

Briefing Paper 5

Children Seeking Asylum

National Assembly Elections 2007

"We didn't come here by choice, none of us did – it's better than living in a war zone. I have been here for 16 months...I feel frightened and alone."

17 year old unaccompanied asylum seeker
Uncertain Futures: Children Seeking Asylum in Wales
Save the Children 2005



Children Seeking Asylum

Immigration and asylum are policy areas that are non-devolved; however, provision of the majority of services that asylum-seekers in Wales receive is the responsibility of the Welsh Assembly Government (WAG), Local Authorities and other public bodies in Wales. Asylum seeker children living in Wales reside primarily in the current dispersal areas (as arranged via the Home Office) within the Local Authorities of Newport, Wrexham, Swansea and Cardiff. The responsibility for the provision of support and basic services to unaccompanied children under the age of eighteen who do not have a relative or guardian in the UK currently remains with the Local Authority in whose geographical area they first seek help. Home Office proposals for the New Asylum Model and UASC reform¹ will have significant impact on children in Wales.

In 2002 the UNCRC Committee issues the following concluding observations relevant to the WAG powers:

- Ensure that refugee and asylum seeker children have access to basic services, such as education and health and that there is no discrimination in benefit entitlements for asylum seeking families which could affect children.
- Consider the appointment of guardians to unaccompanied asylum seekers and refugee children.
- Carry out a review of the availability and effectiveness of legal representation and other forms of independent advocacy to unaccompanied minors and other children in the immigration and asylum systems.

What has been achieved?

In recent years, the WAG's public statements evidence a markedly different approach to that of the Westminster Government in relation to asylum seekers and refugees. At a Westminster level there is an increasing gulf between legislation developed to protect children and the reality of immigration policy and practice. In Wales, collaboration between the Minister for Children and the Minister for Social Justice and Regeneration in relation to asylum seeker and refugee children paved the way for a series of meetings between the WAG and key professionals working in this field. Ultimately this initiative led to a comprehensive chapter on children and young people being included in the Welsh Assembly Government's Refugee Inclusion Policy launched in the summer of 2006. The content and implementation of this strategy as it relates to children and young people will be a key yardstick by which to measure progress.

What more needs to be done?

Whilst, to date, the WAG have shown an active interest in issues relating to asylum seeker and refugee children, the reality of improvements to frontline services in line with the recommendations of the *Uncertain Futures*² (the first study in Wales of children and young people seeking asylum) have yet to be delivered. Examples of good practice whether funded by statutory or the non-statutory sector are accompanied by concerns about the short term and vulnerable nature of funding. *Uncertain Futures* identifies gaps in service provision in basic services areas such as health, housing, education and protection.

For example, there is limited availability of **post-16 education and training**. Asylum seeker young people have to pay foreign student fees and also do not qualify for Educational Maintenance Allowances (EMAs). In Wales, the lack of secure

¹ Unaccompanied Asylum Seeker Children Reform Programme – consultation due Autumn 2006

² *Uncertain Futures*, Save the Children, 2005

permanent **funding streams for asylum seeker health care** presents a major challenge in planning and delivering health provision. The specialist service provision, which has been commended, is vulnerable to the fact that nurses working in these services are all on short-term contracts or secondments due to the lack of secure funding. Health professionals and other frontline workers continue to express grave concerns at the **lack of specialist mental health provision** available. It is difficult for service providers to adequately plan and deliver services for this vulnerable group of children because of **gaps in the availability of key statistical data** exacerbated by weekly fluctuations of numbers.

There are also issues about the quality of some services, despite the good will of front-line staff. Asylum policy and practice is complex and fast changing. Lack of knowledge in respect of asylum issues can and does impact negatively on **practice standards** affecting both unaccompanied children and those in families. Complex issues such as trafficking of children can go undetected. Most children in Wales have an adult in their life, someone that can represent them, make decisions on their behalf and champion their best interests. Unaccompanied asylum seeker children living in Wales do not have a **'guardian'** or even access to basic appropriate **independent advocacy**. There are significant concerns regarding the reduction in **specialist legal advice** being provided in Wales. The current system results in unaccompanied children receiving less favourable asylum status than adults do³. Within this context and also in light of the UK Government planned returns of unaccompanied children, young people's access to specialist legal advice is essential. In 2007, there will be two major changes to the way asylum policy is implemented UK wide. Firstly, the New Asylum Model will attempt to overhaul the process of applying for asylum including new proposals to radically change the way claims of unaccompanied children are processed. Secondly, the Unaccompanied Asylum Seeker Children reforms will have a major impact on how these children are provided with services. There are real concerns about the capacity within the current **WAG to interface adequately with the Home Office** to represent the circumstances of asylum seeker children in Wales, especially within the context of these new proposals.

Our **recommendations** for the next government of Wales are as follows:

- Work with the UK Government to ensure that, in respect of both policy and practice, the **best interest principle** in Article 2 of the UNCRC applies to all asylum-seeking children.
- Undertake a review of **access to legal representation** in Wales and put measures in place to ensure families and young people in Wales access specialist legal advice.
- Ensure that robust mechanisms are in place to **collect statistics** on both children in families and separated (unaccompanied) children.
- Ensure **access to health provision**. In order to provide equity with the local population the WAG should ensure specialist provision to promote equity and entry into mainstream health services; secure longer-term funding streams for services and ensure the availability of specialist culturally acceptable mental health services for traumatised children.
- Fund and support the development of **specialist independent advocacy** and should also explore the possibility of establishing a **system of guardianship**.
- The WAG should support the establishment of an all-Wales information post to **provide specialist information** for practitioners, not least to assist and support staff working outside the dispersal areas.

³ In 2002, UK figures show that 5% of applicants under 18 were granted asylum compared to 27% of adult applicants aged 25-29.

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