

Education Committee's Inquiry into care for young people 16+



Written Evidence - The Children's Society March 2014

1. Introduction

- 1.1. The Children's Society is a leading charity committed to improving the lives of thousands of children and young people every year. We work across the country with the most disadvantaged children through our specialist services and children's centres. Our direct work with vulnerable groups including disabled children, children in or leaving care, refugee, migrant and trafficked children, means that we can place the voices of children at the centre of our work.
- 1.2. We run 11 projects supporting young people in care and 8 projects supporting unaccompanied asylum seeking children. We also run 13 specialist projects working with children who run away or go missing and/or are at risk or victims of sexual exploitation. Many of these children are known to social services as children in need or children on the edge of care.
- 1.3. We welcome this important inquiry into support provided to children 16 and older. Our submission is informed by learning from our direct work with vulnerable children and young people, consultation exercises with young people involved in our projects and consultation with our practitioners supporting vulnerable young people.

2. Summary of key points and recommendations

- 2.1. We welcome the changes being made by the government to give children in care who are placed with foster carers a choice to remain in their placements till they are 21. It is a positive development that will benefit those young people who are in settled and stable foster care placements and have positive relationships with their foster carers.
- 2.2. We believe, though, that wider changes are needed to how all children in care are supported in their transition to adulthood, including children in residential care and young people who have experienced multiple placement breakdowns and do not have an experience of a settled foster care placements. We recommend that all children in care should be offered a range of support services, tailored to the individual needs of the child, to enable them to move to adulthood at a pace suitable to them and at time when they are ready, rather than depending on their age, gender, type of placement or their immigration status.
- 2.3. We believe that there should not be a cut-off point in terms of transition to adulthood and flexible support should be provided jointly by children's and adults' services for young people 18+, including giving young people in residential care the right to remain in their placements till 21.
- 2.4. We believe that the needs of young people 16+ who do not qualify for leaving care support because they are not eligible, relevant or former relevant children need to be addressed. Evidence from our practice show that they are very vulnerable and are more likely to have multiple accommodation moves, experience poor quality of accommodation and have little or no support from social services.
- 2.5. As the support young people receive when they reach the age of 16 depends to a great extent on how they were supported by social services prior to turning 16, we believe it is of a paramount importance that there is a greater focus on adolescents at risk both in training for professionals and in Ofsted inspections, to ensure that the child protection

framework is applied properly to this group of children and to prevent their needs worsening when they turn 16.

- 2.6. We believe that it is of crucial importance that all vulnerable children aged 16+ have access to an independent advocate to help them navigate the system, ensure they are heard in decisions made about them and help them challenge service providers not fulfilling their obligations.

3. The need for wider change

- 3.1. Children in care are extremely vulnerable – just over 60% of them have been placed in care because of neglect, abuse or trauma¹. They are three times more likely to run away than other young people, with an estimated 10,000 going missing every year.² The DFE Data Pack on children's homes published on 13 September 2013 also shows that these children are more likely to have additional needs, such as behavioural, emotional, social and learning difficulties and are more likely to have more placement breakdowns.
- 3.2. Looked after young people leave care at a much younger age than children in families. Of 9,990 young people 16+ who ceased to be looked after around a third left care at the age 16-17³. Despite the plethora of guidance and growing understanding that leaving care early is often detrimental to the long-term outcomes for children and young people, many young people tell us that they still feel they are pushed towards making a decision to move into semi-independent or independent living arrangements at an age when they are still too young. *'At 16 a young person from a normal family thinks about getting a car and having driving lessons but all you can think about is being homeless'*. Also young people feel that once that the decision has been made there is no way to return to other arrangements, if things do not go as well as expected.
- 3.3. Around 75% of looked after children are placed with foster carers⁴. Many children in foster placements have positive and stable care experiences and will benefit from changes introduced by the government giving them an opportunity to stay with their foster carers till 21. At the same time from our direct work with looked after children we know that not all children have positive placement experiences. *'My foster mum kept all my pocket money, kicked me out on my 18th birthday and then posted through the door [a bill] for everything I owed her for.'*⁵ Analysis of our advocacy cases also shows that issues related to placement decisions or quality of placements comprise the biggest part of our advocacy case load⁶. This includes poor quality of placements, safety of placements, frequent and abrupt changes to placements, often without preparation and consultation with children themselves and placements not meeting the needs of the child⁷.
- 3.4. Recommendations on improving care for 16+
- *Staying put in foster care till 21 is not going to be an option for many children in the looked after system, therefore it is very important to look at factors enabling successful transitions to adulthood for all young people in care. Issues that need to be addressed include: pathway planning that starts long before the decision is made about leaving care, opportunities for young people to meaningfully participate in decisions made about their future, support for young people to learn the practical skills needed for independent living and a gradual transition to independent living. It is also important to keep links*

¹ DfE (March 2012) *Children's Homes in England Data Pack*, London: HM Government

² UK Missing Persons Bureau (2012) *Children Missing from Care* NPIA p.2

³ Department for Education (2013) Statistical release. Children looked after including adoption.

⁴ Department for Education (2013) Statistical release. Children looked after including adoption.

⁵ Quotes here and further in the text are from the consultations with looked after young people and care leavers involved in our projects

⁶ Pona, I., Hounsell, D. (2012) *The value of independent advocacy for looked after children and young people* London: The Children's Society

⁷ Pona, I., Hounsell, D. (2012) *The value of advocacy for looked after children* London: The Children's Society available from http://www.childrenssociety.org.uk/sites/default/files/tcs/the-value-of-advocacy_final.pdf

open with care leavers, not only in terms of advice and support around education but also in relation to advocacy and help in other issues, eg. finding housing. This is an important safeguard for young people to know that they always have somewhere to fall back on and it helps to provide them with the confidence to take steps forward in their lives and their independence.

- We welcome that the government is introducing changes to provide greater oversight when decisions are made that a young person can leave care at the age of 16 or 17. We believe that this responsibility should extend to monitoring on how young people who left care at this age adapt to a more independent life to ensure that additional support is offered if there are problems and that young people can return into care arrangements if they do not feel ready to live independently.*
- The vulnerable 16+ population also includes children who are not receiving relevant support either because of their immigration status or because they are not entitled to leaving care support. The needs of these children need to be addressed as well.*

4. Factors that impact on transition to adulthood: pathway planning

Pathway planning for children in care

4.1. Pathway planning for looked after children often does not start early enough and some young people are not even aware that they have a pathway plan or the purpose of such plan. Young people we consulted with told us that the quality of planning depended on how much young people were involved in the process and whether there was a choice in what support and accommodation were available locally. There is a great inconsistency across different areas in relation to how pathway planning is done, what issues are addressed and whether plans are adhered to by different services. While some young people told us that they understood the purpose of their review meetings and the purpose of their care plans and pathway plans and felt that their views, wishes and aspirations were central to the care planning processes, others felt that care planning was a tick box exercise meant to establish whether they were aware of dangers of drugs or risky behaviours rather than focussing on what young people considered as important issues for them. Some young people felt that even when they have a say, the actions agreed were not delivered on by professionals and young people had to go back and keep reminding them.

'My pathway plan is a waste of paper, waste of a tree. They may as well let the tree live longer'

Emotional wellbeing and mental health needs as part of pathway planning

4.2. Care leavers we have consulted often report feeling of isolated and not having a social network to support them when they leave care. It is very important that pathway planning focusses on relationships and how to support young people to develop networks to the same extent as on issues around accommodation, education etc. For example, relations with siblings, family or friends should be explored and addressed in review meetings and pathway planning before decisions are made about leaving care. Young people also often report that their emotional and mental health needs are ignored or dismissed and they are often left to cope on their own or find out where to go for help.

4.3. Care leavers who come to the UK as unaccompanied children are particularly vulnerable and often have significant mental health issues. One young person that The Children's Society worked with, who was made homeless by a local authority unlawfully shortly after turning 18 because he had exhausted his asylum appeal rights⁸, stayed in unsafe places and regularly experienced violence and abuse on the streets from passers-by. He did not know where else to turn and he tried to commit suicide on more than one

⁸ See more information about support for care leavers who are 'appeal rights exhausted' in the later section of the evidence.

occasion.⁹ As this case highlights, young people do not always get the support they need from statutory agencies who are responsible for their welfare or are withdrawn support as they transition into adulthood, despite continuing needs. We know from research that separated children are at a high risk of mental health problems. Various systematic reviews estimate that 19% to 54% of separated children suffer from symptoms of Post-Traumatic Stress Disorder compared to 0.4%-10% of other children in the UK¹⁰. This highlights the vulnerability of separated children and risks they face beyond their 18th birthday when their immigration status is unresolved.

- 4.4. Since 2005 The Children's Society, in collaboration with the University of York, has run a research programme which has developed robust methods for measuring and understanding the subjective well-being of children and young people across the UK¹¹ founded directly on the views of children and young people. We have established a national dataset on subjective well-being through asking well-being questions to over 30,000 children and young people aged 8 to 16¹². Our research shows that children who do not live with their families are five times more likely to have low subjective wellbeing.

Learning practical skills

- 4.5. Many young people we work with tell us that they are not supported to develop practical skills to live independently such as cooking and budgeting. They would also like to be told about their entitlements, how to apply for benefits etc. *'They give you a certain amount of money but no support of how to manage your money. At the moment I have no gas so I have to knock at my next door neighbour for a shower'*. Our practitioners find that young people who are placed in hostels or even Bed and Breakfasts often do not have any opportunities to learn how to cook and yet their placements are deemed by social services as such that meet their needs.

Having a say

- 4.6. Looked after children and care leavers often report feeling powerless and unable to contribute when decisions are made that affect their lives. Even though the legislation and statutory guidance¹³ requires that a child's wishes and feelings are ascertained when decisions are made about them, this does not happen in many cases¹⁴¹⁵. Children in care have the right to be supported by independent advocates to communicate their views and wishes. Evidence suggests that advocacy support is not always offered to young people and some of the most vulnerable children in care, such as children with complex communication needs and children placed away from their local areas, have fewer opportunities to be heard and to be supported by an advocate¹⁶¹⁷¹⁸. Our own research

⁹Case study of Peter* from The Children's Society's report 'I don't feel human' (2012):

http://www.childrenssociety.org.uk/sites/default/files/tcs/research_docs/thechildrenssociety_idontfeelhuman_final.pdf

¹⁰ Bronstein, I., & Montgomery, P. (2011). *Psychological distress in refugee children: a systematic review*. *Clinical child and family psychology review*, 14(1), 44-56; Fazel, M., Reed, R. V, Panter-Brick, C., & Stein, A. (2012). *Mental health of displaced and refugee children resettled in high-income countries: risk and protective factors*. *Lancet*, 379(9812), 266-82; Huemer, J., Karnik, N. S., Voelkl-Kernstock, S., Granditsch, E., Dervic, K., Friedrich, M. H., & Steiner, H. (2009). *Mental health issues in unaccompanied refugee minors*. *Child and adolescent psychiatry and mental health*, 3(1), 13.; National Collaborating Centre for Mental Health. (2005). *Post-traumatic stress disorder*. London. Retrieved from <http://www.nice.org.uk/nicemedia/live/10966/29772/29772.pdf>

¹¹More information available from <http://www.childrenssociety.org.uk/what-we-do/research/well-being/background-programme-0>

¹² The Good Childhood Report 2012. A review of our children's well-being. Available from

http://www.childrenssociety.org.uk/sites/default/files/tcs/good_childhood_report_2012_final_0.pdf

¹³ Children Act 1989 guidance and regulations (Dfe, 2010), IRO handbook (2010)

¹⁴ Ofsted (2013) Thematic review of Independent Reviewing Officers.

¹⁵ Ofsted (2012) Children in Care monitor

¹⁶ Franklin, A., Knight, A. (2011) *Someone on our Side: Advocacy for disabled children and young people*. The Children's Society

¹⁷ Mitchell, F (2007) *When will we be heard? Advocacy provision for disabled children and young people in England*, The Children's Society

into advocacy showed that where children were supported to participate and understand decisions made about their care and transition from care they were more likely to be happy with those decisions and co-operate with their implementation.¹⁹

4.7. Many children are not told about their right to advocacy support and not all local authorities commission such services. The two pieces of guidance that related to the provision of advocacy services locally – National Advocacy Standards (2002) and Get it Sorted: Guidance on Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act 1989¹⁹ – are out of date and appear to be archived on the DFE website.

4.8. **Recommendations on improving pathway planning:**

- *We believe that the subjective wellbeing of vulnerable 16+ young people should be measured and taken into consideration when decisions are made about the support they need, moving to independent living, early intervention services if they are at risk of harm and to inform commissioning of services for this age group.*
- *We recommend that pathway planning should address the issues of social skills and networks and practical day to day skills that young people need to live independently.*
- *We believe that young people's participation in decision about their transition to adulthood is paramount and that they must be offered advocacy support to enable them participate in decision making.*
- *We believe that the government should review and re-issue the statutory guidance governing the delivery of advocacy services.*
- *We recommend that Ofsted inspections should include looking at the availability of independent advocacy services, the number of children accessing this service, the number of children participating in their reviews and the number of children supported in these reviews by their advocates.*

5. **Factors that impact on transition to adulthood: Implementation of the statutory guidance provision for young people 16-17 who may be homeless or require accommodation**

5.1. Young people 16-17 who are at risk of homelessness should receive support and accommodation from the children's services. The vast majority should be accommodated under section 20 of the Children Act 1989 and provided with leaving care services when they are deemed ready to leave care. Despite the Southwark judgement²⁰ and the subsequent guidance²¹, our services often still support and advocate on behalf of 16 and 17 year olds who are at risk of abuse, neglect, domestic violence, exploitation or homelessness, or are unaccompanied minors, but are not taken into care and supported according to their needs by children's services as set out in this guidance.

5.2. Although the guidance specifically states that "*bed and breakfast accommodation is not considered suitable for 16 and 17 year olds even on an emergency accommodation basis*"²², we continue to come across young people, including care leavers aged 16-17, who end up in this kind of accommodation. Some local authorities routinely place 16 and 17 year old children in bed and breakfast or other inappropriate accommodation where

¹⁸ Franklin, A., Osborne, C. (2009) Independent reviewing officers' communicating with children with complex communication needs: An investigation for DCSF, The Children's Society

¹⁹ Pona, I., Hounsell, D. (2012) The value of advocacy for looked after children London: The Children's Society available from http://www.childrensociety.org.uk/sites/default/files/tcs/the-value-of-advocacy_final.pdf

²⁰ R (G) v Southwark [2009] UKHL 26

²¹ Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation (2010) DCSF and DCLG

²² Guidance to children's services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. April 2010: <https://www.education.gov.uk/publications/eOrderingDownload/Provision%20of%20accommodation.pdf>

they are at risk of going missing or being subjected to abuse and exploitation. A Newsnight investigation in autumn 2013 revealed that 15,728 children aged 16 and 17 years old asked for help with homelessness from local authorities. Of the local authorities that responded to the FOI request, 148 had unlawfully housed children in bed and breakfast accommodation in 2012.²³ Research by the Law Centres Network which analysed local authority's protocols on housing 16 and 17 year olds revealed that 52% of all local authority protocols make no reference to the fact that the guidance prohibits the use of B&Bs and 61% of protocols do not apply section 20 correctly²⁴.

- 5.3. One stark example of where this guidance was not followed is the serious case review in Manchester of 'Child S'²⁵. Child S was effectively abandoned by his father without any means of support and was not provided with adequate support from the council. He was eventually supported in bed and breakfast accommodation where he was found hanged. It is believed that Child S took his own life. The review found that children's services did not respond lawfully according to his needs despite internal legal advice on the statutory guidance. He should have been looked after at least under Section 20 of the Children Act 1989 to receive a full range of services based on his needs such as health, education and support to deal with the consequences of being abandoned. It is essential that the guidance is implemented properly to ensure that a tragedy like this never happens again.

Quality and safety of accommodation

- 5.4. Young people we work with often tell us that they do not always have a choice of where to live. '*The local authority makes decision about housing providers for care leavers and they do not consult with you on this*'. Accommodation provided is often of poor quality and not safe for young people. Examples provided by practice include:
- a child victim of trafficking aged 17 who was placed in B&B accommodation while her needs were being assessed and later placed in adult housing with both adult males and females
 - Young women housed in multiple bed units with males and potentially gang associated young people
 - Young people living in fear of being robbed by other tenants
 - Young women assessed as being at risk of suicide living in an all male house with other young people who were known to be involved in drug dealing
 - Young woman placed in another local authority's area in independent provision to help her move away from the gang. She was placed in an estate known for its own gangs. Little support was provided to her to move away from the gang culture and soon she started getting involved with the gang in the new location.
 - Young vulnerable women were regularly being placed in accommodation targeted by individuals seeking to exploit vulnerable young people.
- 5.5. Practitioners tell us that often, even where support has been agreed with social services placing children in semi-independent or independent accommodation, that support is not provided to young people and young people are not able to challenge the lack of support on their own and require access to independent advocates. For care leavers 18+ support is not available with accommodation problems and projects often have to help young people negotiate with private landlords, sort out payments and bills etc.

5.6. Recommendation on improving accommodation for 16+:

²³ BBC Newsnight FOI requests – broadcast on 26 September 2013 - 'Councils housing homeless teenagers in B&Bs' by Jim Reed - http://www.bbc.co.uk/iplayer/episode/b03brt5d/Newsnight_26_09_2013/

²⁴ Supporting homeless 16 and 17 year olds The Law Centres Network (2013) <http://www.insidehousing.co.uk/care/councils-flouting-law-on-housing-young-people/6526007.article>

²⁵ Serious Case Review of Child S in Manchester:
<http://resources.leavingcare.org/uploads/60fec78b9daa74ee5c0b036e096a8854.pdf>

- *Local authorities should be inspected on whether they have fully implemented the statutory guidance provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation and should publish data on when B&B accommodation is used to house children and for how long.*

6. Factors that impact on transition to adulthood: financial issues

- 6.1. The APPG on looked after children and care leavers has recently published a report on their inquiry into entitlements for looked after children and care leavers. The report highlighted that very few looked after children and care leavers feel that they have all the information they need about their entitlements. Only 29% of children in care and 17% of care leavers feel that they have all the information they need. Young people we work with confirm that they often are not aware of what support they are entitled to. Benefits and payments are not always sorted out in timely way and young people are left in a situation where they do not have enough money to live on.
- 6.2. There is also big inconsistency in what support is available to young people to set up their first home. We asked our practitioners, for example, about the leaving care grants, young people are given. The government recommends that it should be no less than £2,000. Responses we received indicate that leaving care grants vary from one are to another: *'£2000 though it is also used to secure rent property', 'I work across 4 local authorities and they tend to vary', '£500', '£40-55 per week living allowance'.*

Local authority funding shortfall for supporting unaccompanied asylum-seeking children

- 6.3. Costs incurred in supporting unaccompanied asylum-seeking children can be reclaimed by local authorities from the Home Office. However, evidence to the Joint Committee on Human Rights last year highlighted overwhelmingly that the costs which can be reclaimed do not reflect those actually incurred, with the result that local authorities were obliged either to limit the services they could provide or take on the additional costs²⁶. It has also been highlighted that funding available for 16 and 17 year olds in particular is 'a considerable reduction from the ones for younger children' which represents a drop by around 20% in funding when a child reaches 16 and does not cover the full costs of supporting separated children²⁷. It was suggested that current funding arrangements act as a 'driver' for moving young people from foster placements into semi-independent or independent accommodation²⁸. Evidence to the committee²⁹ also stated that whilst immigration authority guidance specifies that local authorities should continue to fund 'appeal rights exhausted' cases only after a human rights assessment has been conducted, and even then only for a maximum period of 12 weeks, in practice, the continuance of human rights obligations meant that support was still provided, albeit without any contribution from the government.

Benefits for care leavers

- 6.4. With a few exceptions (including young parents, and those with an illness or disability), care leavers aged 16-17 will normally be supported with their living costs and accommodation from their local authority rather than entitled to receive benefits.

²⁶ There was a £43m decrease in spending on asylum-seeking children between 2009/10 and 2011/12, with a further £12m reduction in the 2012/13 financial year. See section under Local Authority Support: <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/908.htm#a18>

²⁷ See oral evidence from Philip Ishola (Association of Directors of Children's Services), Andrew Ireland (Kent County Council), Janet Patrick (Croydon Council) and Richard Ross (Solihull Council) - 22 January 2013, Q 50-82: http://www.parliament.uk/documents/joint-committees/human-rights/Unaccompanied_migrant_children_corrected_oral_evidence.pdf

²⁸ See oral evidence from Jim Wade - 22 January 2013, Q 50-82: http://www.parliament.uk/documents/joint-committees/human-rights/Unaccompanied_migrant_children_corrected_oral_evidence.pdf

²⁹ Para 204: <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/908.htm#n318>

- 6.5. Care leavers aged 18+ may be entitled to receive benefits such as Jobseeker's Allowance (JSA) and Housing Benefit (HB), to support the costs of accommodation and living expenses.
- 6.6. JSA for young people seeking work is normally paid at a substantially lower rate than for older people - £56.80 per week rather than £71.70. We do not believe it is appropriate for young care leavers to receive a lower rate of support than older jobseekers, purely as a result of their age.
- 6.7. Housing Benefit in the private rental sector is called Local Housing Allowance (LHA). LHA for those under the age of 35 is restricted to the amount available for a room in shared accommodation (the so called Shared Accommodation Rate).
- 6.8. Care leavers in receipt of LHA are exempt from this rule up to the age of 21, however, once they reach 22, their LHA entitlement is limited to the Shared Room Rate. We do not believe this is appropriate since it threatens the stability of young care leavers' housing.
- 6.9. Benefits paid to young people 16+ are lower than for older people. Young people felt that this is not helpful as they need more money when they set up their first home to buy furniture, crockery, cutlery etc.
- 6.10. Recommendation on addressing financial issues:**
- *In recognition of their specific needs and vulnerabilities, young care leavers should be entitled to the higher rate of JSA entitlement.*
 - *Care leavers should continue to be entitled to the shared accommodation rate over the age of 22.*
 - *We reiterate the recommendation from the Joint Committee that the system of distributing grant funding to local authorities for the support of separated migrant children should be transferred to the Department of Education to better enable such funding to be allocated according to the real costs that arise in safeguarding these children within each local authority area.*

7. Vulnerable groups within the 16+ population

Disabled children

- 7.1. Disabled children and young people we work with tell us that transition to adulthood can be an extremely stressful experience for them and their families. There is considerable research indicating the difficulties they face including poorly coordinated transition planning, a lack of accessible, comprehensive information about their options for the future and a lack of opportunities for young people to have a say in decisions about their lives. Different working cultures and eligibility criteria in adults and children's services can also make it difficult for disabled young people and their families to navigate the system without support and to access services they need. Research highlights that disabled young people who are looked after, or who are living in out of area placements at residential schools or colleges are often disadvantaged in accessing information and making choices at transition³⁰. The situation is aggravated by the lack of regular contact with their friends and families, vulnerability to abuse and a lack of control of over decisions made about their lives. Yet they are one of the most vulnerable groups of children and young people at risk of abuse and neglect because of their isolation, high level of care needs and the higher number of people involved in their care.

³⁰ Heslop, P. and Abbott, D. (2007) Schools Out: Pathways for Young with Learning Difficulties from out-of-area residential schools or colleges. *Journal of Intellectual Disability Research*, 51, (7), pp489-496); Morris, J. (2002) *A Lot to Say*. Scope, London.

Young people in out of authority placements

7.2. As the DfE data pack on children's home (DfE, September 2013) shows children in out of authority placements often have a range of additional needs. The government statistics on Special Educational Needs indicate that looked after children are three and a half times more likely to have SEN than other children.³¹ Where a young person is placed outside of local authority their leaving care experiences are often complicated by local authorities not being able to agree on funding for adult social care services, or other services.

Unaccompanied and separated migrant children

7.3. The vulnerabilities and additional needs of separated children outside their country of origin are widely recognised³². These are children who are seeking protection from persecution, war and violence; children who have been abandoned by their parents or carers outside their country of origin as well as those who are victims of human trafficking and exploitation. Some are forced to flee their country due to a fear of persecution, such as forced marriage, child labour, or conscription into the armed forces. Some flee because of the persecution of a family member, or to escape war and conflict, human rights abuses, or severe social deprivation. Many have suffered physical, sexual and/or psychological abuse, or witnessed violence or the deaths of family members. Many have experienced conflict first-hand. Once in the UK they find themselves alone, without parents or legal guardians, and the level and quality of support provided to them varies widely and is often woefully inadequate.³³ Furthermore these children are at increased risk of trafficking and exploitation because of their sociocultural alienation and status as separated migrants.³⁴ These vulnerabilities are recognised in international legislation and standards³⁵.

7.4. External research as well as evidence from our services shows that these young people experience significant difficulties in navigating the immigration system and having their claims fairly considered.³⁶ A recent consultation with young refugees from our services³⁷ revealed that children seeking safety in the UK are subjected to a 'culture of disbelief' and suspicion, which leaves them feeling frightened and confused. Our findings suggest that young people are not getting the information they need about the asylum process in a format that is accessible to them. This leaves them feeling powerless and insecure about vital decisions that affect their lives and their futures. They find it difficult to complain about the treatment they receive because there are no clear channels through

³¹ Department for Education DfE: Children with Special Educational needs: an analysis - 2011

³² Rigby, P. (2011) *Separated and Trafficked Children: The Challenges for Child Protection Professionals*. Child Abuse Rev., 20: 324-340.

³³ Dorling, K. (2012) *Seeking Support: A Guide to the Rights and Entitlements of Separated Children*, Coram Children's Legal Centre, p.29: <http://www.seekingsupport.co.uk/>

³⁴ Lay M, Papadopoulos I. (2009) *Sexual maltreatment of unaccompanied asylum seeking minors from the Horn of Africa: A mixed method study focussing on vulnerability and prevention*. Child Abuse & Neglect 33: 728-738; Tyldum, G and Brunovskis, A. (2005) *Describing the unobserved: methodological challenges in empirical studies on human trafficking*. International Migration 43(1/2): 17-34.

³⁵ UN Committee on the Rights of the Child General Comment No. 6 (2005) Treatment of Unaccompanied and Separated Children Outside Their Country of Origin:

http://www.childrensrights.ie/sites/default/files/information_sheets/files/CRC-GC6_separatedChildren05_0.pdf

³⁶ The Children's Society (2007) *Going It Alone: children in the asylum process*:

http://www.childrenssociety.org.uk/sites/default/files/tcs/research_docs/Going%20it%20alone%20-%20Children%20in%20the%20asylum%20process_0.pdf; Refugee Council (2011) *Lives in the Balance: The quality of immigration legal advice given to separated children seeking asylum*:

<http://www.refugeecouncil.org.uk/policy/position/2011/livesinthebalance>; Dorling, K. and Hurrell, A. (2012) *Navigating the System: Advice provision for young refugees and migrants*, Coram Children's Legal Centre:

http://www.seekingsupport.co.uk/images/navigating_the_system_final.pdf; UNHCR (2009) *Quality Initiative Project: Key Observations and Recommendations on unaccompanied children*:

http://www.unhcr.org/fileadmin/user_upload/pdf/6_QI_Key_Observations_Recommendations6.pdf

³⁷ The Children's Society (2012) *Into the Unknown: Children's journeys through the asylum process*:

<http://www.childrenssociety.org.uk/sites/default/files/tcs/into-the-unknown--childrens-journeys-through-the-asylum-process--the-childrens-society.pdf>

which they can do this and they are anxious that any complaints they make will have a negative impact on their asylum claim. Our findings suggest that the current asylum process does not take sufficient account of children's rights, their evolving capacities and unique protection needs. In addition, separated migrant children experience barriers to appropriate accommodation and adequate support and rehabilitative services³⁸. This is particularly true for older teenagers (e.g. 16 and 17 year olds) who are in need of care from local authorities. Many are placed in unsupervised placements including B'n'Bs despite statutory guidance stating that this type of accommodation is not suitable for children³⁹. In our experience some young people are turned away altogether, often on the basis that they are from abroad, do not have documentation or because their age is disputed by the local authority. Despite intensive advocacy from charities, often it is only possible to challenge the authority effectively with the help of a welfare solicitor in order to get children the support they are entitled to under Section 20 of the Children Act 1989 so they can access the full range of services as a looked after child.

Legal Aid for unaccompanied asylum seeking children

- 7.5. Recent cuts to civil legal aid⁴⁰ and proposed changes still to be implemented⁴¹ are already and will have a devastating impact on separated children in care and care-leavers as well as those trying to access care. The residence test in particular is likely to have significant consequences on those whose immigration status is uncertain – such as children who have been trafficked into the UK for exploitation and are subject to immigration control, children who have been abandoned by their carers and those in private fostering arrangements.
- 7.6. Cuts under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), mean that children are no longer able to access legal aid in their immigration cases unless they have an asylum claim or have been found to be a victim of trafficking under the government's national referral mechanism (NRM). Where a separated child has a human rights or welfare claim under Article 8 of the European Convention on Human Rights, they would not be eligible for legal aid to access advice or representation, or be able to get this through the Exceptional Funding Route. The Children's Society has issued a legal challenge to the Ministry of Justice with respect to this issue in how it affects separated children.
- 7.7. The cuts to civil legal aid so far mean that many children have no way of accessing legal advice and representation to resolve their immigration issues. In addition, if the residence test is implemented as planned, many more young people may also be barred from accessing legal aid in a range of areas including judicial review proceedings to challenge unlawful decisions by statutory agencies. It is important to remember that legal aid is already means tested and is only available to those who cannot afford it otherwise. Although the government has made some concessions with respect to the residence test for child protection and 'child in need' cases, which we welcome, it has not protected all children and care leavers, who will still be unable to hold public authorities to account. Given that these children are particularly vulnerable, do not have parents to support them or the means to pay for legal advice, this is likely to lead to more young

³⁸ Brownlees, L. and Finch, N. (2010) *Levelling the playing field: A UNICEF UK report into provision of services to unaccompanied or separated migrant children in three local authority areas in England*. UNICEF: <http://www.unicef.org.uk/Documents/Publications/levelling-playing-field.pdf>

³⁹ Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8260/Provision_20of_20accommodation.pdf

⁴⁰ Legal Aid Sentencing and Punishment of Offenders Act 2012

⁴¹ In particular the implementation of the residence test under 'Transforming legal aid' – see our submission to the government's consultation: http://www.childrensociety.org.uk/sites/default/files/tcs/u44/the_childrens_society_response_to_transforming_legal_aid_consultation_-_june_2013.pdf

people becoming invisible, being unable to access their rights and being put at risk of further abuse and exploitation. As highlighted by the No Recourse to Public Funds Network based at Islington Council⁴², it may fall then to local authorities to provide children in their care and care leavers with more expensive, private legal advice. The report raises concerns that the residence test would have a 'devastating impact on equality and fundamental rights' and that it seems likely to cause "a cost shift of around £26m a year to local authorities, whilst the Ministry of Justice has not been able to estimate any financial savings".

16+ young people who are not looked after children or care leavers

- 7.8. Our practice suggests that some of the most vulnerable young people 16+ are those who do not qualify for leaving care support. These are children who are often known to social services and who have received some support from them prior to turning 16. They may even have had short experiences of care but do not qualify for leaving care support.
- 7.9. The Children's Society led the first comprehensive research study in the UK on maltreatment of adolescents. *Safeguarding Young People* was conducted in partnership with the University of York and the NSPCC. The study explored accessibility of agencies and how they responded to young people and found a lack of services for this age group and wide variability of responses. Older young people – those aged over 14, but especially when approaching their 16th birthday – were increasingly less likely to be referred or to receive a child protection response because professionals believed that they are less at risk of harm than younger children (and sometimes perceived as 'putting themselves at risk'), more able to cope with the effects of maltreatment and more likely to remove themselves from abusive situations. The research highlighted that professionals judged that the child protection system is not an appropriate route for a neglected adolescents, because it lacks flexibility in responding to the different situations adolescents may present (e.g. maltreatment outside the family, increased agency of young people – 'choosing' to participate in risky behaviours), and because it struggles to accommodate a young person's active participation. Evidence from ADCS suggests that "A recent audit found that one third of cases referred to Social Care would have been diverted if services intervened earlier".⁴³
- 7.10. Such attitudes to adolescents at risk mean that timely help is not provided and the risk to young people increases as they move to adulthood. Our practice suggest it is more difficult to secure support for young people who are not entitled to leaving care support even if they are considered at risk.

Young people at risk of sexual exploitation

- 7.11. In recent years there has been an increased focus on child sexual exploitation. A number of high profile CSE cases around the country have led to better awareness of this crime and prompted responses from national and local decision makers. Despite this, our practitioners report that frontline professionals in children's services, the police, the CPS and judiciary still lack a good understanding of what constitutes child sexual exploitation and what consent means in cases involving grooming, how children are groomed for sexual exploitation, children's responses to grooming and CSE and indicators of CSE (such as going missing, challenging behaviour, and substance misuse). As a result, when a child is identified as at risk of CSE, in many cases the necessary steps are not taken to support the child. Our practitioners reports that the offer of support is often dependant on whether the young person has made a formal disclosure of abuse or whether the case was brought to prosecution.

⁴² Shadow Equality Impact Assessment of the Residence Test:
<http://www.nrpfnetwork.org.uk/policy/Pages/default.aspx>

⁴³ ADCS (2012) Safeguarding pressures . Phase 3.

- 7.12. Where there has not been a disclosure or a successful prosecution, young people are often left without any support. In some examples reported to us professionals could recognise CSE but believed that a young person could not be helped. The example from our practice below explains how the cycle of abuse continues if support for a young person is not available.
- 7.13. Case study – Jessica. Jessica was known to social services because of the troubled relationships in her family. When she was 16 she became homeless because of a breakdown in relationships with her family. In the next 1 and a half years she experienced unsuccessful placements in a hostel and B&B, then with her mum and her sister who lived in different local authorities. Her case was closed and reopened several times but no assessment was made for the reasons behind her challenging behaviour and no follow up or additional support was offered when she moved between different local authorities. When the move between different authorities happened, no contact was sustained between the young person and social services to ensure the continuation of support. During that time, starting in her first unsuccessful placements in a hostel, Jessica became a victim of sexual exploitation, started using drugs and developed mental health problems. It was only when Jessica disclosed abuse when she was 17.5 that her needs were assessed and support offered.
- 7.14. Learning from our practice shows that responses to CSE cases vary considerably from one area to another. There are examples of good joint working at a local level where professionals from all agencies show dedication to protect vulnerable young people and intervene as early as possible to disrupt sexual exploitation and to build evidence long before the young victim of sexual exploitation or grooming is prepared to make a disclosure.
- 7.15. There is also a need to address the complexity of peer on peer exploitation – an issue that has been highlighted in some recent reports from the Office of the Children’s Commissioner. Our practice report cases of young people who have experienced sexual abuse that has not been identified or where support was not offered as the young person never disclosed it, and have drifted into becoming perpetrators themselves. The new Sexual Harm Prevention Orders and Sexual Risk Orders introduced in the Anti-Social Behaviour Crime and Policing Bill will allow the police and CPS to deal with peer on peer exploitation to an extent from a criminal justice point of view. However, it is equally important that there are provisions to ensure young people involved in exploiting other young people are offered support to help them break the cycle of exploitation, as in the case study above, in legislation and guidance for the police and judiciary to ensure that adequate therapeutic support is available for young people like Olivia alongside a criminal justice response.
- 7.16. **Recommendations on improving care for vulnerable groups among 16+ population:**
- *As the support young people receive when they reach the age of 16 depends to a great extent on how they were supported by social services prior to turning 16, we believe it is of a paramount importance that there is a greater focus on adolescents at risk both in training for professionals and in Ofsted inspections, to ensure that the child protection framework is applied properly to this group of children and to prevent their needs worsening when they turn 16.*
 - *We believe that is of crucial importance that all vulnerable 16+ have an access to independent advocates to help them navigate the system, being heard in decisions made about them and help them challenge service providers not fulfilling their obligations*
 - *The Education Select Committee in its report ‘Children First. The Child Protection System in England’ (2012) recommended that ‘Ofsted monitor and report as a standard part of*

all inspections on the quality and suitability of the provision made by local authorities for older children, taking into account the views of the children themselves. It is essential that as much attention is paid to the care options provided for vulnerable young people as to those provided for younger children'. We believe that this recommendation still stands true.

- *The government should issue guidance for the police, judiciary and children's services on how to apply the new Sexual Harm Prevention Orders and Sexual Risk Orders to young people under 18 and stipulate entitlements for them to receive the support they need, including an assessment of their emotional, welfare and behavioural needs, therapeutic and/or educational support.*
- *All frontline staff should receive training on CSE and grooming, including on the warning signs and indicators of grooming and CSE, the importance of recording evidence and local processes for information sharing where there are suspicions of CSE.*
- *The government should re-instate immigration legal aid for all separated children and abandon its plans for a residence test.*

8. Leaving care experiences for care leavers 18+

- 8.1. Young people leaving care at 18 are very vulnerable group of young people. Research has consistently found that their health and well-being is poorer than that of young people who have never been in care⁴⁴. Many aspects of young people's health have been shown to worsen in the year after leaving care.⁴⁵ Compared to measures taken within three months of leaving care, young people interviewed a year later were almost twice as likely to have problems with drugs or alcohol (increased from 18% to 32%) and to report mental health problems (12% to 24%). There was also increased reporting of 'other health problems' (28% to 44%), including asthma, weight loss, allergies, flu and illnesses related to drug or alcohol misuse and pregnancy.⁴⁶ *'I do not know what to do but they still do not help because they thought I am good because I stayed on top' (from our consultation with young people).*
- 8.2. Leaving care is a milestone that younger children in care, who we spoke to, feared and care leavers had very negative associations with. Young people talked of their experiences of being 'kicked out', of being left on their own and not being able to cope. *'You are given a world in care and then it gets taken away from you'.*
- 8.3. Young people we consulted with explained that agreed plans are not always carried out and young people are often left on their own unable to cope. Young people want to be able to challenge providers who do not meet their obligations. They also want to be able to leave care when they are ready, and to have a chance to stay in care beyond the age of 18 if they do not feel prepared to live on their own.

Issues for unaccompanied asylum seeking children who turn 18

- 8.4. *Destitution among separated children and young people.* Our experience and external evidence highlights that there is a lack of adequate pathway planning for separated children to ensure that they receive the appropriate support and assistance as they approach 18 and in the transition to adulthood⁴⁷. The Children's Society has for many years been concerned about the forced destitution of unaccompanied asylum-seeking

⁴⁴ Broad B. (2005) Improving the health and well-being of young people leaving care. Lyme Regis: Russell House Publishing.

⁴⁵ Dixon, J. (2008) Young people leaving care: health, well-being and outcomes, Child and Family Social Work 13, 207-217 as quoted in Statutory Guidance on Promoting the Health and Well-being of Looked After Children (2009), Department of Health and Department for School, Children and Families

⁴⁶ Statutory Guidance on Promoting the Health and Well-being of Looked After Children (2009), Department of Health and Department for School, Children and Families

⁴⁷ Dorling, K. and Hurrell, A. (2012) 'Navigating the System: Advice provision for young refugees and migrants'. London: Coram Children's Legal Centre: http://www.seekingsupport.co.uk/images/navigating_the_system_final.pdf

children when they turn 18⁴⁸ and these concerns were examined by the Education Select Committee in 2012 as part of its inquiry into child protection.

- 8.5. These young people experience destitution because they are discharged from children's services after turning 18, having been refused asylum and having exhausted their rights to appeal or receive lower levels of support and access to services. Many young people find themselves in limbo: unable to leave the UK but left with little or no support unable to continue with their education or access vital services like health care. For example, one young person we recently supported has incurred significant debt as a result of having to pay for hospital bills due to her status and because the local authority has refused to provide assistance. Other young people that we have worked with were told that they were not allowed to study because of their immigration status. These young people were not supported by the leaving care team to access education, financially or by advice and guidance. A number of young people that we work with have been threatened with homelessness and destitution by the Home Office or the local authority.
- 8.6. Case study - James. James (20) receives £35 per week to live on. His financial situation severely impedes his efforts to remain in education. He needs to pay £18 for his travel costs to get to and from college, leaving him with £17 – just over £2 per day – to cover all other expenses. He has no funds to pay for other college expenses. His landlord also told him he would have to pay for utilities as he lives with young people who are not subject to immigration control, and utilities are paid via a meter in the house.
- 8.7. Case study - Alex. On one occasion during a home visit, Alex (20), a young father, complained to a staff member from the leaving care team about his housing situation and the impact it was having on his life. He explained that he was so stressed he had to take sleeping tablets and various painkillers. The staff member subsequently threatened to take his daughter into care, using his description of his poor mental health as evidence that he could not look after his child. The young person immediately called the baby's mother to collect the child; Alex described being extremely distressed as a result of this incident.
- 8.8. The law on the withdrawal or withholding of local authority support to young people is set out under Schedule 3 of the *Nationality, Immigration and Asylum Act 2002*, which prevents certain categories of migrants from accessing support including 'leaving care' provisions under the Children Act 1989. If a young person is found to be a person 'unlawfully in the UK', they may have their leaving care support withdrawn⁴⁹. Case law has made it clear that a young person in this situation should not be moved onto support provided by the Home Office⁵⁰ but continue to be supported by the local authority⁵¹. Support should not be withdrawn if this would breach an individual's human rights. However, practice amongst local authorities varies widely due to confusion around entitlements and budgetary pressures⁵² leaving some care leavers entirely without or with very limited support. Concerns about Schedule 3 have also been raised repeatedly by parliamentarians⁵³, the Joint Committee on Human Rights⁵⁴, local authorities and by

⁴⁸ Pinter, I. (2012) *'I don't feel human: Experiences of destitution among young refugees and migrants'*. London: The Children's Society: http://www.childrensociety.org.uk/sites/default/files/tcs/research_docs/thechildrensociety_idontfeelhuman_final.pdf

⁴⁹ Refugee Children's Consortium (2012) 'The assessment and support of former unaccompanied asylum seeking children': http://www.refugeechildrenconsortium.org.uk/images/rcc%20briefing%20on%20the%20assessment%20and%20support%20of%20former%20unaccompanied%20asylum%20seeking%20children_final.pdf

⁵⁰ Under Section 4 of the *Immigration and Asylum Act 1999*

⁵¹ *R (SO) v London Borough of Barking & Dagenham* [2010] EWCA Civ 1101

⁵² Coram Children's Legal Centre: *Navigating the system: Access to advice for young refugees and migrants*, 2012

⁵³ Amendment 234 by The Earl of Listowel during the passage of the Children and Families Bill on 11 Nov 2013 - Column GC226: <http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131111-gc0001.htm#131111600087>

⁵⁴ See paragraphs 212 and 213 of the JCHR's inquiry into the human rights of unaccompanied migrant children and young people: <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/908.htm>

the Office of the Children's Commissioner⁵⁵. Kent County Council is currently considering legal action⁵⁶ against the government in relation to these provisions and the lack of funding provided to local authorities by the Home Office to support migrant care leavers. The local authority argues that if they were to make young people destitute as the Home Office argues they should, they would be in breach of their leaving care obligations and open to legal challenge. Despite this the government has so far failed to act to protect these vulnerable young people and resolve this issue.

- 8.9. *Access to higher education for UASC.* In 2013, only 28% of unaccompanied children claiming asylum were granted refugee status – compared with 37% of asylum applicants overall (i.e. adults). This means that the majority of children do not receive a durable status to remain in the UK when they apply for protection.⁵⁷ Instead the majority are refused asylum but granted discretionary leave to remain or 'UASC leave' for 30 months or until they are 17½, on the grounds that there are no 'adequate reception arrangements' in their country of origin. In addition to the destabilising impact of this form of temporary leave afforded to most unaccompanied children who seek protection in the UK or are victims of human trafficking on their ability to get on in life, recover from their experiences and progress in education, children with this form of leave are also now disadvantaged in their access to higher education.
- 8.10. While prior to February 2011 these children and young people were able to access university as home students, and were eligible for student finance if they had been in the UK for 3 years, the changes to regulations then meant that young people with 'discretionary leave' are now classed as international students and not eligible for student finance. This means that even in instances where they have leave to remain for the duration of their studies, have been accepted as students and are likely to remain in the UK in the long-term, these young people are prevented from accessing higher education. Research has proven that once in the UK, education is a high priority for most refugee children and young people. School, college or university provides stability and normality which can mitigate the negative effects of traumatic experiences and support them to overcome isolation and build resilience⁵⁸. Research⁵⁹ has found that the continuation of education was associated with lower levels of anxiety and that meeting new friends was protective against depressive symptoms. Also, education opens up vital opportunities for integration, as well as social and economic development in later years.

8.11. Recommendations on improving leaving care experiences for 18+:

- It is important that a decision about leaving care is made in consultation with a young person and even where the young person reaches the age of 18 there should not be an automatic assumption that they are ready to live independently. No child should be forced to leave care if they are not ready, including children in residential care. The current arrangement whereby children in foster care have a right to remain in foster care till the age of 21 should apply to young people in residential care.*
- The Children's Society firmly believes that separated children and young people who have been in the care of children's services, in their role as corporate parents, should be supported until the point at which they leave the country, or receive leave to remain in the UK.*

⁵⁵The Office of the Children's Commissioner for England – submission to the JCHR inquiry into the human rights of unaccompanied migrant children and young people:

http://www.childrenscommissioner.gov.uk/force_download.php?fp=%2Fclient_assets%2Fcp%2Fpublication%2F672%2FFINAL_JCHR_Consultation- Unaccompanied_Migrant_CYP.pdf.

⁵⁶ Kent Online (2014) 'Kent County Council prepares to take Home Office to High Court over cost of young asylum seekers': http://www.kentonline.co.uk/kentonline/home/2013/march/19/asylum_seekers.aspx

⁵⁷ Home Office immigration statistics: <https://www.gov.uk/government/publications/tables-for-immigration-statistics-october-to-december-2013>

⁵⁸ For example, Refugee Council, Daring to dream: Raising the achievement of 14 to 16 year old asylum-seeking and refugee children and young people, 2005; UNICEF, Levelling the Playing Field, 2010

⁵⁹ Hasanovic M, Sinanovic O, Pavlovic S. Acculturation and psychological problems of adolescents from Bosnia and Herzegovina during exile and repatriation. Croat Med J 2005; 46: 105–15

- *Schedule 3 of the Nationality, Immigration and Asylum Act, or its interpretation, should be amended so that former separated children would continue to receive leaving care support until such a point as they fail to comply with removal directions or they are integrated into the mainstream system⁶⁰. We would encourage the Committee to support the amendments currently proposed by Lord Listowel and others to this effect.*
- *We are calling for the same opportunities to access higher education for refugee young people as for all others in England – that is, that they should be charged the lower home fees and that they should be able to access student loans. We feel that this is particularly important all looked-after children and care leavers in recognition that they are in this country without their families and less likely to have a wider support network. We recommend that the regulations be amended to ensure that all looked after children and care-leavers with leave to remain, including those with in-time applications pending are eligible for home fees and student support, regardless of immigration status.*

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⁶⁰Children and Families Bill Amendment 234:
http://www.childrenssociety.org.uk/sites/default/files/tcs/rccbrieffing_amendment234_welfareofmigrantcareleavers_hol_committee_oct13_final.pdf