



**Law Centre (NI)**

**Evidence to All Party Parliamentary Group on Modern Slavery and Human Trafficking**

**Inquiry into the situation of unaccompanied and separated minors in Europe**

**Law Centre (NI)**

**May 2017**



## Law Centre response to the inquiry into the situation of unaccompanied and separated minors in Europe

### About Law Centre (NI) and this response

1. Law Centre (NI) (LCNI) works to promote social justice and provides specialist legal services to advice organisations and disadvantaged individuals through our advice line and our casework services from our two regional offices in Northern Ireland. LCNI also provides training, information and policy services. LCNI is a member of the Anti-Trafficking Monitoring Group as well as the EU Civil Society Platform against Trafficking in Human Beings. In Northern Ireland, LCNI is represented on the Department of Justice NGO Engagement Group, the NI Strategic Migration Partnership, the Refugee and Asylum Forum and the Home Office Asylum Stakeholders Forum.
2. LCNI has significant experience of representing unaccompanied minors in relation to their immigration status in the UK. Until April 2017, we had a specific project that provided legal advice to children and young people 0-25 years. The opportunity to contribute to the All Party Parliamentary Group on Modern Slavery and Human Trafficking's inquiry into the situation of unaccompanied and separated minors is welcomed. To clarify, by way of background, Northern Ireland has not to date been part of the Vulnerable Children Resettlement scheme or in the Dubs / s.67 Immigration Act 2016 scheme.<sup>1</sup>
3. LCNI has therefore not responded to all the questions posed by this inquiry and rather has taken opportunity to describe how separated children are currently accommodated in Northern Ireland and to demonstrate that Northern Ireland has within its organisations and structures the expertise and capacity to accommodate separated refugee children.
4. LCNI has raised the issue of Northern Ireland's potential involvement in a refugee children resettlement scheme with the Home Office on a number of occasions including at the Northern Ireland Asylum Stakeholders Forum and the NI Strategic Migration Partnership. In response, the Home Office indicated that the onus is on local authorities (or, in the case of Northern Ireland, the Department of Health, to come forward). Accordingly, LCNI has corresponded with the Department of Health to encourage the development of a NI refugee children resettlement scheme and to offer support and expertise. To date, however, LCNI is not aware of any substantive discussions or ongoing consideration as to Northern Ireland's potential involvement

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<sup>1</sup> HC Deb 7 March 2017 PQ 66977



in such a scheme. However, recent parliamentary questions may suggest that discussions are taking place:

*My Department will continue to work closely with the Executive Office and British Home Office to consider the implications of extending the Scheme to the north of Ireland. This will include consideration of the type and nature of support and advice which would need to be given to Health and Social Care Trusts, which would become responsible for their care, other providers of services to looked after children, and our universal services, including schools. Any decision to accept unaccompanied refugee children will depend on the capacity within our children's social care system to effectively meet their individual needs. As with all looked after children, unaccompanied refugee children would be placed in the care placement that is most appropriate for their assessed needs to achieve the best outcomes for them.<sup>2</sup>*  
(emphasis added)

This is confirmed in a recent Westminster Parliamentary Question:

*We are working to extend the transfer provisions in the Immigration Act 2016 to the devolved administrations by the draft affirmative procedure. Building upon Northern Ireland's positive contribution to the Syrian Vulnerable Persons Resettlement scheme the Home Office continues to be in contact with the Northern Ireland Executive at ministerial and official level including discussions regarding unaccompanied asylum seeking children. We remain open to any offers of NTS places from the relevant authorities in the devolved administrations however no unaccompanied asylum-seeking children have been resettled in Northern Ireland under section 67 of the Immigration Act 2016 yet.<sup>3</sup>*  
(emphasis added)

5. As outlined below, LCNI is of the opinion that Northern Ireland has capacity within the social care system to effectively meet the needs of separated children. The experience we have shows that separated children in Northern Ireland receive high quality care.
6. Should it be the case that discussions are taking place between the Home Office and Northern Ireland government departments, then LCNI recommends that the voluntary and community sector is involved. The Syrian Vulnerable Persons Resettlement scheme has been very successful to date in Northern Ireland. This is due in part to the effective partnership approach whereby the NI Department for Communities commissioned a consortium of voluntary and community organisations to deliver services to the Syrian families. Considerable expertise has been developed in the context of the Syrian VPR scheme and LCNI would wish to see that the

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<sup>2</sup> AQW 2948/16-21

<sup>3</sup> HC Deb 7 March 2017 PQ 66977



expertise and goodwill could be harnessed to design and deliver a resettlement scheme for children.

### **Northern Ireland statistics on separated children in Northern Ireland**

7. The number of separated children in Northern Ireland has always been relatively low. Figures indicate that 34 unaccompanied children were referred to the Health and Social Care Trusts between April 2012 and March 2015 and 13 referrals in 2015/16.<sup>4</sup> Figures for 2016/17 are not yet available .
8. The National Crime Agency figures show that 8 potential child victims of trafficking were referred into the National Referral Mechanism in 2014, that 8 minors were referred in 2015 and 6 minors referred in 2016.<sup>5</sup>

### **Northern Ireland practice**

9. There have been a number of positive developments in the care, support and protection of unaccompanied minors in Northern Ireland in recent years. A number of these developments are a consequence of joint work between NI departments and the voluntary and community sector.<sup>6</sup>
10. There is now a robust policy framework in place. In 2011, the Department for Health (responsible for Social Services) published Departmental Guidance on the welfare and safeguarding of child suspected victims of human trafficking.<sup>7</sup> Since 2013, the Department of Justice (responsible for anti-human trafficking initiatives) has articulated a clear need to recognise the need to identify, protect and understand the rights and entitlements of child victims through an overall strategy and a series of action plans.<sup>8</sup>
11. Following an identified need for a safe reception/assessment centre for all unaccompanied minors in NI, a facility was established at Aran House within Glenmona Resource Centre as the dedicated centre for this group of children in

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<sup>4</sup> Delegated Statutory Functions Statistical Report, 31<sup>st</sup> March 2015 (HSBC)

<sup>5</sup> National Crime Agency, Trafficking Statistics <http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/676-national-referral-mechanism-statistics-end-of-year-summary-2015/file>

<sup>6</sup> The developments are set out in a Law Centre briefing paper <http://www.lawcentreni.org/Publications/Policy-Briefings/Separated-children.pdf>

<sup>7</sup> "Working Arrangements for the Welfare and Safeguarding of Child Victims of Human Trafficking" (2011 DHSSPS and PSNI) <https://www.dhsspsni.gov.uk/sites/default/files/publications/dhssps/working-arrangements-welfare-safeguarding-child-human-trafficking.pdf>

<sup>8</sup> Northern Ireland Human Trafficking & Exploitation Strategy 2016-2017 (DoJ NI and OCTF)



Autumn 2014.<sup>9</sup> The Centre has capacity for eight to ten children. We understand that a second residential care home is available in case there is an increase in demand.

12. The experience of LCNI is that children being accommodated in Aran House appear well supported. Accommodating the children together in one location creates an opportunity for specialist social work skills to develop – especially in the context of working with child victims of human trafficking. The children benefit from a dedicated therapeutic support service, which provides psychological support where needed. The children also have access to onsite education, which includes a focus on developing English language classes as well as access to leisure facilities and faith groups.
13. Consideration needs to be given to the potential risks of accommodating all separated children together on the one site including an increased risk of children going missing from care (i.e. if traffickers become aware of their whereabouts). Figures indicate that 76 children went missing in Northern Ireland between 2006-2016.<sup>10</sup> There is always the potential for learning and improvements in terms of investigations into missing children. The inquiry might wish to consider a recommendation that a central agency – e.g. the Independent Anti Slavery Commissioner or UK Children Commissioners - is notified of all missing migrant children. This would add an additional safeguard in terms of ensuring that ensuring that best practice is followed in terms of investigating and recovering missing children.
14. In terms of transition from Aran House, an increasing number of minors (usually <16.5 years) are placed into foster care. Young people aged 18 years tend to move into supported accommodation and continue to receive support under leaving care provisions.<sup>11</sup> They may be accommodated by an independent provider in the Belfast area where there are many support services available. Both options seem to offer the young people a good and appropriate level of care. While we note that there is a need to develop specialist foster carers (including BME carers) in Northern Ireland the lack of BME foster carers should not be regarded as an impediment to Northern Ireland participating in refugee children resettlement schemes.

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<sup>9</sup> Northern Ireland Human Trafficking Action Plan (Department of Justice)  
<http://www.octf.gov.uk/OCTF/media/OCTF/images/publications/Final-progress-report-Northern-Ireland-Human-Trafficking-and-Exploitation-Action-Plan-2014-15.pdf?ext=.pdf>

<sup>10</sup> NI Assembly Question AQW 466/16-21

<sup>11</sup> Children (Leaving Care) Act (NI) 2002 <http://www.legislation.gov.uk/nia/2002/11/contents> and The Children (Leaving Care) Regulations 2005 <http://www.legislation.gov.uk/nisr/2005/221/contents/made>



15. In addition, the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015<sup>12</sup> provides for the introduction of an independent legal guardian for all separated children in NI.<sup>13</sup> This is a progressive and welcome provision not least because it will apply to unaccompanied minors as well as trafficked children. Indeed, a recent comparative study of the different jurisdictions (England & Wales, Scotland and Northern Ireland) states,

*The Northern Ireland legislation is the most comprehensive and detailed of all three laws and the most explicit on the functions and duties of the independent guardian*<sup>14</sup>

17. Unfortunately, however, while the legislation was introduced in 2015, there has been delay in implementing the legal guardianship provision which now is scheduled to be implemented not sooner than autumn 2017. The delay is disappointing as those who work in this area believe that guardianship will make an important contribution to enhancing the lives of separated children, to reducing the risk of them going missing, and to ensuring an effective response if they do.

18. The experience of LCNI is that age disputes cases are relatively few in Northern Ireland. Where such cases do arise, they are resolved via a Merton compliant process.<sup>15</sup>

19. Unlike in GB, where local authorities are responsible for separated children, in Northern Ireland responsibility rests with the Department of Health and is then delegated to the five Health & Social Care Trusts. This approach means that Northern Ireland is well placed to coordinate a consistent approach to all children within the jurisdiction.

## Areas of concern

20. Northern Ireland is not subject to the LAPSO restrictions on legal aid available for immigration matters. Legal Aid continues to be available for all children living in Northern Ireland. There are a small number of solicitors in private practice firms, predominantly in the Belfast area, that have experience and knowledge of immigration issues. The Northern Ireland Strategic Migration Partnership has

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<sup>12</sup> Section 21 <http://www.legislation.gov.uk/nia/2015/2/enacted>

<sup>13</sup> This complies with the EU Trafficking Directive Article 16 (3) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

<sup>14</sup> ATMG Class Acts (2016), p 57  
[http://www.ecpat.org.uk/sites/default/files/atmg\\_class\\_acts\\_report\\_web\\_final.pdf](http://www.ecpat.org.uk/sites/default/files/atmg_class_acts_report_web_final.pdf)

<sup>15</sup> R (B) v London Borough of Merton CO/881/2003  
[http://www.asylumlawdatabase.eu/sites/www.asylumlawdatabase.eu/files/aldfiles/UK\\_060%20Judgment.pdf](http://www.asylumlawdatabase.eu/sites/www.asylumlawdatabase.eu/files/aldfiles/UK_060%20Judgment.pdf)



reported on the quality of immigration advice and representation in Northern Ireland.<sup>16</sup>

21. Northern Ireland does not have a detention facility that can be used for children. The Larne House Short-Term Holding Centre was opened in 2011 and can hold up to 19 adults for a period of five days.<sup>17</sup> However, records indicate that a child aged 12 – 16 years was detained in Larne House in November 2013.<sup>18</sup> LCNI shares the concerns of the NI Human Rights Commission about lack of oversight of Larne House.<sup>19</sup> Specifically, it is of concern that there is no legislation governing operations at Larne House – this is because the Detention Rules do not apply to Short Term Holding Facilities like Larne House. LCNI would urge the Home Office to issue the rules without further delay and ensure that the rules clearly identify that children (and other groups of vulnerable migrants) should never be detained.<sup>20</sup>
22. LCNI and the Northern Ireland Commissioner for Children and Young People have raised concerns that the interview room at the UKVI office in Belfast, Drumkeen House is not ‘child-friendly’.<sup>21</sup> The Home Office has agreed to interview children in different premises if specifically requested and where there is a demonstrable need. This is welcome. However, the arrangements at Drumkeen House continue to fall short of best practice as a place to interview unaccompanied children.<sup>22</sup>
23. LCNI has raised concerns that Border Force does not seem to play a role in the identification of potential victims of trafficking in Northern Ireland. National Referral Mechanism figures show that Border Force only acted as a First Responder once in a three year period 2013-16.<sup>23</sup> This extremely low rate of referrals might suggest that

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<sup>16</sup> NISMP, ‘Legal representation in the asylum process problems faced by asylum seekers in Northern Ireland’ (March 2016)

<http://www.migrationni.org/DataEditorUploads/March%202016%20Legal%20Representation%20paper.pdf>

<sup>17</sup> If removal directions are set, detainees can be held for seven days.

<sup>18</sup> Home Office Statistical Data Sets, ‘Children entering detention under Immigration Act powers’ (Nov 2013)

<https://www.gov.uk/government/statistical-data-sets/children-entering-detention-under-immigration-act-powers>

<sup>19</sup> See Law Centre response, ‘Parliamentary inquiry into the use of immigration detention’ (Oct 2014)

accessible here: [http://www.lawcentreni.org/Publications/Policy-Responses/LCNI\\_parliamentary\\_Enquiry.pdf](http://www.lawcentreni.org/Publications/Policy-Responses/LCNI_parliamentary_Enquiry.pdf)

<sup>20</sup> Law Centre NI, ‘Response to Short Term Holding Facility Rules’ (April 2016) accessible here:

[http://www.lawcentreni.org/Publications/Policy-Responses/LCNI\\_Home%20Office\\_Draft%20STHF%20Rules\\_.pdf](http://www.lawcentreni.org/Publications/Policy-Responses/LCNI_Home%20Office_Draft%20STHF%20Rules_.pdf)

<sup>21</sup> Letter from Law Centre(NI) to UKBA Scotland & Northern Ireland (8 February 2013)

<sup>22</sup> Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice, (CoE 2010)

<http://www.coe.int/t/dghl/standardsetting/cdcj/CDCJ%20Recommendations/GuidelinesChild-FriendlyJusticeE.pdf>

UNICEF: A Practical Guide for Creating Child-Friendly Spaces.

[http://www.unicef.org/protection/A\\_Practical\\_Guide\\_to\\_Developing\\_Child\\_Friendly\\_Spaces\\_-\\_UNICEF\\_\(1\).pdf](http://www.unicef.org/protection/A_Practical_Guide_to_Developing_Child_Friendly_Spaces_-_UNICEF_(1).pdf)

<sup>23</sup> Law Centre response to, ‘Independent Chief Inspector of Borders & Immigration’ (August 2016)

<http://www.lawcentreni.org/Publications/Policy-Responses/Border-Force-Inspection-Aug-2016.pdf>



the agency's priority is focused elsewhere, e.g. on immigration and criminality matters. Border Force officials should be adequately trained and monitored to ensure that any vulnerable unaccompanied children are promptly identified at sea/airports.

24. The Home Office does not publish disaggregated figures for Northern Ireland in relation to asylum and immigration.<sup>24</sup> This omission impedes policy development and planning.<sup>25</sup>

### Concluding remarks

25. LCNI is of the opinion that Northern Ireland should be involved in a resettlement of child refugees and that there exists the necessary expertise and capacity in order to do so. In summary this is demonstrated by a number of factors:

- The Aran House model has resulted in specialist social work skills being developed;
- Northern Ireland has a robust policy framework;
- Northern Ireland is not subject to s.68 of Immigration Act 2016, which limits access to care leavers support for migrant children (accordingly the Health & Social Care Trusts continue to have a range of powers available which provides appropriate levels of support);
- The success of the Syrian VPR programme can be built upon.

26. The inquiry might wish to consider a recommendation that, in addition to participating in the scheme, there is a commitment to addressing the concerns identified in this paper, namely that:

- Separated children have access to quality immigration advice;
- The Home Office issues Detention Rules that clearly prohibit child detention in Northern Ireland;
- Children are interviewed in appropriate facilities;
- Border Force is adequately trained to identify vulnerable minors;
- Comprehensive Northern Ireland data is published;
- Independent legal guardianship is implemented without further delay.
- The voluntary and community sector is involved in planning and/or delivering any refugee children resettlement scheme.

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<sup>24</sup> Michael Potter, 'Asylum seekers and refugees in NI' (NIA Research and Information Service, 6 June 2014, NIAR 348-14) <http://www.niassembly.gov.uk/Documents/RaSe/Publications/2014/ofmdfm/6314.pdf>

<sup>25</sup> E.g. see Law Centre response to 'OFDMFM Racial Equality Strategy (2014)' [http://www.lawcentreni.org/Publications/Policy-Responses/OFDMFM\\_Racial%20Equality%20Strategy.pdf](http://www.lawcentreni.org/Publications/Policy-Responses/OFDMFM_Racial%20Equality%20Strategy.pdf)