THE REFUGEE CRISIS IN EUROPE

THE UK’S ROLE IN PROTECTING THE RIGHTS OF UNACCOMPANIED AND SEPARATED CHILDREN
The world is facing an extraordinary refugee crisis globally, with nearly 60 million people – half of them children – forced from their homes due to conflict, violence and persecution. Europe is also experiencing the largest influx of refugees and migrants since World War 2, with more than 1 million people arriving in Europe in 2015 and the expectation that people will continue to arrive in large numbers in 2016. Thousands of children are taking perilous journeys, with their families and on their own, to and across Europe in desperate search of safety and the chance of a better life. The overwhelming majority are fleeing conflict and/or persecution in countries such as Syria, Iraq, Afghanistan and Eritrea. Unaccompanied and separated children are among those who are the most vulnerable to violence, abuse and exploitation, while they are travelling and in camps and transit areas en route.

Based on the UK Government’s own stated position, this briefing considers the policy commitments that the UK Government has made and the action it has so far taken to support unaccompanied and separated children in the UK and abroad: analysing the achievements and challenges, identifying the gaps, and finally making recommendations for improving the protection of unaccompanied and separated children. It focuses on the following areas in which the UK has committed to policy changes to support unaccompanied and separated children:

- Resettlement of unaccompanied and separated children and children at risk
- Reuniting refugee children with family members in the UK
- Protecting refugee children who face risk
- Protecting trafficked children in the UK

From the outset, it is important to contextualise these policy commitments within the UK Government’s overall response to support children affected by conflict and displacement. Though it is not the focus of this briefing, this response includes the significant contribution that the UK is making to children’s welfare in crisis-affected regions through its humanitarian aid programme, and the UK’s financial assistance programme for refugee children in Europe.

The UK has been the second largest bilateral donor of humanitarian assistance to people affected by the Syrian crisis, and UK assistance has been life-saving and life-changing. UK financial assistance globally has had a huge impact in reducing child mortality, improving children’s health and enabling children to access protection and education. The recently announced Refugee Children Fund of £10 million will include targeted support to meet the specific needs of unaccompanied and separated children in Europe, including the Balkans. This Fund forms part of the UK Government’s £65 million contribution to the humanitarian response for the region.

The UK is in a position to make a real difference to the lives of unaccompanied and separated children, not only in the UK but across Europe and in crisis-affected regions. Through humanitarian assistance, development funding, resettlement, political dialogue and law reform, the UK has begun to take important steps to improve protections and support for unaccompanied and separated children. This paper also sets out some areas where further policy change would make a decisive difference for children, including through reforming family reunion rules and procedures, and ensuring that the best interests of children are central to all decision-making within immigration and asylum procedures.

Children who find themselves without parental protection are dependent on public authorities to provide for their immediate needs, their future development and to uphold their rights. Yet, even when these children have reached the end of their hard and traumatic physical journeys, their lives often continue to be characterised by instability and uncertainty. Children remain vulnerable to being trafficked or exploited, and often experience difficulties in accessing appropriate services and support, including accommodation, education and legal assistance. For children arriving in the UK with little or no understanding of official procedures, it can seem overwhelming or intimidating to engage in complex immigration, asylum, child protection or criminal justice procedures, while waiting for decisions to be made about their futures.

The UK has a proud history of providing refuge to people during times of crisis, particularly those most at risk like unaccompanied and separated children. This was the case during World War 2. More recently, during the Kosovo crisis in 1999, the UK offered to take up to 1,000 refugees a week under the UN Refugee Agency (UNHCR) evacuation programme. London alone hosted an estimated 1,200 unaccompanied and separated children from Kosovo. During the current refugee crisis in Europe the UK has received a relatively small percentage of those who have fled in relation to comparable countries in mainland Europe and elsewhere. The UK received 3,043 asylum applications from unaccompanied and separated children in 2015, an increase of 56 per cent on the previous year (1,945). These children are looked after by local authorities across the UK. The UK also received around 1,000 refugees through an organised Syrian resettlement scheme in 2015, about half of whom were children with their families. Having ratified the UN Convention on the Rights of the Child, the UK has obligations under international law to protect and promote the rights of children. In meeting these obligations, the UK Government is in a position to show the same leadership in providing a welcoming reception for children in our country that it is showing in its generous funding for humanitarian crises overseas.
RESSETTLEMENT

The UK Government has made the following commitments on resettlement:

1. To expand the Syrian Vulnerable Person Resettlement (VPR) Programme to resettle up to 20,000 Syrian refugees over five years (by 2020)8

2. To resettle 3,000 vulnerable and refugee children at risk and their families from the Middle East and North Africa region by 2020

3. To work with local authorities to resettle some unaccompanied and separated children registered in Greece, Italy or France before 20 March9

Resettling a child to the UK, when it is in the child’s best interests, can save a child’s life and provide opportunities for a better future and recovery from the traumatic circumstances in which they were living. Resettlement can be an important contribution to sharing the responsibility of hosting refugees with other host governments.8

Since 2004 the UK has operated a small-scale resettlement scheme, focused on the most vulnerable people – resettling up to 750 people in the UK each year through the Gateway Protection Programme. This has not tended to resettle unaccompanied and separated children. In January 2014 the UK Government announced that it would also set up a particular resettlement scheme to help Syrian refugees – the Syrian Vulnerable Person Resettlement (VPR) programme. The Government did not set a specific quota for the programme, however, it did state that it expected the UK would take around 500 people over the next two to three years. They did not expect this number to include unaccompanied and separated children. Over the first 18 months of its operation, this scheme resettled just over 200 refugees.

In September 2015 the Government announced that it would expand the VPR Programme to resettle up to 20,000 Syrian refugees from the Syria region over five years (by 2020). The Government expected to “ensure that vulnerable children, including orphans, will be a priority”.10 By the end of 2015 the UK had resettled 1,000 Syrian refugees under the VPR Programme.

Despite the initial plan to prioritise orphans and vulnerable children, in practice this scheme has not focused on unaccompanied and separated children, usually due to successful family tracing efforts within the region by UNHCR, and the outcome of a Best Interests Determination. It can often be in a child’s best interests to resettle them with extended family members if this is possible. Each child’s case must be determined individually, as each child is facing a different set of personal circumstances. Due to public pressure, these plans have since been extended, with a welcome announcement in April 2016 of a new initiative to resettle 3,000 vulnerable children – including both unaccompanied and separated children and other children at risk (including those in families) – from the Middle East and the North Africa region. The Minister for Immigration, James Brokenshire, in announcing the initiative, confirmed that “it will be open to all risk groups and nationalities within the region, with the best interests of the child at the heart of the scheme.”11

Recently, the Government has also turned its attention to the situation of unaccompanied and separated children stranded in Europe. In May 2016, the Prime Minister announced that the UK Government will resettle some unaccompanied and separated children to the UK from Greece, Italy and France. This is a positive first step towards urgently needed safe and legal routes for unaccompanied and separated migrant children in Europe to find refuge. It is of course too early to assess properly the impact of these newly-announced resettlement schemes for children, however, they have great potential for providing protection to children who have been living in precarious circumstances.

RECOMMENDATIONS FOR THE UK GOVERNMENT ON RESSETTLEMENT

Resettlement decisions must be based on an individual Best Interests Determination for each child.

FAMILY REUNION

The UK Government has made the following commitments on family reunion:

1. To continue to meet obligations under the Dublin Regulations12

2. To accelerate existing family reunion routes13

FAMILY REUNION UNDER THE EU DUBLIN III REGULATION

A set of rules – the Dublin III Regulation – have been agreed by 32 countries in Europe to determine the State responsible for considering an application for international protection submitted in one of them. This regulation recognises that the best interests of the child seeking international protection should be a primary consideration in its implementation. Under the EU Dublin III Regulation, unaccompanied and separated children are entitled to be reunited with family in the UK, through the transfer of their existing asylum cases to the UK from the EU Member State they find themselves in. Unicef UK welcomes the Government’s announcement in January that it will “continue to meet … obligations under the Dublin Regulations”, but at present the Dublin III Regulation is not providing a realistic solution for the majority of unaccompanied and separated children in the way it is currently being implemented.

Until recently, there had been few successful claims for the transfer of unaccompanied and separated children’s cases under Dublin III. One significant factor has been a lack of information and support to enable separated families and unaccompanied and separated children to access the asylum procedure and effective legal support in countries they are travelling through, and thereby to claim their rights. For example, research by Unicef UK and Unicef France has found that very few children in Calais are aware of their rights to family reunion and almost no information on family reunion under the Dublin III Regulation is readily available in Farsi or Arabic.

Children have been understandably reluctant to access the asylum procedure due to a lack of confidence that their cases would be transferred to the UK and result in family reunion. This mistrust has exacerbated existing challenges in the functioning of the EU family reunion...
**NABIL’S STORY**

**UNNECESSARY DANGER AND SUFFERING**

"I wasn’t convinced for a while, but when I saw that they took the first child across to the UK I believed. I’m not trying the lorries to get to the UK every night now, as I have a lawyer helping me. All I want is to be with my brother in the UK.”

Nabil*, 17, fled his native Syria after his home was bombed. Several of his family were killed and the rest scattered. Nabil made his way from Syria all the way to France on his own, with the hope of reuniting with his brother in Scotland. He nearly died when his boat capsized in the sea between Turkey and Greece. He then lived on his own in the ‘Jungle’ in Calais for six months. He risked his life trying to board lorries to the UK many times and was held in detention by the French authorities when he was caught. Things changed for Nabil when he heard that some children in the camp were getting help from British lawyers to apply for their cases to be transferred to the UK. Nabil is now in Scotland and his case is going through the UK asylum system.

But what could have been different for Nabil if the UK took a different approach to its rules on family reunion? Nabil fled first to Lebanon. If the UK’s immigration rules were widened or applied more flexibly, his brother could have sponsored his application for family reunification from Lebanon. This would have avoided Nabil’s dangerous journey across the Mediterranean Sea and then on through Europe.

Had Dublin family reunion procedures been working effectively, Nabil could have made an asylum claim on arriving in the EU, in Greece, and had his asylum case transferred to the UK under the Dublin III Regulation. But no one advised Nabil of this or offered him legal assistance to make the asylum application in Greece, forcing him to make a further dangerous journey. After being smuggled to France, he lived in a makeshift ‘Jungle’ camp in Calais before a voluntary organisation arranged legal assistance for him.

Nabil’s case shows how much things could change for children if the UK rules were changed or Dublin III effectively implemented. It will take him a long time – maybe a lifetime – to get over his terrible experiences of the journey, and much of the danger and suffering could have been avoided.

*Name changed

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**RECOMMENDATIONS FOR THE UK GOVERNMENT ON FAMILY REUNION UNDER THE DUBLIN III REGULATION**

- The Government should ensure that there is adequate investment and resourcing of the system across Europe to enable the transfer of responsibility for the asylum claim of the child where the child has family links in the UK, including by deploying further Home Office staff to work on the proactive identification, verification, processing and transfer of UK family reunion cases, and make special provision for cases where further evidence of family links is needed.

- Working in partnership with other European governments, the Government should invest in ensuring unaccompanied and separated children have access to high quality legal assistance to enable children to join family members in the UK through Dublin III, and fund improved measures for identification of and support for unaccompanied and separated children in Europe.

- The Government should ensure that children in Europe have information about the procedure for reuniting children with their families in the UK via the Dublin procedure. This must be in a form and language that a child can understand, be provided within 72 hours of the child’s arrival (or identification) and include information about how asylum transfers are processed, detail on the likely timeframes involved, and the criteria on which decisions are based.

- The Government should publish guidance on the handling of Dublin III family reunion cases, including a maximum time limit of three months for the whole transfer process, and a clarification of responsibilities and procedures for assessing UK-based family members of unaccompanied and separated children ahead of any transfer. At the local level, central government should ensure local authorities have sufficient funding and capacity to conduct such assessments to enable Dublin transfers to be expedited while safeguarding the best interests of the child.
REFUGEE FAMILY REUNION UNDER THE UK IMMIGRATION RULES

The UK’s Immigration Rules are an important part of the picture on family reunion. The UK Government has granted 21,000 family reunion visas and 175 visas for exceptional circumstances over the past five years. However, the data held by the Government on family reunion visas does not specify how many of these applicants were under the age of 18 and therefore it is unknown how many of these cases involved children being reunited with their families.

The UK’s immigration rules can apply to children anywhere in the world, and can therefore provide a safe and legal route for children, avoiding the need for them to embark on perilous journeys to Europe. Yet the UK’s own rules on family reunion are very limited and do not currently take a child-sensitive approach to family reunion that protects and promotes the best interests of the child.

Part 11 of the UK Immigration Rules currently state that: “Your partner or child can apply to join or stay with you in the UK if: you were separated when you were forced to leave your country, [or] you’ve been given asylum or 5 years’ humanitarian protection but don’t yet have British citizenship.” This applies only to spouses or partners, and to children under 18 and born before the family fled. Under these provisions, family reunion visa applications are free of charge and refugee sponsors do not have to show that they will be able to maintain and accommodate their family members without recourse to public funds on arrival. Yet these rules fail to recognise that after years of conflict, many of these children have been orphaned or otherwise separated from their parents – yet they may have grandparents, aunts and uncles, or adult siblings in the UK who could care for them.

Under certain sections of the Immigration Rules, it is possible for other extended relatives to sponsor a dependent child or adult to join them. However there appear to be many obstacles for these rules to function in practice. For example, having just been granted refugee status and prevented from working whilst applying for asylum, relatives often have not yet had the chance to enter the job market. Applicants may therefore be unable to meet the requirements for maintenance and accommodation or afford the application fee. There is also a lack of clarity about how the requirement to demonstrate “serious and compelling family or other considerations” is applied, and this is often seen as a barrier to applications.

There have been some exceptional applications granted for family reunion outside of the rules: in 2011, there were a total of 77, while in 2014 the total was just 12.

There has been progress by Government in considering how the current rules operate in practice, including by ensuring training on such cases for Entry Clearance Officers, and in the development of guidance on the application of exceptional circumstances criteria.

Many unaccompanied and separated children have extended family members in the UK who could care for them, but in practice it appears that under the current rules they are unable to apply to reunite with them. Further, the refugee family reunion rules do not permit a child to sponsor their parent or main carer to join them in the UK. When a child is granted refugee status or humanitarian protection, this is in recognition of the fact that the child cannot live safely in their home country and therefore cannot join their parent there. By preventing children from applying for their parent or main carer to join them in the UK, the rules are enforcing family separation and risk depriving children of their right to family life.

RECOMMENDATIONS FOR THE UK GOVERNMENT ON THE UK REFUGEE FAMILY REUNION RULES

- Widen part 11 of the UK Immigration Rules to include an expanded group of extended family members who have refugee status or humanitarian protection, including adult siblings, aunts/uncles, and grandparents – to sponsor children in their family to join them where this is in the child’s best interests.
- Clarify UK immigration guidance and practices, including in relation to evidential requirements and the definition of conditions of ‘serious and compelling’ circumstances.
- Waive the accommodation and maintenance requirements and the application fee for children falling outside part 11 of the Immigration Rules.
- Interpret and apply the UK Immigration Rules on family reunion in a generous and flexible manner, so that they promote the protection of children and do not act as barriers to children in precarious situations being sponsored where other criteria are met, such as the child’s need for protection and an existing family relationship.
AHMED’S STORY FAMILY REUNION RULES KEEP A BABY FROM HIS PARENTS FOR TWO YEARS

Abdul* is a refugee living in the UK having fled Sudan. He was married before coming to the UK but had to leave his wife behind when he fled. After being granted refugee status, Abdul went to visit his wife and during this visit their son Ahmed was conceived. While she was pregnant, Abdul’s wife applied for a family reunion visa to join her husband in the UK. She was granted a visa the day before she gave birth to their son in a refugee camp in Darfur, Sudan. But because Ahmed was conceived after the family fled, even though his parents were married when they fled, his situation did not meet the UK refugee family reunion rules, so his family reunion application was rejected.

There was no other available route for Ahmed to join his father, so his father appealed. In the meantime Ahmed’s mother was incorrectly advised that she must enter the UK within six months or lose her visa. She made the difficult and painful decision to leave her baby with a friend in the refugee camp, while the family waited for the outcome of the appeal. Thankfully, Ahmed was granted discretionary leave to enter on appeal but it was a further six months before his visa was issued. It took more than two years for baby Ahmed to be reunited with his parents. If the UK’s refugee family rules were widened to include children born after the family fled, or if the Immigration Rules were applied more flexibly, Ahmed would not have been separated from his family for such a long and unnecessary period of time.

*All names changed
Case study provided by British Red Cross

PROTECTING UNACCOMPANIED AND SEPARATED CHILDREN IN THE UK

The UK Government has made the following commitments on protecting unaccompanied and separated children who are in the UK:

1. To support unaccompanied and separated children who are already in the UK
2. To support the transfer of unaccompanied and separated children nationally
3. To review current practice for supporting unaccompanied and separated children, including through ensuring safe accommodation and specialist placements

In 2015, 3,043 unaccompanied and separated children made applications for asylum in the UK. This was an increase of 56 per cent from 1,945 in 2014. The highest number of applications came from children from Eritrea (694), Afghanistan (656) and Albania (456) accounting for more than half of the total applications. Many of these children were so-called “spontaneous arrivals”, having undertaken dangerous, traumatic journeys to reach the UK. All were alone. Some had been trafficked.

A child’s story – and the challenges faced by that child – does not end when he or she enters the UK and claims asylum. It is therefore vital that the Government’s recognises its responsibilities and obligations towards asylum-seeking children as part of its overall response to the refugee crisis in Europe. The Government’s commitment to consider how more can be done to provide safe and specialist accommodation for unaccompanied and separated children in the UK is welcome.

The asylum procedure is a difficult process for any child, let alone an unaccompanied or separated child, to engage with. Where best practice exists, efforts are made to ensure that the child is supported to understand and engage actively with the procedure, and that the child’s best interests are taken into account. Importantly, the duty of care owed by public authorities and the Secretaries of State to unaccompanied and separated children extends to protecting and promoting their best interests.

In practice, there is still no systematic unifying approach to assessing and determining the best interests of unaccompanied and separated children, and research shows that such assessments are, within the immigration system at least, not routinely taking place when making decisions about a child’s case, nor to inform the search for a durable solution.

The asylum procedure itself is neither inherently child focused, nor does it look holistically at the needs of each child. Children experience multiple assessments, interviews and decision points with many different agencies, sometimes with little understanding of the purpose of these interactions and the impact they may have on the child’s future.

Unaccompanied and separated children are looked after by the local authority in which they first come to the attention of the authorities. They have the same entitlements as any other “looked after” child. Yet these children experience many additional challenges that no child should have to face, including dealing with distress and trauma resulting from their journey to the UK, and uncertainty about their immigration status and therefore their future in the UK. Children must cope with such challenges while lacking parental or other family support – having no one who is legally responsible for them in the UK. They also experience other difficulties such as securing high quality legal advice, finding safe and stable accommodation, and (for older children especially) accessing appropriate education. Unaccompanied and separated children, and particularly those who have been trafficked, remain at a higher risk of going missing. Some children face disputes about their age, which can have significant implications for the support they receive from local authorities and the way a child’s application for asylum is assessed. Doubts about credibility, particularly where a child’s story may be conflicting or confused, can have a serious impact on the well-being of a child.

The increase in applications from unaccompanied and separated children, and the proportion of unaccompanied and separated children in a small number of local authorities, has put an already flawed system under additional strain – exacerbating difficulties that children were already experiencing, and leaving some children without the support they so desperately need to meet both their immediate and longer term needs.
To tackle this, the Government is establishing a “transfer scheme” to encourage (and require if necessary) local authorities with fewer unaccompanied and separated children within their child population to take legal responsibility for unaccompanied and separated children from other areas. The aim of the scheme is to ensure a more balanced distribution of responsibility for unaccompanied and separated children. It is important that, within the transfer scheme, key safeguards are in place to protect the rights and best interests of unaccompanied and separated children, including ensuring that the child’s views are ascertained and taken into account; that transfers are effected within a short period of time (with appropriate protections for children); high quality legal advice and representation are available in the area to which the child is transferred; and children remain within a one-tier child protection system, ensuring mainstream services are enhanced with access to specialist support.

RECOMMENDATIONS FOR UK GOVERNMENT ON PROTECTING UNACCOMPANIED AND SEPARATED CHILDREN WHO ARE IN THE UK

- Establish independent guardians for all unaccompanied and separated children, including trafficked children, in England and Wales to advocate for the child’s best interests across all settings, instruct solicitors on the child’s behalf, and to act as a guide and trusted point of contact for the child.
- Commit to exploring and establishing a multi-agency Best Interests Determination procedure for children, to identify a durable solution for each child, aligning lead responsibility for the determination of an individual child’s best interests to the agency responsible for the child’s overall welfare.
- Regularly review the impact of the transfer scheme for unaccompanied and separated children on individual children, including in relation to children’s access to services, and ensure that children’s views are taken into account in any transfer decision.

The UK Government has made the following commitments to protecting trafficked children in the UK:

1. The Government recognises the need to provide support for children who are already in the UK and have been subject to or at risk of trafficking and exploitation.
2. UK Anti-Slavery Commissioner tasked to visit Greece and Italy to assess what more can be done to protect children from traffickers.

In 2014, 732 of those identified as victims or potential victims of trafficking in the UK were children at the time of their exploitation. This is a 22 per cent increase in the number of children identified (602) in 2013, which in turn was a 10 per cent increase from 2012. It is widely accepted that these figures massively underestimate the scale of human trafficking in the UK. The most common countries of origin for non-British trafficked children in the UK are Vietnam, Albania and Slovakia. Over the past year and a half, as the refugee crisis has intensified, we have seen a significant increase in the number of unaccompanied and separated children coming to the attention of the authorities in the UK. These children are among the most vulnerable to violence, abuse, and exploitation, and many may have been trafficked.

Increasing border restrictions across Europe are encouraging children to put themselves in the hands of smugglers and traffickers.

As part of the UK Government’s commitment to resettle unaccompanied and separated children from conflict regions in January 2016, the Home Secretary asked the UK Independent Anti-Slavery Commissioner to visit Greece and Italy to

MARIE’S STORY
FINDING PROTECTION THROUGH GUARDIANSHIP

Marie* was 14 when she first came to the attention of the authorities in the UK. Marie had been living alone on the streets in her home city following the death of her parents, and was raped and sexually abused multiple times. She was brought to the UK by a man she was not related to, who had initially provided her with shelter, food and protection, and promised her the opportunity of an education. However, once in the UK, the man made Marie work as a prostitute.

Marie managed to escape from him and, through community contacts, found her older sister in Edinburgh, who had leave to remain in the UK. But the sisters did not know each other well, as Marie’s sister had left home when Marie was a baby. Their relationship subsequently broke down.

Marie and her sister had turned to a voluntary organisation for help and Marie was quickly recognised as being a victim of trafficking by her legal representative, and referred to the Scottish Guardianship Service. Marie was involved in child protection, asylum and trafficking processes. Her guardian provided a stable and trusted single contact for Marie across these different systems, acting as Marie’s responsible adult and advocating for her best interests in meetings with the Home Office and with Marie’s legal representative, as well as in her applications for trafficking compensation and travel documents.

The guardian put pressure on local social work services to ensure child protection concerns were acknowledged and addressed, and supported Marie to access and settle into foster and residential care placements when her family relationship broke down. The guardian also helped Marie to engage with sexual health services and therapeutic counselling. Although Marie now has refugee status in the UK, she no longer has any contact with her family and has been accommodated on an emergency basis by the local authority. Marie remains incredibly vulnerable to exploitation, and her guardian continues to play a crucial role in helping her to remain safe.

*Name changed
Case study provided by Scottish Guardianship Service
advise on further action to protect children from trafficking. At the time of writing, these visits were under way.

Trafficked children are entitled to the same care and support from local authority children’s services teams as any other child, regardless of whether they have been formally recognised as a trafficked child. Some go on to claim asylum, although no data is collected about how many of these applications are made or are subsequently successful. In day-to-day life, trafficked children face many of the same experiences and challenges as unaccompanied and separated children in terms of accessing care and support, and determining their legal status. However, they may also be involved in ongoing criminal investigations or proceedings either as witness or defendant, and continue to be at risk from their traffickers. Some children are not immediately recognised as victims of trafficking, which can mean they are inappropriately detained and prosecuted (this has been a persistent problem in relation to boys exploited for labour or criminal purposes), or be unable to access specialist support or safe accommodation. Trafficked children will have been taught to trust their traffickers, and as such remain at particular risk of going missing. For example, during the recent trial of independent child trafficking advocates in England, 17 per cent of the whole cohort of children went and remained missing, among other things.

In 2015, human trafficking and modern slavery legislation was enacted in each nation of the UK to improve prosecution rates and victim identification, and to strengthen victim support – with each law including specific (and differing) measures relating to children. These include, inter alia: the extension of independent guardians to all unaccompanied and separated children in Northern Ireland and Scotland, and the provision of child trafficking advocates for potential child victims (including British children) in England and Wales; presumption of age provisions for trafficked children; a statutory defence for trafficking victims for crimes committed as a result of being trafficked; stronger guidelines on the non-prosecution of trafficking victims in Scotland; the reform of the victim identification process (the National Referral Mechanism) to ensure it works more effectively and efficiently in the interests of victims; and the establishment of a UK Independent Anti-Slavery Commissioner.

There is, of course, more that needs to be done. Recent research by Unicef UK into the consideration of the long-term needs of trafficked children demonstrated a lack of understanding on the part of social workers of the immigration system, which acted as a barrier to them being able to effectively support trafficked children. It was also clear that many professionals working with these children were waiting for confirmation of trafficking before assessing a child’s protection needs, putting children at additional risk of going missing, among other things.

This destabilised the care, support and quality of professional relationships available to trafficked children.

The UK and devolved governments have stepped up their anti-trafficking response in recent years. In 2015, human trafficking and modern slavery legislation was enacted in each nation of the UK to improve prosecution rates and victim identification, and to strengthen victim support – with each law including specific (and differing) measures relating to children. These include, inter alia: the extension of independent guardians to all unaccompanied and separated children in Northern Ireland and Scotland, and the provision of child trafficking advocates for potential child victims (including British children) in England and Wales; presumption of age provisions for trafficked children; a statutory defence for trafficking victims for crimes committed as a result of being trafficked; stronger guidelines on the non-prosecution of trafficking victims in Scotland; the reform of the victim identification process (the National Referral Mechanism) to ensure it works more effectively and efficiently in the interests of victims; and the establishment of a UK Independent Anti-Slavery Commissioner.

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This briefing sets out the wide-ranging commitments that the UK Government has made to unaccompanied and separated children as part of its response to the refugee crisis in Europe, and more broadly. If fully realised, these commitments - together with the further action called for by Unicef UK - would provide strong protection for this very vulnerable group of children and offer them real hope for the future.
RECOMMENDATIONS FOR THE UK GOVERNMENT

RESETTLEMENT

- Resettlement decisions must be based on an individual Best Interests Determination for each child.

FAMILY REUNION UNDER THE DUBLIN III REGULATION

- The Government should ensure that there is adequate investment and resourcing of the system across Europe enabling the transfer of responsibility for the asylum claim of the child where the child has family links in the UK, including by deploying further Home Office staff to work on the proactive identification, verification, processing and transfer of UK family reunion cases, and make special provision for cases where further evidence of family links is needed.
- Working in partnership with other European governments, the Government should invest in ensuring unaccompanied and separated children have access to high quality legal assistance to enable children to join family members in the UK through Dublin III, and fund improved measures for identification of and support for unaccompanied and separated children in Europe.
- The Government should ensure that children in Europe have information about the procedure for reuniting children with their families in the UK via the Dublin procedure. This must be in a form and language that a child can understand, be provided within 72 hours of the child’s arrival (or identification) and include information about how asylum transfers are processed, detail on the likely timeframes involved, and the criteria on which decisions are based.
- The Government should publish guidance on the handling of Dublin III family reunion cases, including a maximum time limit of three months for the whole transfer process, and clarification of responsibilities and procedures for assessing UK-based family members of unaccompanied and separated children ahead of any transfer. At the local level, central government should ensure local authorities have sufficient funding and capacity to conduct such assessments to enable Dublin transfers to be expedited while safeguarding the best interests of the child.

THE UK REFUGEE FAMILY REUNION RULES

- Widen part 11 of the UK Immigration Rules to include an expanded group of extended family members who have refugee status or humanitarian protection, including adult siblings, aunts/uncles, and grandparents – to sponsor children in their family to join them where this is in the child’s best interests.
- Widen the definition in part 11 of the Immigration rules to include children born after the family fled their country of origin.
- Allow unaccompanied and separated children to sponsor their parent/main carer to join them in the UK.
- Clarify its immigration guidance and practices, including in relation to evidential requirements and the definition of conditions of ‘serious and compelling’ circumstances.
- Waive the accommodation and maintenance requirements and the application fee for children falling outside part 11 of the Immigration Rules.
- Interpret and apply the UK Immigration Rules on family reunion in a generous and flexible manner, so that they promote the protection of children and do not act as barriers to children in precarious situations being sponsored where other criteria are met, such as the child’s need for protection and an existing family relationship.

PROTECTING UNACCOMPANIED AND SEPARATED CHILDREN WHO ARE IN THE UK

- Establish independent guardians for all unaccompanied and separated children, including trafficked children, in England and Wales to advocate for the child’s best interests across all settings, instruct solicitors on the child’s behalf, and to act as a guide and trusted point of contact for the child.
- Commit to exploring and establishing a multi-agency Best Interests Determination procedure for children, to identify a durable solution for each child, aligning lead responsibility for the determination of an individual child’s best interests to the agency responsible for the child’s overall welfare.
- Regularly review the impact of the transfer scheme for unaccompanied and separated children on individual children, including in relation to children’s access to services, and ensure that children’s views are taken into account in any transfer decision.

PROTECTING TRAFFICKED CHILDREN

- Ensure the best interests of the child is the guiding operational principle for the reformed National Referral Mechanism (NRM).
- Ensure trafficked children are protected from inappropriate detention, prosecution and punishment, including by monitoring the use of the statutory defence by children in England and Wales and (for Scottish Government) the impact of the Lord Advocate’s non-prosecution guidelines in Scotland.
- Review forms of leave available to child victims of trafficking, ensuring that an additional form of leave is available for children recognised as victims by the NRM, for whom it is in their best interests to remain in the UK.
- Adapt and extend its anti-trafficking response in relation to the refugee crisis in Europe, based on advice received from the Independent Anti-Slavery Commissioner.

THE REFUGEE CRISIS IN EUROPE: THE UK’S ROLE IN PROTECTING THE RIGHTS OF UNACCOMPANIED AND SEPARATED CHILDREN

A girl prepares to board a train as she continues her journey through Europe.
Glossary of Terms

Child asylum seeker – a child who has applied for protection in the United Kingdom under the UN Convention Relating to the Status of Refugees

Durable solution – there are three forms of durable solution – a return to the child’s country of origin; settlement and integration into the host country; or relocation to a third country (including family reunion or resettlement)

Child refugee – a child who has been granted refugee status under the UN Convention Relating to the Status of Refugees; this is likely to result in five years leave to remain

Separated child – a child who is separated from both parents or from their previous primary care giver, but not necessarily from other relatives

Trafficked child – a child who has been recruited, transported, transferred, harboured or received for the purpose of exploitation

Unaccompanied child – a child who is separated from both parents and is not being cared for by an adult who by law or custom has responsibility to do so

Endnotes


2. Ibid


4. Ibid


9. The UK refers to “relocation” from Europe rather than “relocation”, unlike other EU Member States.


15. Answer to Parliamentary Question by James Brokenshire on 9 May 2016

16. UK Immigration Rules, Part 11


18. UK Immigration Rules Part 11


23. Section 55, Borders, Citizenship and Immigration Act 2009 – duties to safeguard and promote the welfare of children in the UK subject to immigration control
Children are fleeing war and disaster in greater numbers than at any time since World War 2. Thousands of refugee children are taking perilous journeys to and across Europe in search of safety.

Many are alone and in danger. These unaccompanied and separated children are among those most vulnerable to violence, abuse and exploitation during their journeys and in camps along the way.

Unicef needs you to help us keep unaccompanied and separated children safe and reunite them with their families.

Cover image: A Unicef worker comforts a child refugee in a town on the border of FYR Macedonia and Greece.

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