

Response ID ANON-S7DX-SXPk-C

Submitted to **Family and Friends Care Statutory Guidance revision**
Submitted on **2018-07-02 13:50:10**

Introduction

1 What is your name?

Name:

Dr Devyani Prabhat and Ann Singleton

2 What is your email address?

Email:

devyani.prabhat@bristol.ac.uk

3 Are you responding as an individual or on behalf of an organisation?

Individual

4 What is your organisation?

Organisation:

Academics at University of Bristol

5 Would you like us to keep your responses confidential?

No

Reason for confidentiality:

Consultation questions

6 Is there anything in the revised guidance that should be amended?

Is there anything in the revised guidance that should be amended?:

The comments of Prabhat and Singleton are set out in this briefing to address the terms of the guidance on the framework for the provision of support to family and friends carers. We specifically address the situation of non-British unaccompanied migrant young people aged 18–21 who are unable to live with their parents or near relations.

At present the guidance does not mention the situation of non-British unaccompanied migrant young people aged 18–21 who are unable to live with their parents or near relations specifically although S. 20 of Children Act 1989 is mentioned. We suggest the guidance be amended to specifically address the situation of this group. Such children are often unable to live with their parents or near relations and are often placed in supported housing or foster care. Under section 20 Children Act 1989 such children are entitled to leaving-care services up to at least the age of 21. However, eligibility for support from a local authority post-18 is determined by the young person's immigration status as the leaving-care provisions of the Children Act 1989 fall within Schedule 3 of the Nationality, Immigration and Asylum Act 2002 and relevant provisions of the Immigration Act 2016. In practice, young people who arrive in the UK within 13 weeks of their 18th birthday will not qualify for full leaving-care services even if they have been provided with support under section 20 Children Act 1989 for the weeks leading up to their 18th birthday, as they will not have been "looked after" for 13 weeks or more. UK official documents, such as the Department for Education's consultation and guidance on Corporate Parenting Principles, specify that unaccompanied migrant children are to be treated the same as any other children by local authorities: "An unaccompanied child is entitled to the same local authority support as any other looked after child, and our ambitions for these children are the same: to have a safe and stable placement, to receive the care that they need to thrive, and the support they need to fulfil their educational and other outcomes." (Department for Education 2017, 9)

The reality of the situation is that for most unaccompanied migrant children support terminates at age 18. We suggest the recommendations listed below so as to address the adverse situation faced by unaccompanied migrant children.

7 Is there anything further that should be added to the revised guidance?

Is there anything further that should be added to the revised guidance? :

Recommendation 1:

It is imperative that non-British unaccompanied migrant young people aged 18–21 should be treated as a youth category in a manner similar to British young people in care under staying put arrangements.

The specific duty of care towards children is governed by the Children Act 1989 (as amended in 2008). Section 20 of the Act states that every local authority shall provide accommodation for any child in need within the area who requires accommodation if there is no person who has parental responsibility for him/her (Coram Children's Legal Centre 2017). These duties towards unaccompanied migrant children come to an abrupt end at age 18 (see Sigona, Chase and Humphris 2017). When a child reaches 18 years old the duty to the young person is held within the Care Leavers (England) Regulations 2010. This Act was

amended in 2014 to require that such duties are fulfilled with regard to the circumstances and needs of unaccompanied or trafficked children. Data are particularly scarce for former unaccompanied asylum-seeking children (UASC) who are care leavers and, on their trajectories, once they reach 18 years and are no longer considered to be children. This lack of knowledge is increasingly problematic as the Immigration Act 2016 changes the nature of support for UASC care leavers who are “appeal rights exhausted”. Once the regulations have been approved and guidance issued, former lone children who have reached adulthood in the UK and have not established a protection claim for asylum will no longer be supported by local authorities but by the Home Office, with minimal access to support and few legal pathways to settlement.

Young people over the age of 18 who exhaust their appeal rights become subject to increasing levels of immigration control. If they fail to obtain asylum, asylum directions may be issued to remove them from the UK. Further, the UK is the only country in Europe where there is indefinite detention for migrants with irregular legal status.

Despite the serious repercussions, the reduction in legal aid available for asylum cases means that many young people must now represent themselves in court. They are often unable to leave the UK because of fears for their security in their countries of origin. Many, who may have been in care when under 18, are forcibly returned when they turn 18, while others continue to exist in a state of limbo without access to education and safe housing. For migrant children age is all that stands between access to education and other support or full consideration of asylum applications and detention or deportation (Judge 2010). While migrant youth have great potential to contribute, and often identify as British because of spending formative years here, they are unable to access resources for further education at age 18. Meloni and Chase (2017) find that some youth choose to disengage from statutory services around age 18 because of their fear of detention and forced removal. Thereafter they enter the informal economy and are at risk of homelessness and destitution. They also are vulnerable to suffer from poor mental and physical health. They become invisible in the eyes of the law and disappear from records and the official data.

A concrete example can be seen in data from 2007 to early 2016 on young care leavers: 2,748 young care leavers had been returned to their countries of origin; the majority, 2,018, had been returned to Afghanistan. The significance of this point of exclusion can be seen in the figures on forced and “voluntary” returns. For example, the total number of forced returns in 2016 included 24 children under the age of 14, one aged 14–15, none aged 15–16 and 605 aged 18–19.

“Voluntary” returns of 24,202 in the same year included 1,837 children under the age of 14.

Recommendation 2:

Local authorities should keep full records of the children in their care and on those leaving their care. They should also make available anonymised data on children transferring between authorities.

Recommendation 3.

Migrant young people should be treated no differently from British children.

When children have special vulnerabilities, their situations require the exercise of additional individualised discretion for which the generalised framework of 18 is inadequate. The deaths by suicide of three young asylum seekers, reported in mid-June 2017, highlight the mortal dangers they face and into which they are plunged through a lack of care and uncertainty caused by lengthy asylum processes. For instance, “Hamid, another Eritrean asylum-seeking teenager, who knew all three teenagers, said Alexander Tekle and N, the young man who killed himself last month, were both extremely concerned about the length of time it was taking for the Home Office to decide on whether they would be granted refugee status here. Hamid asked for his real name not to be printed, afraid that speaking out might somehow complicate his own asylum claim, which still remains unresolved, three years after his arrival in the UK at the age of 15.”

A parallel situation is that of British children in care who also experience early obstacles in life. Care provisions protect them beyond the age of 18 in recognition of the need for extended periods for them to achieve secure lives.

Studies indicate that most young people without close families in the UK benefit from the familial support offered by foster carers. Research in the US has demonstrated that the loss of access to services at the age of majority (defined as 18) is a significant problem for vulnerable youth (Osgood, Foster and Courtney 2010). There is no good reason therefore for terminating such support from asylum-seeking youth prematurely prior to their turning 21.

8 Do you have any suggestions for further links or resources that could be included?

Do you have any suggestions for further links or resources that could be included?:

References

Chase, E., A. Knight and J. Statham. 2008. *The Emotional Wellbeing of Unaccompanied Young People Seeking Asylum in the UK*. London: British Association of Adoption and Fostering.

Humphris, R. and N. Sigona. 2017. “Outsourcing the ‘Best Interests’ of Unaccompanied Asylum-seeking Children in the Era of Austerity.” *Journal of Ethnic and Migration Studies* DOI: 10.1080/1369183X.2017.1404266.

Judge, Ruth. 2010. *Refugee Advocacy and the Biopolitics of Asylum in Britain: The Precarious Position of Young Male Asylum Seekers and Refugees*, RSC Working Paper Series No 60:17. Oxford: Refugee Studies Centre.

Meloni, F. and E. Chase. 2017. “Transitions into institutional adulthood” *Becoming Adult Research Brief No 4*. London: UCL. www.becomingadult.net

Osgood, D. Wayne, E. Michael Foster and Mark E. Courtney, “Vulnerable Populations and the Transition to Adulthood” *Future of Children* 20(1): 209–229.

Prabhat, Devyani and Jessica C. Hambly. 2017. “Bettering the Best Interests of the Child Determination: Of Checklists and Balancing Exercises.” *International Journal of Children’s Rights* 25(3–4): 754–778.

Sigona, N, E. Chase and R. Humphris. 2017. “Protecting the ‘Best Interests’ of the Child in Transition to Adulthood”, *Becoming Adult Research Brief No 3*. London: UCL. www.becomingadult.net