Addressing the needs of unaccompanied asylum seeking children and child refugees in Scotland

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Summary

In the near future, the UK Government Home Office is likely to make decisions on (1) children at risk from the Middle East and North Africa region; (2) the admission of unaccompanied child refugees from Syria and elsewhere currently within the European Union; and also (3) the dispersal within the United Kingdom of unaccompanied asylum seeking children currently living in Kent and Hillingdon (which have both seen spikes in applications in recent months). This paper sets out the context of the current refugee crisis, particularly as it relates to unaccompanied minors, and looks at the structures in place in Scotland to provide support to unaccompanied asylum seeking children. It draws two primary conclusions:

1. The Scottish Government should be empowered, in consultation with the Home Office, to take a lead role in overseeing the resettlement of child refugees and unaccompanied asylum seeking children in Scotland as it has the capacity to understand the broad range of needs of these vulnerable children and provide for these needs more efficiently than local authorities could acting individually.

2. The Scottish Guardianship Service (SGS), which currently supports children before their asylum claims have been processed, should be empowered by secondary legislation to also support the integration of children who arrive in Scotland with refugee status already in place, and should be provided with the financial and human resources capacity to do so.

Foreword

The Edinburgh Peace and Justice Centre is an independent civil society organisation which has been working in Scotland since 1980 to promote non-violence, human rights, peacebuilding and conflict resolution. In recent years it has been increasingly concerned about the consequences of conflicts around the world, and notably in Syria, which have led to large outflows of refugees, and the situation in which refugees, including children, find themselves. In 2014, in partnership with the Lebanese-based NGO Najda Now, and with support from the Church of Scotland, City of Edinburgh Churches Together, City of Edinburgh Methodist Church and University of Edinburgh Chaplaincy, it hosted an exhibition in Edinburgh of artwork by Syrian refugee children living in Lebanon, and raised funds to support refugee children.

This experience, and the ongoing refugee crisis stemming in large part from the Syrian conflict, motivated the Centre to see what it can do to contribute to the debate around the refugee crisis and the human rights of refugees. It has endeavoured to address the refugee crisis in its monthly publication *Peace and Justice News* from a perspective of non-violence and human rights. This briefing paper arises out of this concern, and looks more specifically at what can be done in Scotland to better support unaccompanied children who arrive in Scotland as asylum seekers or refugees. It was compiled by Peace and Justice Centre volunteers and draws on secondary research and interviews with stakeholders and key informants from entities including the Scottish Government, the Scottish Refugee Council, the University of Bedfordshire and Scottish Faiths Action for Refugees.

1. Background

1.1 Introduction

Currently it is estimated that at least five unaccompanied children under the age of 18[1] arrive independently in Scotland and claim asylum, in any given month.[2] However, for the United Kingdom as a whole, the figure is much higher. In 2015, a total of 3,043 unaccompanied children applied for asylum in the United Kingdom, a 56 per cent increase on 2014. The largest numbers came from Eritrea (694), Afghanistan (656) and Albania (456).[3] This continues a trend of sharp growth in figures since 2012, when the current counting methodology was introduced.[4]

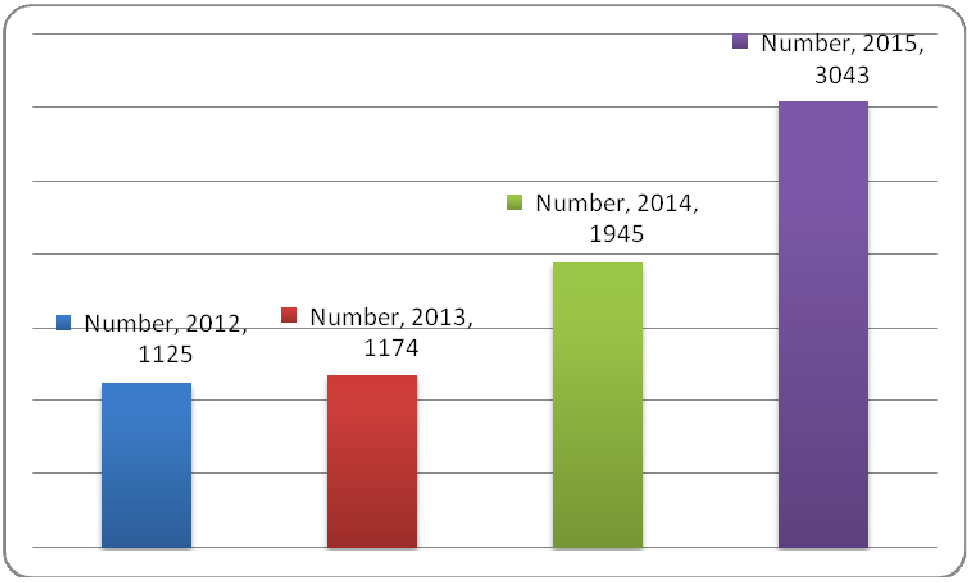

Figure 1: Number of asylum applications by unaccompanied children to the UK by year, 2012-15 [Home Office statistics]

The UN Committee on the Rights of the Child has called on states that have signed the Convention on the Rights of the Child to establish systems of Guardianship in order to aid separated children and young people understanding and navigating welfare systems and asylum. In 2008 the UN Committee's Concluding Observations to the UK's country report specifically recommended:

"(...) that the State party (…) consider the appointment of guardians to unaccompanied asylum-seekers and migrant children; The Committee recommends that the State party provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan. It also

[1] The default definition of a child under the UN Convention on the Rights of the Child is a person below the age of 18, and the UK Home Office defines an unaccompanied asylum-seeking child as "a person under 18, applying for asylum on his or her own right, who is separated from both parents and is not being cared for by an adult who by law has responsibility to do so. [https://www.gov.uk/government/statistics/immigration-statistics-april-to-june-2012-third-edition]

[2] Scottish Government, *The Scottish Guardianship Service*, at http://www.gov.scot/Topics/People/Young-People/protecting/lac/guardianship

[3] Home Office, *National Statistics: Asylum (October to December 2015)*, at https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2015/asylum#unaccompanied-asylum-seeking-children-uasc

[4] Home Office, *National Statistics: Asylum (October to December 2013)*, at https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2013/immigration-statistics-october-to-december-2013#asylum-1

recommends that the State party ratify the Council of Europe Convention on Action against Trafficking in Human Beings and implement its obligations by ensuring that child protection standards for trafficked children meet international standards." [5]

According to the UNHCR, a separated or unaccompanied child is not legally competent to make any application for immigration status, decide about services being offered or to understand the legal and practical consequences of any assessment he or she is being asked to participate in, due to his or her age. As a result, the appointment of a guardian is indispensable in order to refer the children to asylum and other procedures.[6] Complicated and timely procedures for the appointment of guardians in Italy and Greece have been identified by UNHCR as a major factor hampering the relocation within the European Union of unaccompanied children.[7]

However, still today the level of engagement regarding the establishment of lasting and extensive systems of Guardianship varies considerably throughout Europe and particularly within the United Kingdom.

1.2 The refugee crisis and unaccompanied children

At the end of 2014, the UNHCR identified 59.5 million individuals who were forcibly displaced worldwide as a result of persecution, conflict, generalized violence, or human rights violation. Of these, 19.5 million were refugees who had fled their countries to seek safety. More than half of the world's refugees were children under 18 years of age. Meanwhile, more than two million people's asylum applications were pending globally at the end of 2014, and the figure had risen by a further two hundred thousand by the middle of 2015.[8]

The Middle East and North Africa region is at particular risk: in 2014 the UNHCR reported that every 30 minutes, 35 children become refugees in the region.[9] Alarmingly, within four years of the outbreak of the Syrian Civil War in 2011, the number of refugees in the region doubled, as more than three million Syrian refugees fled their country and sought refuge in the region. As of early April 2016, UNHCR has registered more than 4.8 million refugees from Syria (see the graph below). Again, of these, 51.6 per cent, or more than 2.4 million, are children.[10]

[5] Committee on the Rights of the Child, *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*, 2008, UN Document CRC/C/GBR/CO/4, at http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf

[6] UNHCR, *UNHCR Submission to the UK Parliamentary Joint Committee on Human Rights Inquiry Into the human rights of unaccompanied migrant children and young people in the United Kingdom, with a particular focus on those who are seeking asylum or have been the victims of trafficking*, 2012, at http://www.unhcr.org.uk/fileadmin/user_upload/pdf/JCHR_UNHCR_final.pdf

[7] UNHCR, *Building on the Lessons Learned to Make the Relocation Schemes Work More Effectively*, January 2016, at http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=569fad556&query=uasc

[8] UNHCR, *Mid Year Trends 2015*, 2015, at http://www.unhcr.org/56701b969.html

[9] UNHCR, *Protection of Refugee Children in the Middle East and North Africa*, 2014, at https://data.unhcr.org/syrianrefugees/download.php?id=7325

[10] UNHCR, *Syria Regional Refugee Response*, update of 4 April 2016, at http://data.unhcr.org/syrianrefugees/regional.php

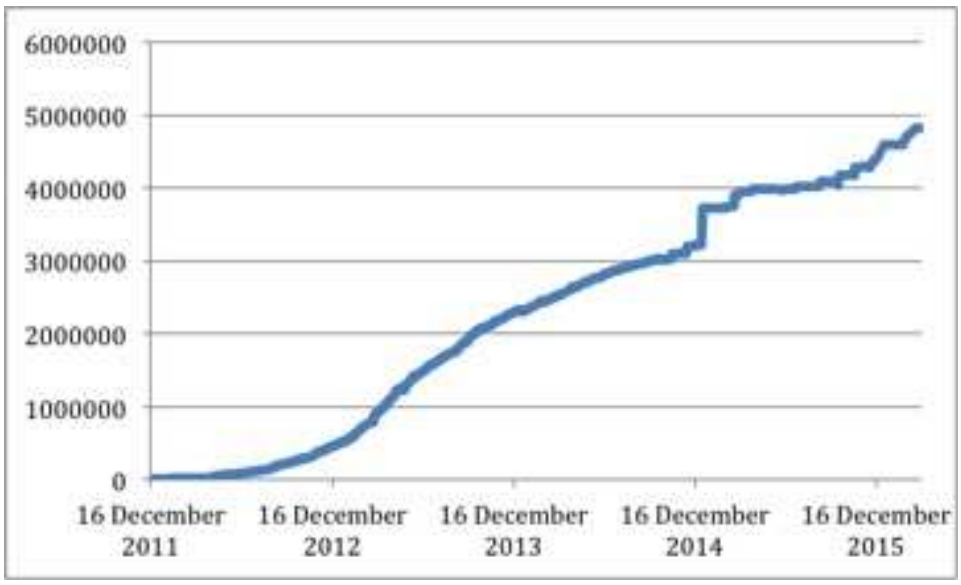

Figure 2: Number of registered Syrian refugees over time, 2011-2016 [UNHCR statistics]

This figure includes 2.1 million Syrians registered by UNHCR in Egypt, Iraq, Jordan and Lebanon, 1.9 million Syrians registered by the Government of Turkey, and more than 28,000 Syrian refugees registered in North Africa.[11] This is challenging the abilities of national governments and the international community to meet their needs for healthcare, education and protection services.

Only a small proportion of child refugees are separated from their parents. In 2013, there were around 3,700 unaccompanied and separated children registered by UNHCR in Jordan and Lebanon.[12] In the vast majority of cases it is in the children's best interests to reunite the children with their relatives when possible. However, in some exceptional cases, their best interests may be served better by resettlement in a safe third country.[13]

State support for unaccompanied asylum seeking children (UASC) must not stop with providing them refuge. States need to provide additional support to children to overcome the traumatic events and experiences that might haunt them, to deal with the challenges of accessing the services they are entitled to, and integrating into a new society. Many UASC have suffered violence, neglect, exploitation and abuse; potentially including child labour, violence in their homes and schools, early marriage, sexual and gender-based violence, recruitment into armed groups and limited access to birth registration. This may have continued in displacement, while onward movement can expose children of all ages to increased risks of detention, trafficking, and other abuse.[14]

1.3 The Scottish Guardianship Service

In 2009, the Scottish Government published an action plan entitled "Do the Right Thing", in response to the UN Committee's 2008 recommendations to the United Kingdom.[15] In Section 19 of the report, the Scottish Government stated its intention to meet the recommendation to provide better support for unaccompanied asylum seeking children. In this context, it piloted the Scottish Guardianship Service, a service managed by the Aberlour Childcare Trust and the Scottish Refugee

[11] ibid.
[12] UNHCR, *Fractured Families*, 2014, at http://unhcr.org/FutureOfSyria/fractured-families.html
[13] Scottish Refugee Council, *Briefing on Separated Children: Syrian VPR Scheme in Scotland*, September 2015
[14] UNHCR, *Protection of Refugee Children in the Middle East and North* Africa, 2014, at https://data.unhcr.org/syrianrefugees/download.php?id=7325
[15] Scottish Government, *Do the Right Thing: For people who work with children or work on their behalf*, 2008, at http://www.gov.scot/Publications/2009/08/27111754/25

Council that works closely with the Home Office, local authorities and other stakeholders.[16] Following a favourable evaluation of the Scottish Guardianship Service's work in 2013, the Scottish Government announced that it would fund a continuation of the Service. The Scottish model was commended by the UK Parliament's Joint Committee of Human Rights in 2013 and has directly influenced the development of similar provisions for independent guardianship in both the Modern Slavery Act 2015 for England and Wales (where they are known as child advocates) and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.[17] In November 2015, the Human Trafficking and Exploitation (Scotland) Act[18] was passed, which will make provision of such services mandatory in Scotland from 2017 for unaccompanied children. The criteria for eligibility include where an unaccompanied child presents with no person who has parental rights and responsibilities in the UK; and where there is reason to believe that they might have been trafficked or are at risk of trafficking. This would include unaccompanied asylum seeking children and unaccompanied child refugees.

It should be noted that the 2015 laws in England and Wales in particular provides for "independent child trafficking advocates". The law specifically covers trafficked children, children at risk of trafficking and children suspected to have been trafficked. While in many cases, these children may overlap with asylum-seeking or refugee children, the system has been established to tackle slightly different problems. UASC do not necessarily belong to these categories. By contrast, the Northern Irish legislation provides for independent legal guardians for all separated children. Nevertheless, a need was identified in these jurisdictions for persons with the power to represent and assist vulnerable children in criminal or immigration proceedings and to provide other forms of guidance and support, and then acted on through legislation.

The Scottish Guardianship Service (SGS) provides support to unaccompanied asylum-seeking children and young people to negotiate the welfare and immigration systems. The 2013 evaluation also acknowledged that the Service helps the children to feel a level of acceptance and support that also enables them to build social networks and feel more at home in Scotland. This has been complemented by a range of participation groups and activities designed to introduce the children to each other and the wider community, and to combat loneliness and associated possible mental health difficulties. Meanwhile, the Service has also provided specific support to local authorities with the immigration process.[19]

The Guardians employed by the SGS are independent of service providers and other official actors that UASC encounter during the period of their applications. According to the Service:

"Guardians support the young people by helping them navigate the immigration and welfare processes, and feel supported and empowered throughout the asylum process, assisting them to access the help they need when they need it, and make informed decisions about their future."[20]

The Guardians working for the SGS come from a range of backgrounds: many have worked previously for refugee support organisations and some have social work training. Guardians are trained on issues such as child protection, child trafficking, working with separated children, mental

[16] Scottish Government, *Do the Right Thing: Progress Report 2012*, at http://www.gov.scot/Resource/0043/00439604.pdf

[17] Paul Hamlyn Foundation, *New legislation will support all children arriving in Scotland alone and separated from their parents*, 2 October 2015, at http://www.phf.org.uk/news/new-legislation-will-support-all-children-arriving-in-scotland-alone-and-separated-from-their-parents/

[18] Available online at http://www.legislation.gov.uk/asp/2015/12/contents/enacted

[19] Heaven Crawley and Rahvi Kohli, *'She Endures with Me': an evaluation of the Scottish Guardianship Service Pilot*, Scottish Refugee Council, 2013, at www.scottishrefugeecouncil.org.uk/assets/6798/Final_Report_2108.pdf

[20] Aberlour, *Scottish Guardianship Service*, 2015, at http://www.aberlour.org.uk/how_we_help/services/248_scottish_guardianship_service.

health, victims of torture, working with interpreters, and age assessment: this gives them the skills and competence necessary to undertake casework with young people and a good working knowledge of current law, policy and practice[21] (they are all expected to pass at a minimum Level 2 the level two assessment exam set by the Office of the Immigration Services Commissioner).

By October 2015, the Scottish Guardianship Service had helped more than 200 young people in Scotland over five years. The largest number of the children lived in Glasgow. This is primarily because Glasgow is the arrival point of a large proportion of children who claim asylum, partly because the city's airport is an entry point to the country, and because young people are drawn to cultural communities already living in the city. Outside Glasgow, the Guardians found that most local authorities had very limited experience of this kind of work (perhaps one child every two years), and so the Guardians were able to guide social workers and other professionals about the key issues that they needed to be aware of in supporting unaccompanied asylum-seeking children.

1.4 The relocation of separated children

There are currently three separate debates in British politics and society about the relocation of separated children, all of which may have an impact on Scotland. These debates cover the three following groups of children: (1) unaccompanied child refugees from Syria and elsewhere currently within the European Union; (2) children at risk from the Middle East and North Africa region; and also (3) unaccompanied asylum seeking children currently living in Kent and Hillingdon (which have both seen spikes in applications in recent months).

1.4.1 Unaccompanied child refugees currently within the European Union

The first of these debates concerns separated children who have arrived in European countries as part of the refugee crisis. In January 2016, Save the Children estimated that 26,000 such children had arrived in Europe in 2015, and Europol subsequently stated it is reasonable to believe that 10,000 of the children have gone missing. Many of these children until March 2016 were living in the informal camp known as the "Jungle" near Calais: as of mid-March the situation of the children is fluid. Save the Children has called on the United Kingdom's Government to accept 3,000 of these children into the country.[22] However, on 28 January, the UK Government turned down this proposal, citing a belief in the strength of creating pull factors, so creating incentives for others to make the dangerous journey through Europe.[23] This decision was repeated in a House of Commons vote on 25 April when an opposition amendment to the Immigration Bill was rejected by 294 votes to 276.[24] On 4 May 2016, however, Prime Minister David Cameron announced a new initiative for unaccompanied asylum-seeking children to be resettled in the UK from Greece, Italy and France, and stated that the UK Government will work with local authorities to determine the number to be admitted, and on plans to resettle the unaccompanied children.[25]

1.4.2 Children at risk from the Middle East and North Africa region

Meanwhile, the UK Government had announced in late January that it planned to admit unaccompanied child refugees from countries near Syria and other conflict zones. The Home Office states that this is in addition to the Syrian Vulnerable Person Relocation Scheme (see below). It has not yet stated how many children it is planning to accept, and has said it is working with UNHCR to determine "exceptional cases" who would particularly benefit from resettlement in the UK.[26] On 21

[21] Crawley and Kohli, *supra n19*
[22] Save the Children, *Child Refugee Crisis: Britain must protect children arriving in Europe alone*, 2015, at http://www.savethechildren.org.uk/get-involved/campaigns/shame-on-europe
[23] BBC, *UK to give sanctuary to unaccompanied refugee children*, 28 January 2016, at http://www.bbc.co.uk/news/uk-politics-35422777
[24] BBC, *Government avoids defeat over lone child refugees call*, 26 April 2016, at http://www.bbc.co.uk/news/uk-politics-36134837
[25] Prime Minister's Office, *Unaccompanied asylum-seeking children to be resettled from Europe*, 4 May 2016, at https://www.gov.uk/government/news/unaccompanied-asylum-seeking-children-to-be-resettled-from-europe
[26] BBC, *UK to give sanctuary*, *supra n.23*

April, the UK Government announced that it would resettle up to 3,000 individuals from the Middle East North Africa region over the lifetime of the UK parliament (by 2020). It stated that on the UNHCR's recommendation, the scheme will not solely target unaccompanied children, but will also extend to vulnerable children at risk, such as those threatened with child labour, child marriage and other forms of abuse or exploitation. It will be open to all 'at risk' groups and nationalities within the region.[27] It is therefore currently still unclear how many unaccompanied children will be admitted through this scheme.

1.4.3 Unaccompanied asylum seeking children currently living in Kent and Hillingdon

The third group of unaccompanied children whose relocation is being discussed is those unaccompanied minors who currently reside in the UK and have applied for asylum within the UK itself. In recent months there has been a spike in such applications. Under current legislation, because these children and young people arrive independently, the care of these UASCs is the responsibility of the local authority at the place where they arrive in the country. This is not the case for asylum-seeking adults or families, who are dispersed throughout the UK as part of the Syrian Vulnerable Person Relocation Scheme. This disproportionately impacts service provision in Kent (the arrival point from the Channel Tunnel and ferries) and the London Borough of Hillingdon (the location of Heathrow Airport). In November 2015, for example, the UK Government reported that there were nearly 1,000 UASCs in Kent's care.[28] They are accommodated both in foster families and in reception centres. Because of this, the UK Government has been seeking to promote a voluntary dispersal or transfer scheme. It is also currently legislating for a compulsory dispersal system within the UK Immigration Bill, under which the UK Home Secretary would have the power to compel local authorities to participate. This could potentially have the effect of removing the element of good will among local authorities that wish to support vulnerable children.

[27] Home Office, *New scheme launched to resettle children at risk*, 21 April 2016, at https://www.gov.uk/government/news/new-scheme-launched-to-resettle-children-at-risk
[28] Home Office, *Dispersal of Unaccompanied Asylum Seeking Children*, 24 November 2015, at http://adcs.org.uk/assets/documentation/151124_HO_DfE_DCLG_Letter_UASCs.pdf

2. Policy areas

2.1 Devolution of responsibility for child refugees to Scottish Government

One of the challenges that emerges from all these debates about unaccompanied asylum-seeking children, whatever the outcome of ongoing debates, is to determine at what level services should be provided. The UK Government intends to agree directly with individual local authorities to accept certain numbers of UASC and for those local authorities to take full responsibility for providing them with accommodation and ensuring that they have access to services with the support of a Home Office financial package. This is the model that has been used with the families of Syrian refugees that have arrived in Scotland since September 2015. In the three months after the UK Government announced it would accept 20,000 refugees from the Syrian crisis over several years in September 2015, a total of 400 additional refugees arrived to 16 local authorities in Scotland. Each local authority was responsible individually for their support.

However, with regard to dispersal of adult asylum seekers, this is an area of joint working between the Home Office and the Scottish Government[29] and Scottish Ministers have a formal role in the designation of reception areas for adult asylum seekers.[30] Given that the Scottish Guardianship Service has already been established at national level in Scotland, it would seem appropriate to have a unified Scottish system in place to support unaccompanied asylum seeking and refugee children as well. The Scottish Refugee Council (SRC) recommended this approach in a September 2015 briefing paper.[31] It stated that this option will make the implementation and monitoring of the placing of children more efficient, and ensure that national (Scottish) standards for child protection, safe accommodation, health, education, legal representation, and criminal justice are adhered to.

A Scottish Government resettlement programme for resettled child refugees and unaccompanied asylum seeking children should consider drawing on the two-step arrangement used in several Scandinavian countries. Initially, the young people arrive in a resettlement / reception centre which, in the Scottish context, would be overseen by the Scottish Government. This is an approach that the Scottish Government has considered, and is interested in exploring further should the need arise.[32] Following a quick but careful review of circumstances, the child could be placed into the care of a specific local authority, on the basis of agreed quotas. The Scottish Government would retain an interest in the child's welfare: it may top up the funding provided by the Home Office to ensure that the full cost of care for the child was met; it would be in a position to provide specialized support that the child may need at national (Scottish) level; and through the Scottish Guardianship Service (see proposal two below) would provide guidance to the local authority to ensure it is capable of meeting the needs of the child.

This approach that pools resources at a higher level is broadly analogous to the Gateway refugee resettlement schemes in England. Seven local authorities in the North West of England have worked together for several years under the Gateway scheme to provide housing, legal and other support to

[29] *Concordat between the Scottish Executive and the Home Office*, 1999. Available online on Scottish Government website, at http://www.gov.scot/Resource/Doc/175748/0049500.pdf. Accessed 26 April 2016.
[30] Section 101 of the Immigration and Asylum Act 1999 [http://www.legislation.gov.uk/ukpga/1999/33/section/101] granted the Secretary of State for Home Affairs the power to designate reception zones in England, Wales, Northern Ireland and Scotland. However, the Act granted a clear role on the face of the Act (s.101 (7)) for Scottish Ministers to reject the creation of reception zones in Scotland if certain conditions were not met.
[31] Scottish Refugee Council, *Briefing on Separated Children: Syrian VPR Scheme in Scotland*, September 2015
[32] Scottish Government, April 2016

resettled refugees.[33] The Gateway scheme, for which participant selection is determined by UNHCR, admits 750 refugees to the UK every year. Between January 2014 and September 2015 a total of 216 Syrians were admitted through the Gateway scheme. Many of these were housed in the North West England consortium area, while 60 came to Glasgow.

In October 2015, a *Syrian Vulnerable Person Resettlement (VPR) Programme* was introduced, with the intent to resettle 20,000 vulnerable people from Syria in the UK by May 2020 (the end of the current parliament). The Guidance Notes on this process state that the UK Government will work closely with all local government associations and a number of NGOs and partner organisations.[34] Scottish Ministers have their own Refugee Taskforce, which is chaired by the Minister for Europe and International Development and has the Home Office as a member. This coordinates the integration and accommodation issues of Syrian Refugees settled in Scotland.[35] A third of the arrivals under the scheme in November and December 2015 (nearly 400 people) came to Scotland.[36]

If the Scottish Government were to coordinate provision of services, it could set standards for local authorities that meet Scottish legal requirements for the quantity and quality of social services, education and healthcare. It could also ensure the provision of or directly provide certain services that may require additional capacity to that which local councils have responsibility or which are available, such as legal representation or resettlement centres as mentioned above. A coordinated response is likely to reduce the cost of providing services, as there would be less need for replication of services and duties across councils. In such circumstances, Scottish Ministers would report back at national level at least once in a Parliament on the structures in place nationally and at local authority level to support these vulnerable groups of children.

Engagement with the Scottish Government on resettlement of unaccompanied child refugees and placement of unaccompanied asylum seeking children would improve the efficiency of service provision. It would also mean that individual local authorities are not put in the position of "spot purchasers" of services: an approach that would fragment the strategic response rather than coordinating it.

Local authorities generally currently lack capacity to provide safe accommodation for unaccompanied children, either with foster families or in residential childcare. Boys aged 15-17, who are likely to be the vast majority of all children in the three categories of unaccompanied children mentioned, are particularly difficult to find foster accommodation for. Even if families are found who are willing to foster, the approval process can take up to a year. It is important, as much as possible, that all UASC and unaccompanied child refugees in Scotland are able to make an informed choice about the type of accommodation that they wish to be provided with.

The multi-faceted nature of the services required by UASC and unaccompanied child refugees should also be brought to the attention of bodies such as the Children and Young People's Commissioner for Scotland and the Scottish Public Services Ombudsman for scrutiny and to be

[33] Adele Adjetey, *North West of England Resettlement Partnership: Gateway Programme*, 2012, at http://www.resettlement.eu/sites/icmc.tttp.eu/files/Gateway%20presentation_North%20West%20of%20England%20resettlement%20partnership.pdf

[34] Home Office, *Syrian Vulnerable Person Resettlement (VPR) Programme: Guidance for local authorities and partners*, 28 October 2015, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/472020/Syrian_Resettlement_Fact_Sheet_gov_uk.pdf

[35] Information provided by the Scottish Government, April 2016

[36] Scottish Refugee Council, *Building a better future for refugees in Scotland*, 22 March 2016, at http://www.scottishrefugeecouncil.org.uk/assets/0001/0736/Scottish_Refugee_Council_Manifesto_-_Scottish_Parliament_Elections_2016.pdf

held accountable. Together, these measures would have the potential to make a substantial difference for children. If successful, they could serve as another example of best practice for replication across the United Kingdom and further afield.

2.2 Expanded role for Scottish Guardianship Service

Our second proposal is an expanded role for the Scottish Guardianship Service. Currently, the Service specifically supports asylum-seeking children, and one of the three key pillars of assistance it gives is assistance with the process of seeking asylum. At present, most of the staff members of the Service have a background in asylum law. Clearly, children who have already received refugee status do not need support with the asylum process though they are likely to still need support with ensuring services are in place and developing social networks.

However, as described in the 2013 pilot evaluation, asylum is just one of the three "domains" that guardians from the SGS are involved in. In the other two areas – assisting their interaction with frontline professionals in social work (who have parental rights and responsibilities for the child), health, education and housing services; and providing the assistance the young people need to develop their own social networks – child refugees will continue to need support.

Despite an increase in its budget from £200,000 to £300,000 in 2016,[37] currently the Scottish Guardianship Service only has resources provided for unaccompanied asylum seeking children who present in Scotland: currently its funding structure is not intended to cover either dispersed UASC or relocated child refugees. However, the Scottish Government has made it clear that its position that the provision of the SGS is driven by a moral imperative, and that therefore if there is a case to expand because of increasing numbers and role, then it would seek to support this where practicable,[38] and the Scottish Refugee Council has indicated that, if financial resources were available and the mandate in place, it has the potential to boost the SGS with specialists on integration of refugees, such as those provided to adults by the Scottish Refugee Council's Holistic Integration Service, who would be able to widen the support that the Service can provide.[39]s

Resettlement is a complex and open-ended process: children who arrive in Scotland as asylum seekers and refugees, do not just need resources and contacts in the initial period, but also require longer-term assistance when they have the time to consider the reality of their situation. They require support from people with skills to understand their therapeutic needs, as well as their social and practical ones. Section 11(7(g)) of the Human Trafficking (Scotland) Act 2015 states that Ministers will seek to explore how a guardian's services could remain available once the child becomes an adult should this be deemed necessary. An enhanced Scottish Guardianship Service would be in a position to meet these needs.

The cost of expanding the role of the Scottish Guardianship Service is clearly contingent on the number of children, both child refugees and unaccompanied asylum seeking children, covered. A 2014 cost-benefit analysis suggested that the annual cost of the SGS per child was £4,892. It also stated that every pound spent on such a system in the rest of the UK would lead to a benefit of £2.39. Of this, about half would come from reduced spending on legal challenges and appeals in the asylum process, and the other half on reduced spending needed per child because of better decision-making and greater independence among children who have received this kind of support.[40] Therefore, in the case of child refugees, even if the SGS were not involved in the supporting asylum

[37] Information provided by the Scottish Government, April 2016
[38] Information provided by the Scottish Government, April 2016
[39] Information provided by Scottish Refugee Council, April 2016
[40] CHTB, *Cost benefit appraisal of legal guardianship for unaccompanied and separated migrant children in England and Wales*, UNICEF UK and The Children's Society, June 2014, at https://www.unicef.org.uk/Documents/Public-Affairs-Briefings/Guardianship%20CBA%20-%20CHTB%20End%20Report_2014_FINAL_FOR%20CIRCULATION.pdf

claims, the support provided would lead to a net reduction to public expenditure. In practice, Guardians of child refugees, who were not providing legal support, could potentially have a larger caseload, and thus the cost-benefit ratio could be greater.

In practice, the November 2015 Human Trafficking and Exploitation (Scotland) Act enables the guardianship structure to widen its mandate to cover other vulnerable groups of unaccompanied children, including child refugees, and to provide care for children who have completed the asylum process. New legal provisions on guardianship under Article 11 of the Act are due to come into force in 2017, and secondary legislation is currently being drafted to provide clarity on the roles and responsibilities of the guardian, referral procedures, and other issues. A new tender to provide guardianship services will be issued in 2017.

3. Recommendations

3.1 To the UK Government

1. Acknowledge the competences of the Scottish Government in this area and enter into discussion to agree the expanded role of the Scottish Government in coordinating support for unaccompanied asylum seeking children and unaccompanied child refugees in Scotland. Consider whether elements of care for these children fall within the devolved areas of responsibility rather than being specifically immigration, and therefore reserved, issues.
2. In light of the Modern Slavery Act 2015, consider whether there are further elements of the Scottish approach to UASC, and particularly the experience of the Scottish Guardianship Service, that could usefully be applied in England and Wales in the context of increasing numbers of children in need of such assistance.

3.2 To the Scottish Government

1. Ensure that secondary legislation to Article 11 of the Human Trafficking and Exploitation (Scotland) Act ensures that all vulnerable unaccompanied children, including asylum seekers and refugees, receive the support they need for as long as they need it. In negotiation with the Home Office, ensure that funding is available for children who have come to Scotland through resettlement and dispersal, as well as those who present in Scotland.
2. To ensure the best interest of children are met, coordinate closely with local authorities to determine in which areas (such as provision of certain specialised services or support for resettlement centres), the Scottish Government can play a role that will provide better and more cost-effective support for UASC and child refugees.
3. Liaise with the UK Government about an expanded role for the Scottish Government in coordinating support for unaccompanied asylum seeking children and unaccompanied child refugees in Scotland. Consider whether elements of care for these children fall within the devolved areas of responsibility rather than being specifically immigration, and therefore reserved, issues.

3.3 To Scottish local authorities

1. Coordinate closely with the Scottish Government to determine in which areas (such as provision of certain specialised services or support for resettlement centres), the Scottish Government can play a role that will provide better and more cost-effective support for UASC and child refugees and be in their best interests
2. Consider how to work imaginatively with community groups in the local authority area who would like to provide material, practical and emotional support for UASC and child refugees.

3.4 To civil society organisations

1. Keep informed about developments in the placement and support provided for vulnerable children in Scotland.
2. Advocate with all levels of Government to ensure that UASC and child refugees in Scotland are provided with the support they require for their welfare and development.
3. Consider how to work imaginatively with local authorities to provide material, practical and emotional support for UASC and child refugees.
4. Consider how to raise awareness of the plight of UASC and child refugees, including working with media organisations.

4. Conclusion

This policy brief has sought to provide context to the current refugee crisis, and looks at some of the ways in which Scotland can play the best possible role in supporting unaccompanied child refugees and unaccompanied asylum seeking children who may arrive in the country in the near future.

As the provision of guardianship/child advocacy services differs throughout Europe and within the United Kingdom, we propose a coordinated response to address and support the needs of unaccompanied asylum seeking minors and child refugees in Scotland. We conclude that the Scottish Government should take the main responsibility for administering the resettlement of child refugees and unaccompanied asylum seeking children in Scotland. In addition, the role of the Scottish Guardianship Service (SGS) should be expanded, to include the integration of (unaccompanied) children arriving in Scotland with refugee status already secured. This would be achieved through a longer-term approach, helping children overcome traumas as well as supporting them to build social networks, and easing their interaction with frontline professionals in social work, health, education and housing services.

Further, if the administration of care for the young people were passed to the Scottish Government, the issue could be managed and tackled within a unified Scottish framework. This would be a more effective approach than giving individual local authorities full responsibility for the support of UASC and child refugees individually. In such circumstances implementation and monitoring of the placing of children would be more efficient, standards for local authorities could be set and national (Scottish) regulations would be upheld e.g. regarding the quantity and quality of social services, education and healthcare.

Given the structures already in place in Scotland, and particularly the Scottish Guardianship Service, coupled with the generally welcoming attitudes towards asylum seekers and refugees among all the major political parties and the general public, we believe Scotland is in a strong position to host larger numbers of unaccompanied child refugees and unaccompanied asylum seeking children. If these proposals are accepted, the new Scottish Government, civil society organisations that support refugees and vulnerable children, and the networks of individuals and families throughout the country who have expressed a desire to assist those in need will be empowered to make a positive difference to the lives of children who have been faced by great challenges.

This paper was prepared for the Edinburgh Peace and Justice Centre
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