

Immigration Bill: Report Stage

AMENDMENT 115 Unaccompanied refugee children

Lord Dubs, Lord Roberts of Llandudno, Lord Alton of Liverpool, Baroness Sheehan

This briefing relates to Amendment 115 which calls on the Secretary of State to relocate 3,000 unaccompanied children to the UK from European countries in addition to the resettlement of children under the Vulnerable Persons Relocation Scheme.

Insert the following new Clause—

“Unaccompanied refugee children: relocation and support

- (1) The Secretary of State must, as soon as possible after the passing of this Act, make arrangements to relocate to the United Kingdom and support 3,000 unaccompanied refugee children from other countries in Europe.
- (2) The relocation of children under subsection (1) shall be in addition to the resettlement of children under the Vulnerable Persons Relocation Scheme.”

Introduction

- **We welcome this proposal to provide support for unaccompanied refugee children across Europe and we believe it is right to highlight the UK’s moral responsibility when there are many refugee children in Europe whose welfare and safety is at risk.**
- **However, for this reform to be most effective, the UK Government must demonstrate a commitment to acting in the best interests of the child when making decisions and shaping policy. We believe this necessitates additional reforms:**
 - **extending the family reunion rights to unaccompanied children so that they can be reunited with their parents within the UK**
 - **granting indefinite leave to remain to unaccompanied children resettled in the UK so they are not left with an unresolved immigration status**
 - **appointing an independent legal guardian to all unaccompanied children who end up in the UK to support them through the complex legal, immigration and welfare processes**
 - **giving local authorities sufficient resources to support the welfare and protection needs of these children**
- **It must also not be forgotten that there are thousands of unaccompanied refugee and migrant children already in the UK whose welfare is at stake. Many of these children will have experienced unimaginable trauma and hardship and all must be provided with protection and treated with humanity and dignity.**

Family reunion for separated and unaccompanied children

Separated child who find themselves in the UK and are accepted as refugees, do not have a right to family reunion like adults and it is assumed that this will remain the case for any unaccompanied child who might be brought to the UK from within Europe. For this reason, Amendment 115 must be debated in conjunction with Amendment 120 which reviews the rules relating to refugees reuniting with family members.

Current UK immigration rules do not give children the same entitlements to be reunited with their parents, as adults have to be reunited with their children. Instead they must rely on discretionary provisions. The Minister claims this is to avoid the prospect that children will be sent ahead on dangerous journeys in the hope of achieving the later migration of their parents. However, if children are granted refugee status and accepted as being in need of international protection, then it seems their parents were right to send them to safety. In addition the government has an obligation under domestic and international law to protect the best interests of the children already in this country and denying the

right to be reunited with their families in safety is not in their best interests. Article 10 of the EU Directive on Family Reunion sets out provisions for a child's right to family reunion and this is applied in the vast majority of EU countries. In its inquiry into the Human Rights of Unaccompanied Migrant Children and Young People in the UK¹ in 2013, the Joint Committee on Human Rights also recommended that '*where a child is granted refugee status he or she should have the possibility of being reunited with family members, as is the case for adults in the same situation*'. There is also a risk that the resettlement process of unaccompanied children would be hindered by these narrow family reunion rules. This is because resettlement may not be assessed as being in the best interests of these children if being reunited with their family at a later date could be made more difficult by being relocated to the UK.

Recommendation: The Government should allow separated children who have been recognised as refugees to be eligible to be a sponsor for family reunion in the UK.

Durable Solution crucial for long-term stability

All children coming to the UK must be offered stability and permanence once they are here. The UK must offer children a durable solution which has their immediate safety, as well as their long-term best interests, in mind. Children must receive a consistent level of support, so that they are able to recover and rebuild their lives in the UK.

Our recent research looking at durable solutions for separated migrant children² has highlighted that for a sizeable number of separated and unaccompanied children, no clear resolution to their situation is considered. Upon turning 18 years old, these young people are likely to be left without status even if they have strong legal arguments for remaining in the UK and often face destitution and homelessness. The Home Office is eager to return these young people to their countries of origin as part of its function to control migration. While it is important to consider this when and where it is safe, the current policies and processes do not allow for this to happen systematically in a way that is consistent with children's best interests.

This situation is set to worsen with the passage of the Immigration Bill. Schedule 11 of the Bill will prevent local authorities providing leaving care support under the Children Act 1989 to young people who do not have leave to remain and do not have an asylum claim or first immigration application pending when they reach the age of 18 years. These provisions effectively override children and leaving care legislation and policy overall to prioritise immigration control over young people's welfare considerations. It creates a two-tier system of support for care leavers based on their immigration status. The corporate parent duties of local authorities would be severely limited. Furthermore, since 2012³ young people with limited leave to remain have not been eligible for home fees or student finance when they want to access university. This has meant that these young people are effectively cut off from higher education because they cannot afford to pay the fees and support themselves through the course. Schedule 11 of this Bill also prohibits local authorities from providing funding to facilitate access to higher education to any care leaver aged over 18 who has limited leave to remain.

Without a lasting immigration status, unaccompanied children being resettled as a result of this amendment could be adversely affected by these provisions as they transition to adulthood.

Recommendation: Unaccompanied children resettled to the UK should receive indefinite leave to remain so they are not left with an unresolved immigration status when they turn 18 years old. The government should retain full leaving care duties for all care leavers, regardless of their status and provide support to young people to meet their welfare needs.

Local authority response must be comprehensive

In a context of widespread cuts to local authority budgets, it is essential that local authorities are sufficiently supported to provide effective care for unaccompanied children resettled from Europe - for example appropriate foster care or supported housing, access to legal advice and representation, education, healthcare and therapeutic support, and support to navigate the complexities of the immigration and asylum system. Many councils have seen an unprecedented rise in the number of unaccompanied children needing their support with Kent County Council for example, recently reporting

¹ First report of session 2013-2014, HL Paper 9, HC 196, May 2013. <http://www.publications.parliament.uk/pa/it201314/itselect/itrights/9/9.pdf>

² The Children's Society (2015) *Not just a temporary fix: Durable solutions for separated migrant children*

<http://www.childrenssociety.org.uk/what-we-do/resources-and-publications/not-just-a-temporary-fix-durable-solutions-for-separated>

³ Changes via the Education (Student Fees, Awards and Support) (Amendment) Regulations 2011

that they have no more foster placements available and that they are short of social workers⁴. In response to this demand, an amendment⁵ to the Immigration Bill sets out arrangements for the transfer of responsibility of these children between local authorities.

Recommendation: Before asking local authorities to support more unaccompanied children it is crucial the Government has the transfer scheme finalised and that the best interests of any child subject to a transfer are reflected in the arrangements. Sufficient funding must also be offered to local authorities taking on children from other authorities.

A system of legal guardianship required

The vulnerabilities and additional needs of separated and unaccompanied migrant children are widely recognised, and unaccompanied children arriving through a resettlement scheme are no exception. We find that weaknesses in current social care systems mean that separated children often fall through gaps in provision and experience they experience poorer standards of supervision, accommodation and rehabilitative services⁶. These children need one consistent, trusted and trained individual to oversee and help them navigate through complex legal, immigration and welfare processes. Many other European countries, including Scotland⁷ have a system of advocates or guardians designed for all separated children. A similar scheme would ensure the UK complies with its responsibilities highlighted by the UN Committee on the Rights of the Child⁸.

Recommendation: An independent legal guardian should be appointed to all separated and unaccompanied children ensuring they are supported to overcome language and cultural barriers and to know and access their rights by holding local agencies to account.

Questions to the Minister

- ***Will the Minister confirm that any refugee children resettled seeking to be reunited in the UK with parents overseas will have the same rights to family reunion as adult refugees?***
- ***Will the Minister consider providing independent legal guardians to all separated children?***
- ***Will the Minister confirm that any refugee child resettled will receive a durable solution in their best interests?***

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⁴ Kent County Council in lone child refugees warning (October 2015) <http://www.bbc.co.uk/news/uk-england-kent-34606505>

⁵ New Clause: Transfer of responsibility for relevant children <http://www.publications.parliament.uk/pa/bills/cbill/2015-2016/0074/amend/pbc0742711a.pdf>

⁶ Dorling K. and Hurrell A. *Navigating the System: Advice provision for young refugees and migrants* 2012. London: Coram Children's Legal Centre: http://www.seekingsupport.co.uk/images/navigating_the_system_final.pdf

⁷ Crawley H. and Kohli R. *She endures with me: An evaluation of the Scottish Guardianship Service Pilot*.

2013 http://www.scottishrefugeecouncil.org.uk/assets/6798/Final_Report_2108.pdf

⁸ UN Committee on the Rights of the Child, General Comment No. 6 (2005) - Treatment of unaccompanied and separated children outside their country of origin, para 33. Also see the Committee's concluding observations in the 2014 UK report.