and ensure awareness, understanding and clear guidance on child trafficking issues across sectors including immigration services under the Immigration and nationality Directorate (IND), social services, Local Safeguarding Children Boards, teachers and medical professionals. The NSPCC would also like to see multi- agency teams in place at ports of entry in order to identify concerns about trafficking, investigate and take measures to protect children.

## **15. Accommodation**

15.1 The lack of clarity about what support separated children are entitled to from the local authority means that some of the most vulnerable children in our society are not getting the protection they require. A recent report produced by the Middlesex University Research Centre for Transcultural

Studies in Health and the Ethiopian Community Centre in the UK<sup>11</sup> highlighted that many separated children are housed in adult bed and breakfast accommodation, without support. Many other separated children are living semi-independently after the age of 16, and this is often an unsafe option. A significant proportion of these young people will have been sexually abused, assaulted or raped<sup>12</sup>. This leaves these children without appropriate care and support and increasingly vulnerable to disappearing.

15.2 The experiences of the Street Matters/Bfree service over the past four years has been that even when young people who have been trafficked are accorded Social Services Support under s.20 of the Children Act 1989<sup>13</sup> this support is minimal. Support typically consists of low quality semi-independent accommodation where the young people have very little contact with the Social Worker. Most of the young women known to the Street Matters/Bfree service have been placed in this kind of semi-independent accommodation as soon as they are 16. These placements have proved inadequate for these young people who have experienced trauma and abuse and who often do not have sufficient English- language skills or understanding of how things work to cope in semi-independent living.

15.3 There is a clear sense from our practitioners that for trafficked children fostering would in many cases be the most appropriate solution, as they have high levels of vulnerability and need. However this is rarely an option available to trafficked children. Where it is provided our practitioners state that foster placements are not working in many cases, as foster carers are not sufficiently trained to work with and support separated children who have been through the traumas associated with asylum. The service also reports that there is insufficient expertise, care and attention from front-line social workers to children who have been the victims of trafficking. The NSPCC considers that front line social workers should receive training on the issues facing separated children and this should be supplemented with practice guidance.

## **16. Dispersal**

16.1 Dispersing children should only ever be considered if it is in the best interests of the child. Separated children struggle to gain access to the relevant services in areas where there are established asylum-seeking communities and experience in the local authority of working with separated children. Moving children to other areas in the country where there are fewer services will lead to children not receiving the services they need. The NSPCC considers that dispersal decisions should not be about the ability of local authorities to cope, but about safeguarding and promoting the welfare of children.

---

<sup>11</sup> Lay M, Papadopoulos R, Gebrehiwot A (2007) *SAFER UK: Preventing sexual maltreatment of unaccompanied asylum-seeking minors and improving services for them*. Middlesex University, London. NSPCC was on the advisory committee for this report

<sup>12</sup> Lay., M., Papadopoulos, I., Gebrehiwot, A., (2007) *Op. Cit.*

<sup>13</sup> Also see The Children (NI) Order 1995 for NI equivalences to Children Act 1989.

## **17. Family Welfare**

17.1 The NSPCC works with asylum- seeking families in the family centres but not on issues related to their asylum status. However, the NSPCC is strongly opposed to Section 9 because it places families at risk of destitution and jeopardises children's welfare, health and development. In our view, it is completely unjustifiable for the Government to try to make families seeking asylum to leave the country by rendering parents destitute and unable to look after their children. Whatever the situation surrounding the asylum application, children should be protected and not be put in this vulnerable position.

17.2 Families seeking asylum should be given access to the same level of financial support as other families resident in the UK

17.3 The children of separated children face additional challenges. If a family are ineligible for support and fall between the remit of the benefits system and local authority care it means that their children are forced to live in poverty and are denied access to basic rights such as education and healthcare. This is an abuse of the basic human rights of the family.

## **18. Detention**

18.1 The NSPCC is opposed to the detention of children in immigration facilities. Locking children up is completely unacceptable and an infringement of their rights. In our view it cannot be justified by what is in effect an administrative purposes of processing asylum claims quickly. In addition the process of removing families and placing them in detention centres prior to removal causes children additional grave distress. They experience their own fear of the removal process and are subject to forcible removal which and may include the use of restraint or handcuffs. In addition they have to witness the distress of their family members. When removed, they are not given any notice and do not have enough time to collect treasured belongings or say goodbye to friends. This compounds the distressing experience for them.

18.2 Viable alternatives need to be found to stop the detention of all asylum-seeking children.

## **19. Conclusion**

19.1 All children should be afforded the same rights and protections regardless of their immigration status. We need to recognise that separated children are some of the most vulnerable children in our society. We have a duty to ensure that throughout the asylum process their safeguarding needs are met and their welfare promoted. The asylum process should not discriminate against children by operating in a way that does not take account of their needs and vulnerability. We need a child protection and child rights focused system to ensure they are empowered to make their claim effectively. This means ensuring they have the time, the information, the support, the

advice and the resources to make certain they understand the process. We need to recognise that separated children have complex needs and each child should have access to the appropriate level of support and therapeutic intervention to help them recover from their experiences.

**31 October 2007**

**For further information contact**

**Kate Tilley  
NSPCC  
Policy Advisor - Asylum & Social Exclusion  
Weston House  
42 Curtain Road  
London  
EC2a 3NH**

**0207 825 2742**

**[ktilley@nspcc.org.uk](mailto:ktilley@nspcc.org.uk)**