

GETTING IT RIGHT FOR SEPARATED & UNACCOMPANIED CHILDREN IN SCOTLAND

Summary Event 1 30th November – 1st December 2018

Background

This first event in a series of three seminars focussed around separated and unaccompanied children in Scotland was designed to set the national scene in the international context by looking at the broad legislative and human rights framework, and some of the issues behind migration, especially that of children and young people. Originally envisioned as a practice and conceptual forum to look at Scotland's response and readiness to care for and look after children arriving under changes brought in under the Immigration Act 2016, the political ramifications and legal issues relating to Scotland meant that few children had arrived in Scotland at the time of this first event.

Representatives of local authorities, statutory and voluntary organisations and academia attended the event, together with a number of UK and international attendees. This report provides an overview of the event, held under Chatham House rules so that only the presenters are identified. Presentations are available on the SUII website, together with links to relevant reports and research.

The care and support of unaccompanied children in Scotland not only requires an approach supported by the Getting it Right for Every Child policy (GIRFEC), but also the intricacies and difficulties associated with a conceptual and legal understanding of migration. Vulnerable children on the move and unaccompanied asylum seeking children face numerous challenges in home countries, on the move, when they arrive and as they adjust to living in a new country. The national and international legislative framework around migration also presents challenges for both practitioners and young people.

Legal and policy context

Andy Sirel, JustRight Scotland, discussed the international legislative and human rights context when working with children on the move. Questions were asked in relation to the creation of a super complex legislative framework surrounding the global movement of people, with concerns that the deliberate complexity of this may be a tactic to dissuade too much movement. Additionally, provisions in national legislation may be seen as discouraging people from moving to the UK, with various decisions meaning people have no recourse to public funds and / or receiving decisions around leave to remain that ensure people are not clear on status.

The UNCRC, while being an arbiter for the care of children, often has a disconnect with domestic legislation, although the terminology of 'best interests' has now found its way into legislation relating to immigration and care. Debate around best interests and paramountcy

(in Scottish legislation) highlighted the complex legal and conceptual arguments that permeate these debates. Not least the question relating to how and where do we deal with the tension between child law and immigration and asylum law? Does one trump the other?

Additional challenges relating to the care of unaccompanied children in Scotland highlighted include the National Transfer Scheme (part 5, section 69 Immigration Act 2016), once applied to Scotland in terms of possible numbers arriving and readiness of Scotland to work with young people. Linked to this schedule 12 of the same act, if and when enacted in Scotland, may be problematic if it removes the legal duty on local authorities to support some migrant care leavers over the age of 18.

International context

The international context for the migration and movement of children influences the experiences of children arriving in Scotland and the Scottish response to providing support. To provide this international context a number of presenters discussed what was happening beyond UK borders.

Pierre Cazanave (Terre des Hommes International) provided an overview from the perspective of Terre des Hommes, an international NGO working in numerous countries providing direct services to children and support to agencies and governments. An initial point made was that responders need to ensure, with the emphasis often on unaccompanied children, focus should not be lost on those children on the move with parents / carers who may also be vulnerable and require substantial support. Pierre indicated that 50% of the world's refugees are children and that over 63,000 UASC were identified in the EU in 2016, which although a substantial number is not large within the global context. In this context Scotland does not have large numbers and in many respects is responding well to those children who have arrived.

However, it was pointed out that in the global context and a focus on UASCs care is also required to ensure that the protection needs and rights of EU migrant children - who often face similar challenges such as poorly educated, poor housing conditions, lack of access to health education and welfare - are not overlooked. While they might be seen at times as highly independent and resourceful, and entitled to access benefits and services that provide protection for their peers and families, they are also vulnerable.

Discussion also focussed on how the labels and categories we apply to children (and families) can also influence responses (including the age we ascribe to a child). Consequently, responses can be delivered in silos in relation to the label, and not to the assessed needs of the child - horizontal connectivity is required, not vertical divisions. This can be especially problematic for UASC or separated children – separate definitions lead to specific status that leads to specific interventions (eg trafficked, unaccompanied, separated, in family, asylum seeking, refugee etc.), particularly in relation to the principle of non-discrimination as enshrined in the UNCRC (art. 2).

Philip Ishola, (UK Director, Love 146) provided some broad reflections of work across Europe with various governments and organisations. He developed some of the earlier points and

suggested that the relatively small numbers of separated children and UASC in Europe was perhaps a reflection of the fact that Europe has an ingrained aversion to immigration - a result of fear and institutionalised racism, linked to colonial past and leading to a toxic environment. Within this context Philip suggested Europe was a dangerous place for unaccompanied children, from those who were seeking to exploit vulnerabilities and from state responses – for example blocking some of the ‘safe’ passages from eastern to Western Europe.

It was suggested that the ‘immigration’ reaction to separated children challenges a compassionate approach, and creates a vacuum that is filled by a controlling response rather than one based on care. Again, responses focussed on the label, rather than the needs of a child was highlighted. The perception of problem children and harsh responses permeates much of the policy and practice across Europe, although there was substantial debate within the group that the focus on these negative pictures can be problematic when attempting to frame positive responses. However, within this context the importance of a sensitive, child centred approach was reiterated, focussing on relationships and micro interactions with children, while recognising this can be a challenge in a ‘toxic’ environment.

Anna Gärdegård, from the Nordic Welfare Centre (offices in Stockholm and Helsinki), provided an overview of the situation in the Nordic countries, with a particular focus on Sweden. She suggested, that like Scotland, in Sweden and other Nordic countries there was an ageing population and immigrants in this context were seen largely as positive for future population and economic growth, with a particular need to settle people in under-populated areas. Nordic countries receive about 0.4% of the world’s displaced people and at different times the numbers of separated children arriving has been substantial, peaking at approximately 35,000 in 2015.

From research undertaken by the Centre it is suggested that one of the most encouraging findings has been the importance of schools in providing protection and opportunities for success, in addition to education provision. Interestingly it has also found that unaccompanied boys achieve better longer term outcomes than girls and that generally unaccompanied children do better than children in families. It is suggested that more attention needs to be given to parents and children arriving in families, and this perhaps mirrors concerns raised previously about too much focus on UASCs to the exclusion of children in families on the move.

National Transfer Scheme

Sarah Spain, from South East Strategic Partnership for Migration, provided an overview of the National Transfer Scheme in the UK, which under the 2016 Immigration Act was an attempt by the UK Government to address the increased pressure on a number of councils in the south of England created by the arrival of unaccompanied children.

Part 5 of the Immigration Act 2016 contains provisions for the transfer of responsibility for unaccompanied asylum seeking and refugee children in England, while section 69 creates a mechanism to transfer responsibility for caring for unaccompanied asylum seeking and refugee children from one local authority to another. Section 72 enables the Secretary of State to require local authorities to cooperate in the transfer of unaccompanied migrant

children if they are unwilling to do so on a voluntary basis. At the time of the seminar provisions did not apply to Scotland. The numbers of children dispersed to the regions is based on 0.07% of the child population.

While 550 children have been dispersed to date, some problems have been encountered. Engagement is voluntary and as the central Home Office team responsible are not social workers children are not assessed before dispersal and there are rarely indicators of needs, trafficking indicators, family members in the UK etc. It is therefore the responsibility of the receiving local authority to undertake age assessment and arrange for transportation of the child. A key issue is that usually a child's view is not sought to see if they wish to be moved, a point that raised some discussion about the child centred nature of the project.

What's happening in Scotland

Mirren Kelly, COSLA, presented the Scottish context in relation to the arrival of migrants, highlighting that Scottish local authorities are acutely aware of the benefits that migrants bring to Scottish society, culture and economy. Local authorities and COSLA have been actively involved in recent Syrian resettlement schemes, with the 2000th person due to arrive in Scotland soon. However, there was also a recognition that most of the migration to Scotland has been in the larger urban areas, with 73% of arrivals being in either Glasgow or Edinburgh.

Concern was also raised about the financial implications for local authorities of new arrivals. While exact costings are difficult to assess it has been estimated that the annual average placement only costs for under 16 year olds is £99,000. For 16 and 17 year old annual costs are estimated at £53,000 and for 18+ £19,000.

Established in May 2016 the COSLA UASC Dispersal Working Group has attempted to coordinate responses to the Calais camp closures and Dubs amendments to the 2016 Immigration Act, although at the time of the event at the end of 2017 Scotland was not taking part in the National Transfer Scheme because of legislative oversight in relation to moving children to Scotland.

Representatives of local authorities discussed the challenges faced by the new arrivals, especially those areas with relatively little experience of working with non UK children. There were concerns expressed about getting the placement right for a group of children where trauma, immigration, complex journeys, exploitation and language difficulties make them a distinctive group of vulnerable children. However, it was also recognised that in terms of basic needs, and in relation to GIREFC / SHANARRI the needs were similar to other children, albeit presentation and risk may differ.

There were substantial concerns that finding the right placement for children was important, with no clear directive that either residential or foster care was right for all children. Linked to this, participants expressed concern that in the Scottish context specifically there was limited guidance and protocols available. Given the relative lack of experience across Scotland it was suggested that at the initial stages an informed group of professionals across Scotland may be a positive step to provide support to other areas, or perhaps a national network of

support. This may involve a named contact in an authority or a specific point of contact with links directly to a named person in the Home Office; examples were shared of some local authorities providing ad hoc support and advice to neighbouring authorities.

The issues of age assessment and guidance was touched upon throughout the two days, although it was recognised there was ongoing rewriting of Scottish guidance, and that it was a controversial area of work that could have been provided with its own two-day slot. Suffice to say that a number of local authority areas were concerned about this area of work.

Young People

The audience heard from three young people who had arrived unaccompanied and had made Scotland their home. All spoke about their fear and bewilderment on arrival and wanting support of their parents and carers. Despite some less than encouraging descriptions of meetings with the Home Office and initial accommodation in police stations, the young people spoke about finding compassion and companionship in Scotland, from professionals and wider society. Clearly Scotland was viewed as their new home and they were keen to 'give something back to Scotland'.

The use of interpreters was a concern for young people, especially the fact interpreters need to be available at times of need, instead of just for formal meetings. The gender of interpreter was described as being important, as does the requirement to be neutral and not blaming. Overall the young people advised that interpreters have to be used with care by professionals.

In terms of more negative experiences for the young people they identified the asylum interview as problematic; questions were repeated, different people came and asked the same questions – the young people wanted to know why? They also suggested there was information overload during the asylum process. Following the interviews the young people suggested that waiting for an answer is difficult; they wanted a time for a response and to be given a clear answer quickly. It was suggested by one young person they felt homeless while waiting, and making plans was problematic and leading to stress. While the young people recognised they cannot change the past, they were confident with appropriate responses they can influence the future.

While the asylum and welfare process was difficult for the young people, like being in a “big dark room” they all spoke highly of their contact with the Scottish Guardianship Service and the support provided by local authorities. Education was seen as important by the young people, and for all it has helped them to settle in Scotland and begin to see light.

Overall the young people spoke clearly about their desire to be treated with respect, not to be scared by their contact with authorities and perhaps most importantly for professionals to recognise what they have been through.

Scottish Guardianship Service

Young people suggested at the Scottish Guardianship Service they had made friends and that staff had gone the extra mile for them. Catriona MacSween (manager at the Scottish Guardianship Service) provided an overview of the service and the progress made since its

inception in 2010. At the moment all unaccompanied and asylum seeking children can be referred and the proportion of those who have been exploited through trafficking is approximately 40%. The service has been positively evaluated and is now working with twenty local authorities across Scotland. It is a well-regarded service within Europe and is set to develop further when the duty to refer (section 11) of the Human Trafficking and Exploitation (Scotland) Act is enacted. There will be challenges ahead in terms clarifying roles and working relationships once agencies have to refer to the service. It is also expected the service will see an increase in referrals under the new act and once the provisions for transfer of UASCs applies to Scotland.

Foster carers

Two foster carers, of a 16 year old boy from Ethiopia, shared their experiences of fostering an unaccompanied child. Describing the difficult, and at times, traumatic journey of their foster child their story highlighted the horrendous experiences of the movement to the UK, and both the positive and negatives of the fostering process in relation to non UK children. They described numerous formal appointments for the young person, and how they had to adapt as well to an alien system (asylum) they did not understand. A conscious decision was made by the carers not to ask about the journey, but to make themselves available to listen, if and when, he wanted to share anything.

Clear from the description of their experiences was the importance of normalising life as soon as possible for a young person who has all the same fears and dreams as any 16 year old, plus the additional experiences of being in a strange country, different culture and away from his family. In this respect Scottish policy around GIRFEC was informative in some aspects, but also limiting when experiences are broad and the future (in terms of immigration status) are unclear. In terms of routine, school, diet, friends, health, exercise and interests, needs were largely the same as all other children, with the additional challenges of different culture and food requirements at times. Challenges existed around religion, attending the mosque, and some of the views held by their foster son, all of which were discussed and debated. They described the learning for them as well as the adaptation required by their foster son. In this respect they indicated information from the local authority was virtually non-existent and that navigating through the various immigration and welfare systems has been a journey of discovery for themselves.

Education has been an important aspect of the young person settling in Scotland and has been one of the many supports, which have also included formal networks of professionals and developing friendships with wider family members, neighbours, friends and football coaches, all helping to develop independent living skills. There has been recognition of the need to keep him safe and help him to feel safe in a new society – to develop emotional and cultural safety, and to be aware of the possibility of racism.

Throughout their experience the foster carers described the important of avoiding 'othering' and labels and focus on providing everyday support and care, while recognising differences and additional challenges. However, underpinning this philosophy and approach there is also the reality that immigration remains precarious and plans (university etc) cannot be made

with any certainty. In terms of ‘advice’ for anybody working with unaccompanied children it was suggested the important ingredients are likely to be planning (prior to arrival if possible); creatively identifying resources, adopting a strength based perspective and ensuring the basics of daily care are in place. For professionals especially the message is, prepare families (foster carers) better while avoiding focusing on the ‘othering’ of children and young people.

Overview

The presentations and small group discussions over the two days touched on the experiences of children on the move, the importance of the international context and the responses to date in Scotland, together with concerns about the future. There was agreement that in the global context Scotland has had a relatively small number of unaccompanied children and, given the UK Government border policy, is unlikely to receive numbers approaching that of other European countries. Nevertheless there was concern from some local authority representatives of the financial implications in relation to children and young people already here, and the potential for future arrivals under the National Transfer Scheme. Others considered the focus should be on the positive implications of children coming to Scotland and what they can share and contribute.

The stories of the young people and the foster carers at the event highlighted the importance of a compassionate and child focus approach that focused on the needs and experiences of the young people, not on the label of immigrant and ‘problemitisation’ of the issues. While there was still some concern from local authorities about the limited experience in many areas, the message that applying a broadly GIRFEC based approach to the work will demonstrate that local authorities and partner agencies largely have the appropriate skills and experience, was well received. However, there was also consensus of the challenges of the work, not least concerns around the age assessment process.

There was much debate at the event in relation to a focus on the challenges and opportunities as a result of global migration, and whether an emphasis on the negative experiences and challenges of responding can lessen any attention on the good work commenced. For example the Scottish Guardianship Service was acknowledged by international speakers as having influenced other developments across Europe. Having set the broader context it was suggested that future events could look at some of the positive work that has been undertaken in local authorities across Scotland and share some good practice experience.



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