



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Oral evidence: Human Rights of Asylum Seekers in the UK, [HC 821](#)

Wednesday 23 November 2022

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Members present: Joanna Cherry MP (Chair); Lord Henley; Baroness Massey of Darwen; David Simmonds MP; Lord Singh of Wimbledon.

Questions 24 - 36

Witnesses

[I](#): Laura Durán, Head of Policy, Advocacy and Research, ECPAT UK (Every Child Protected Against Trafficking); Stewart MacLachlan, Legal & Policy Manager, Coram Children's Legal Centre (CCLC); Carolyn Housman, CEO, Children and Families Across Borders (CFAB).

Examination of witnesses

Laura Durán, Stewart MacLachlan and Carolyn Housman.

Q24 **Chair:** Good afternoon and welcome to today's meeting of the Joint Committee on Human Rights. We are a cross-party Joint Committee, which means we have Members from both the House of Commons and the House of Lords.

One of the inquiries that we are conducting presently is into the human rights of asylum seekers in the United Kingdom. Today's session will focus on exploring the potential human rights relating to child asylum seekers. We have one panel today, which consists of representatives of a legal advice charity, a children's rights group and an international group working on issues affecting child asylum seekers. I will introduce them now in no particular order, starting first with Stewart MacLachlan, who is the legal and policy manager at Coram Children's Legal Centre, which works to promote and protect the rights of children in the United Kingdom and worldwide. Stewart is a solicitor. Next we have Carolyn Housman, who is the chief executive of Children and Families Across Borders, which works to protect children and to reunite them with their families. Last but not least, joining us online is Laura Durán, who is the head of policy, advocacy and research at Every Child Protected Against Trafficking, an organisation that works to protect children from trafficking and exploitation. Thank you very much to all our witnesses for joining us. You are very welcome, and we are looking forward to hearing what you have to say.

The United Nations Convention on the Rights of the Child requires that the best interests of the child must be a primary consideration in all actions concerning children. In your view, and perhaps I could direct this question specifically at Stewart, to what extent is the United Kingdom complying with this legal obligation in respect of child asylum seekers?

Stewart MacLachlan: There are some difficulties with regard to the UK complying with the UNCRC obligations. The UNCRC is not incorporated in England and Wales at this time, and there are particular issues with the incorporation in Scotland as well, which makes accountability with regard to children's rights quite difficult, because incorporation would lead to a change in legal rights and within the culture. Without the remedies that are available through incorporation, realising those rights can be pretty limited at times.

In particular, with regard to child asylum seekers, there are issues with the UK obligations under Article 22 to refugee children, such as the appropriateness of the protection and assistance that is provided. There are issues with the right to education and how that interacts with practical things, such as being able to get an application registration card so that they can register with a college when they are going through the asylum process, and limits on their education depending on their immigration status. There are also issues with regard to family reunification under the UNCRC and the rights of children to be reunited

with their family members in the UK, even once they have been recognised as a refugee.

Chair: Would you say that the UK is adequately complying with the legal obligation to make the best interests of the child a primary consideration?

Stewart MacLachlan: Overall, I would say that the UK is not doing that at this time. The regular reporting that goes on highlights quite regularly that there are issues with meeting the requirements. There is a lot of work to be done in particular on child asylum seekers. There has been an element of going backwards, particularly with some of the new legislation, including the Nationality and Borders Act 2022 and the differentiation process of refugees being granted different statuses depending on a set of circumstances that are often outwith a child's control. The lack of a child's rights impact assessment in legislation is often problematic, because when legislation is being considered, children's rights are not adequately assessed when that legislation goes through Parliament.

Q25 **Chair:** To put that answer in context, I should ask you this. How are child asylum seekers treated differently from adult asylum seekers? Can you set out whether there are different rules for unaccompanied asylum-seeking children?

Stewart MacLachlan: I would caveat this, first, by saying that the system has become so confusing, even for professionals working in the area, that it can be quite difficult to set out all the reasons, but I will try to do that as briefly as possible. It is probably easier to run from the start of arrival to the decision point. Even on arrival, you start with a difference in admissibility procedures between child and adult asylum seekers. An unaccompanied child arriving in the UK is exempt from inadmissibility procedures, but adults who arrive—that can include adults with their children—can be subject to admissibility procedures.

Chair: What are admissibility procedures?

Stewart MacLachlan: That is where the Home Office will consider whether you could be moved to another country to have your asylum claim considered. Essentially, before leaving the EU, there was a Dublin regulation whereby a family or an individual could be moved to another European country depending on the circumstances of their arrival and some criteria. That is now back in place as of January 2021. In most cases, that just means that the individual has to wait about six months or so for their decision to go ahead. They tend to sit in limbo and then their asylum claim starts. I think around five individuals were removed in the first 12 months of that rule coming in, but, overall, the majority would just sit in limbo for six months.

Chair: Children who come with adults can sit in that limbo.

Stewart MacLachlan: They fit within the criteria. I do not have a lot of experience of working within the admissibility procedures. They could fit

within the rules, but whether the Home Office does that in practice I am not 100% clear.

Chair: However, they do not apply to unaccompanied child asylum seekers.

Stewart MacLachlan: Unaccompanied children are exempt from the admissibility procedures. That is probably the first difference.

The second difference is that obviously children go into care, although at the moment there are issues with them being held in hotels as children and with age disputes. Young people can be held in adult accommodation if they are assessed by the Home Office, without a full local authority assessment, to be over 18. Adults will go into adult accommodation, and there have been issues with adults with children and the appropriateness of accommodation due to the lack of appropriate accommodation throughout the UK. Now, because dispersal is mandatory, a child with their family could essentially be accommodated anywhere in the UK, where there may not be enough services or other support available that is appropriate.

In terms of the process itself, the children will be transferred under the national transfer scheme, usually to the care of another local authority. There are larger numbers in Kent County Council, for example, so they will be transferred to the care of another local authority with lower numbers, say Derbyshire County Council. The procedure is slightly different in that a statement of evidence is sent, and, as part of the asylum process, the child's best interests will have to be considered at every point of decision-making. That is the same for children and families.

One other difference is that if the child is under 18 when they have their main interview with the Home Office, the Legal Aid Agency funds a solicitor to attend the interview with them. If they turn 18 before that interview date, they generally will not have a legal representative, because the Legal Aid Agency does not fund a solicitor to go with them, so they lose some protections there. Because of the significant delays in the system, a lot of children turn 18 either prior to their interview or prior to a decision being made.

If a child is under 18 when a decision is made, their best interests will be considered. A child may have risks identified that an adult may not, and there is quite a stark line between that. Although it may not seem so in real life, the way a 17 year-old's risk is assessed and the way an 18-year-old's risk is assessed is very different. That will be more important for some countries than others, depending on the reason for claiming asylum.

As for the new rules around the two-tier system, unaccompanied children, unlike under the admissibility procedures, will be at risk of being group 2 refugees, as it is set out. Group 1 refugees will have similar rights as before: five years' leave to remain, followed by the possibility of

applying for indefinite leave to remain. A group 2 refugee will have a two and a half year leave to remain on a 10-year route to settlement, which is a long time. They will have to make a number of applications. They may get a no recourse to public funds condition, which will also affect children and families. That will just place further pressure on the system, which is already bursting in terms of its ability to cope with the current levels going through the system.

Chair: Thank you very much.

Q26 Baroness Massey of Darwen: I have two questions for Stewart, and I want to add a little one at the end for ECPAT. Stewart, I know that age assessment is a tricky issue. How is it decided which asylum seekers need to have their age assessed, and what is the current process for assessing an asylum seeker's age? What human rights concerns might the age assessment raise?

Stewart MacLachlan: In terms of age assessments, the asylum system has become a bit more complicated over time. Historically, when we talk about age assessments, they are the purview of the local authorities. Social workers will generally carry out age assessments where there is doubt over the age of a young person.

Age disputes also occur with the Home Office at the point of entry, and that has become a particular issue over the last few years. If an unaccompanied child arrives in the UK and their age is disputed, the Home Office has one of three options. First, it can treat them as a child and they go into the care of social services. Secondly, it can treat them as a child but dispute their age, in which case they still go into local authority care but it requests that the local authority carry out an assessment of their age. Thirdly, and this is probably the most problematic, it will treat them as an adult if, in the view of the immigration official, with a second pair of eyes at the Home Office, the physical appearance and demeanour of the young person strongly suggests that they are significantly over the age of 18.

Otherwise, with local authority assessments, if they go into care, it is not meant to be a routine part of care. It is only where there is reason to doubt the age of the child. There is non-statutory guidance, which is meant to be followed, which is often referred to as the Merton-compliant age assessment and refers to the group of cases that came after the first age assessment challenge against the London Borough of Merton. It is a set of rules, and certain procedural issues, which the local authorities have to follow. That is carried out by social workers.

You can legally challenge an age assessment and a decision on age by the Home Office, but only by judicial review. Changes coming under the Nationality and Borders Act include an appeal right for challenges to the local authority age assessment decisions and decisions made by the national age assessment board, which is being set up by the Home Office to sit inside the Home Office and carry out age assessments.

On human rights concerns, the first major issue is definitely the issue of children being treated as adults in the first stage by the Home Office and in age disputes. The statistics are quite difficult to go through. They are a bit uncertain on the exact numbers, but you are looking at around 700 to 900 children being age-disputed year on year. Last year, there were over 2,500 age disputes in the UK. That seems to have led to a large number of young people being assessed as adults and being placed in adult accommodation, quite often hotel accommodation.

The Refugee Council has an age dispute project where it works with young people who are kept in adult accommodation and are said to be children. It said that last year it worked with, I think, 233 young people who were initially assessed and treated as adults by the Home Office, 94% of whom were found later to be children—or, rather, only 14 of whom were found to be adults following further assessments.

It is very difficult in these circumstances. It is probably the most common issue raised in our training and events by local authorities, which say that at the moment they are constantly picking up children who are being held in adult accommodation. It has become a major issue. Getting community care advice for age assessment challenges has become very problematic, as has even getting an immigration adviser. I did not mention that in answer to the previous question.

There is a significant issue with legal aid and being able to access asylum advice under legal aid. Refugee Action has done an extensive report with Dr Jo Wilding about the extent of legal aid deserts in the UK and how much of an impact that is having on young people and the wider population getting immigration advice. It can be very hard for young people in that situation to challenge those decisions, because they are not able to easily access advice. There is almost an element of luck, in that either you are in an adult accommodation where someone knows the procedures and to contact social services, or you have a legal adviser who is available in that area, because, as I mentioned earlier, you can be placed anywhere in the UK in adult accommodation.

Q27 **Baroness Massey of Darwen:** Thank you very much. That is very helpful. Laura, what about consultation with the children themselves? Do you know of any positive actions in that direction, or is it very complex and confusing?

Laura Durán: Do you mean consultation by the Home Office with children on developing age policy?

Baroness Massey of Darwen: Yes.

Laura Durán: I am not aware that, in the recent reinstating of the significantly over-18 policy that Stewart was talking about, the Home Office held any consultation with children and young people. I am aware that in the past year it has set up a participatory youth group with the Office of the Children's Champion, but I think those questions would be better directed to the Home Office itself, because I do not have all the

details about the way that group is operating, what policies it has reviewed, what advice given by children and young people from that group has been reviewed by Home Office officials, or what the outcome of that review was and whether the recommendations were accepted or refused, and if refused the reasons for those refusals.

I also wanted to respond to your other question about the human rights implications of the age assessment procedures in the UK. In addition to everything that Stewart said, I want to highlight particularly the third group who may be treated as adults at port and the fact that they will also be liable to be detained in immigration detention. That is a significant risk to them.

For those who are trafficked, we do not believe that the additional legal threshold in Section 51 of the Modern Slavery Act is currently being applied. That means that there could be significant Article 4 implications for child victims of trafficking within the unaccompanied children cohort who are treated as adults at port. Many may go missing and be re-trafficked pretty much straightaway because of that age dispute at port, without any consideration given to their vulnerabilities as victims of trafficking. I just wanted to raise our additional concern for that cohort.

Q28 Lord Singh of Wimbledon: I am a Cross-Bench Member of the House of Lords. Carolyn, what rules for family reunion apply to child asylum seekers?

Carolyn Housman: First, thank you again for the invitation. I am very happy to be here.

Currently, the family reunification rules for child asylum seekers seeking to join family members in the UK are very narrow in scope. They have changed quite a bit over the last two years. Previously, when the UK was part of the European Union, child asylum seekers were able to have their application heard in the state where they had family members. That might include parents, but it would also include adult aunts or uncles, grandparents, responsible adults and so on. Currently, only spouses or partners and children can come together under the family reunification rules as long as the child is under 18 and they were living together prior to leaving their country of origin.

The other complication is that there are cases where non-parent adults are able to sponsor an asylum-seeking child, but only in situations where there are serious and compelling family or other considerations that make the exclusion of the child undesirable. In that case, suitable arrangements for the care of the child need to be made, including maintenance and ensuring accommodation. This effectively means that family reunification for asylum-seeking children is predominantly with parents or non-parent adults where they have settled refugee status.

It is possible to make immigration applications outside the Immigration Rules—this is something that Children and Families Across Borders helps to contribute to—but leave outside the rules is granted only at the

discretion of the decision-maker in situations where refusal under the rules would result in unjustifiably harsh consequences, or on the basis of Article 8 of the European Convention on Human Rights and the right to family life. Again, in those cases the child applicant has to be able to evidence compelling and compassionate reasons to be reunited with their family.

Lord Singh of Wimbledon: I think you have answered this, but would you like to add anything else on the way the present situation differs from when we were part of the European Union?

Carolyn Housman: Yes. For expediency, I will say that the current rules are much narrower in scope. Families seems to be considered only as parents, spouse and child. It is not as clearly explicit that the best interests of the child need to be the primary consideration. It was much more explicit under the Dublin regulations.

Q29 **Lord Singh of Wimbledon:** Thank you. I have another question. Do the current family reunion rules adequately respect the right to private and family life as protected by Article 8 of the European convention and other conventions on human rights?

Carolyn Housman: As described, that understanding of what qualifies as family is critical to the answer to your question. That has, of course, changed in the last two years. It is much more difficult for a child to join loved ones, to join family members, as recognised under Article 8. That means that children spend much longer periods of time in quite horrifying conditions.

We see many cases, both inside and outside the UK, where a child's family is much more than their immediate parents—where they are raised by extended family members, where aunts and uncles have caretaking responsibilities for children and were certainly considered family members. My understanding is that the courts in the UK have also recognised that family includes extended family members and is a much broader definition than just immediate parents and their biological children. In that sense, the current family reunion rules do not respect a child's right to family, and the balance of rights for the child is not quite right.

Lord Singh of Wimbledon: Thank you, Carolyn. That is very revealing and helpful.

Q30 **David Simmonds:** I would like to ask some questions about detention initially. In what circumstances and how long could child asylum seekers be detained in the UK, and what human rights concerns might arise from their detention?

Stewart MacLachlan: Our organisation does not deal as extensively with detention. In our work on that, we find that the circumstances in which a child should be detained are relatively limited, but in practice it can sometimes be a bit more complicated. Our main concern is about age-disputed young people who are treated as adults potentially being

detained, which Laura mentioned in answer to an earlier question. We have seen young people who are age-disputed potentially being subject to Section 40 immigration offences. Whatever the policy is on that at the moment, we have started to see young people being prosecuted on the basis of illegal entry or illegal arrival.

In terms of child asylum seekers within families, children should not be detained. It has to be through the family returns process and only in specific circumstances. With unaccompanied children, you are really only looking at detention happening in a very limited way—being held in a short-term holding facility while being transferred into appropriate care. Again, one issue we have had is with accommodation, and immigration centres where it is not detention but there is definitely an element of restriction on an individual's movement in certain circumstances.

Q31 David Simmonds: Thank you. Do any of the other witnesses have anything to add to that? I see shaking heads.

I will move on to the next question, which is on the next stage: the onward accommodation. Certainly, my experience, having dealt with this for many years, was that in England you had two children's homes specifically for unaccompanied asylum-seeking children. I appreciate that the situation is more complex when children are with their families. Could you tell us a bit about the conditions of the onward accommodation that is being provided by the Home Office for child asylum seekers? Hotels have been mentioned. In particular, are there adequate safeguarding arrangements in those venues, and is there a process of some kind in place to ensure that their human rights are protected?

Laura Durán: I wanted to touch on a few different issues with the accommodation specifically of separated and unaccompanied children. The first issue is a practice that has been in place since July last year and which has been of grave concern to ECPAT UK and the wider children's sector. The Home Office is currently accommodating separated and unaccompanied children in hotels. There are currently five hotels, and a sixth one is opening. About 3,256 children have been accommodated in these hotels since October last year, and 222 of them have gone missing and are still missing. These children are effectively outside the child protection framework in the UK, and they are the only group of children to have been excluded from the protections of the Children Act and subsequent legislation that are embedded for all children, regardless of their immigration status. We are very concerned about the operation of these hotels.

David Simmonds: Sorry, Laura, you mentioned that they are outside the protection and the remit of the Children Act. Could you tell the committee why they would be outside its remit?

Laura Durán: Yes. Under the national transfer scheme, the law allows for a child to arrive at an intake local authority and then to be moved to a receiving local authority, but, the way these hotels are being operated, no receiving local authority has corporate parenting duties over children

while they are in these hotels. In its latest report, the Independent Chief Inspector of Borders and Immigration, when it inspected these hotels earlier in March, found that they are effectively operating as unregulated accommodation for children, and the Home Office itself has accepted this.

All the children in these hotels will effectively be outside those protections as looked-after children, and they will not be accessing any of the entitlements that they would receive as any other child in care. On top of that, many may be under the age of 16. There was effectively a ban last year on accommodating under 16 year-olds in unregulated accommodation and on it being an acceptable provision for under 16 year-olds. We are concerned for children of all ages in this category, particularly as they are extremely vulnerable. Many may have been trafficked. We are very concerned about the whereabouts of the many who have gone missing.

David Simmonds: Sorry to press the point, but are you aware of any judicial reviews in respect of any of those children seeking to establish their rights under the Children Act?

Laura Durán: That is another significant issue for this group of children, because none of them are accessing legal advice when they are in the hotels. From ECPAT UK's perspective, if they were able to access legal advice, it is likely that they could bring a successful claim, but when they are inside the hotel they are not accessing legal advice. The Home Office's position on this is that, because they will be moved, it is better for them to access immigration and asylum advice in the receiving local authority, but they are still not accessing other forms of legal advice such as public law or community care with regard to their entitlements as looked-after children.

Many will subsequently be moved back into the residential settings in Kent and will just age out in those residential settings or in the hotels, leaving them without entitlements to leaving care services like any other young person who is transitioning into adulthood and leaving care. Those are some of the biggest concerns we have at the moment.

There are additional concerns with regard to children accommodated by local authorities. I do not know if you are aware, but, based on the latest stats that we have from 2019, about 43% of unaccompanied children placed in unregulated accommodations were accommodated in independent accommodation, and 36% were accommodated in semi-independent accommodation. They account for only 6% of the total looked-after children population, so they are disproportionately represented in those who are placed in this form of accommodation. That means that they are accommodated without access to care.

The Government are bringing in new minimum standards for this form of accommodation, but we see a high proportion of trafficked children going missing being linked to unregulated accommodation. There are many children in these forms of unregulated accommodation, where their needs are not being met. The care planning standards set out that the

placement of children and their accommodation should be needs-based, but we have seen an environment that is based more on what is available rather than what is most appropriate to that individual child and their individual needs. Unaccompanied children may just be offered generic provision despite the needs-based assessment that is meant to be carried out.

Those, I think, are the two most significant problems that we see for separated and unaccompanied children with regards to accommodation.

Chair: Can I just clarify something? You said that since last October 3,256 children have been accommodated in hotels, and then you talked about children being in the hotels for so long that they age out. That means that they turn 18. Can you give us any indication of how long unaccompanied children are spending in hotels?

Laura Durán: Yes. The Home Office set out a new target in the past few months to move children from the hotels within five days. We know that those targets are not being kept at the moment. The average time at the moment is about 10 days, but some children are spending significantly longer in the hotel. Unfortunately, with regard to monitoring the use of these hotels, the Home Office is not producing statistics, so the only information available is through freedom of information requests and Parliamentary Questions.

Q32 **Lord Henley:** I am a Conservative Member of the House of Lords. Can we move on to child trafficking and modern slavery? To start off—this is probably for Laura from ECPAT—how is child trafficking defined, and how are the trafficked children being exploited once they arrive in the UK?

Laura Durán: Child trafficking is defined based on the international human trafficking definition in the Palermo Protocol, which sets out that if anybody under the age of 18 is recruited, harboured, transferred, transported or received for the purposes of exploitation, they are a victim of trafficking. The typology of that exploitation in the UK is set out in the following categories: sexual exploitation, labour exploitation, criminal exploitation, domestic servitude, and organ harvesting.

Children may be exploited in other ways. They could be victims of illegal adoption, for example, but they would have to be exploited within that illegal adoption to meet one of the constituent elements of the criteria. They may be victims of child marriage or forced marriage, by which they may fit the criteria for child victims of trafficking when it has elements of the general typology that I just described.

Lord Henley: So quite a few of the adult victims of trafficking and modern slavery will have been exploited as children and will go on to further exploitation.

Laura Durán: Yes, absolutely. The latest statistics set out that in 2021 a little under half—43%—those referred into the national referral mechanism were exploited as children. Those who are currently being

identified in our official system for identification in the UK are very likely to have been exploited as children.

- Q33 Baroness Massey of Darwen:** Laura, how effective is the legal framework for tackling child trafficking exploitation and modern slavery? Is it compatible with our human rights obligations? Are any changes needed? With regard to the UN Convention on the Rights of the Child, a good deal seems to be being missed out. Is that right?

Laura Durán: The national referral mechanism, which is the official mechanism for identification of victims in the UK, has never really been instituted in a way that we believe has been compatible with the rights of children. Children do not consent to being referred in, and in practice they effectively do not obtain any of the benefits set out in the European convention on the trafficking of human beings by entering the NRM. There is no entitlement as they enter the NRM. The NRM will just have an impact on different legal procedures that they may also be involved with, such as if they are claiming asylum or, for example, if they have been arrested or are being prosecuted for offences that they committed as a result of the exploitation.

The Government have now taken steps to pilot a devolved NRM decision-making model for children, which we have recommended and called for for over 15 years. Safeguarding partners in the different pilot sites are the decision-makers within the NRM so that those decisions are linked more closely to child protection safeguarding procedures—as they should be, because this is a child protection matter. We welcome those steps by the Government.

We have identified some issues with the pilot. For example, the pilot sites exclude age-disputed children or children who are within 100 days of their 19th birthday. We do not believe that anybody under 18 should be excluded from being able to access this pilot process if it is in their area. The decision-making times, as well as the quality of the decision-making, are significantly improved. That has been a positive development under the framework.

- Q34 David Simmonds:** Please do not interpret this as having any particular view on the answer, but I have a question about modern slavery. In your view, are modern slavery laws being abused by those who are seeking to game the system?

Laura Durán: We began to hear claims about the abuse of the NRM early in 2021, with comments from the Home Secretary about particular characteristics of people who were taking advantage of the system. We sought via a freedom of information request specific data from the Home Office on the categories of people the Home Secretary had mentioned. That request was refused because, according to the Home Office, the data was not held.

It has been about two years now and we still have not seen any data or any evidence that supports the view that there is any form of systematic abuse of the national referral mechanism. The Government's own

published statistics of the NRM show the complete opposite. For the year 2021, for example, the rate of positive reasonable grounds decisions, which is that first decision made as a person enters the NRM, was about 90% for both adults and children. That is a very high success rate; about 91% of those who continued in the process went on to receive a positive conclusive grounds decision, which will be the final decision. That does not suggest to me at all that there is any abuse of the system.

People do not self-refer into the NRM; they are referred into the NRM by a first-responder organisation. We really do not understand what the basis of these claims is, and we certainly have not seen any evidence that supports that being the case.

Q35 Chair: Thank you. That is very interesting. Carolyn, if you were given the opportunity, as I am giving you now, to say what changes you think are needed to the rules and policies applicable to child asylum seekers in the United Kingdom in order to ensure that they are human rights compliant, what would they be?

Carolyn Housman: As Children and Families Across Borders, we would certainly recommend that there be more safe and legal routes for asylum-seeking children to join family in the UK. We would like to put forward that the current barrier, in the form of needing to evidence those compellingly compassionate reasons to reunite with family members who are not refugees, be removed if there is no safe or appropriate family, other than those in the UK, for the children to join. The right to family and best interests is a basic right under the UNCRC and the ECHR, and, indeed, our own UK statutory guidance is that children should be with their family.

Children and Families Across Borders would also recommend that where a child's right to join extended family members remains restricted to those compellingly compassionate grounds, the criteria for assessing the application should be made clear. If the burden of proof is on the child, the child ought to be able to know what they need to evidence.

We would also recommend a reduction in the length of time for asylum seekers to become eligible to apply for the right to work, particularly asylum seekers with children. We have seen how children have been disproportionately affected by this rule. Almost none of those we have worked with who are seeking asylum come here for welfare benefits. In fact, they have little knowledge of any financial assistance that they could receive. However, when they are forced to live on what equates to less than £6 per day, it makes them very vulnerable and it makes it difficult for them to look after their children. It certainly risks the child then being taken into care if the family is unable to cope.

Finally, Children and Families Across Borders recommends that guidance on suitable placement for unaccompanied asylum-seeking children in the UK includes exploration of family members not only in the country of origin but in third countries. The existence of central authorities in each UK nation to assist with checking and assessing a family through Hague

convention member countries would certainly facilitate this, and organisations such as the CFAB and the International Social Service, which exists in 130 countries around the world, would also be able to facilitate this.

Chair: That is very comprehensive. Thank you. Stewart, can I direct the same question at you? You mentioned earlier your concern that the United Nations Convention on the Rights of the Child is not incorporated into our domestic law. I know there is a slight difference between Scotland and England and Wales, and it was pending in Scotland in relation to devolved matters. I think you indicated that the fact that that is not part of our domestic law is a barrier. Are there other changes you would like to see, and what difference do you think it would make if we did incorporate the UN Convention on the Rights of the Child?

Stewart MacLachlan: In terms of changes for child asylum seekers, one of the bigger issues at the moment is definitely age disputes and young asylum seekers being held in adult accommodation. We would like to see a change in policy in the Home Office age dispute system, but we would like to see, at the very least, proper safeguarding protections put in place, early access to legal advice, keeping relevant statistics on the numbers, keeping a note on any time that happens, and that they are supported to get that advice and support.

On the general system, we would like better resourcing of the asylum system to deal with the backlog and the impact the delay is having on young people. That is important. In the asylum process, we would like the differentiation of refugees as a whole to be reconsidered, at the very least looking at exempting children, children and families and so on from becoming group 2 refugees.

Finally, on support, sort out application registration cards and how long it is taking young people to get those cards. That ID documentation can be the only barrier to accessing education and different rights and resources. As part of that, think about the UNCRC and a way to realise rights. I do think that incorporation would make a significant difference to children. Going back to the start, it is crucial if you have those rights but cannot always realise them, or you do not have a way to challenge decisions when your rights are not being met, or you are unable to access those rights.

Not directly related to incorporation, and we have thought about this for a long time for England and Wales, is looking at child guardians for separated children in the UK. There is a system of guardianship in Scotland that has been running since about 2010, and other countries have various forms of guardians who help separated children go through the process and access their rights. You can see the results from the guardianship services and the difference that makes in realising their rights, better outcomes and better support. We already have independent child trafficking guardians in England for child trafficking victims, but extending that to all separated children would make a significant difference.

Q36 **Chair:** That is an interesting and helpful proposal. Laura, I will direct my question to you now. What changes would you like to see made to rules and policies applicable to child asylum seekers in the United Kingdom in order to ensure adequate protection of their human rights?

Laura Durán: We would start by requesting that the Home Office ceases immediately to accommodate separated and unaccompanied children. At the very least there should be a credible exit strategy in place, and we must ensure that local authorities' children's services do have sufficient resources to fulfil their obligations.

In recent research with child victims of trafficking who all claimed asylum, all commented on how traumatising the asylum procedure was for them. A lot of procedural changes need to be made in order to facilitate that process for children and ensure that it is not retraumatising them.

We would welcome the devolved NRM pilots extending their inclusion to any child under the age of 18 in that pilot area. We also think that provisions for local authority accommodation should always be regulated, despite the age the child is entering—so for 16 and 17 year-olds as well—so that they receive care in those settings, as well as the incorporation of principles of safe accommodation, particularly with a view to protecting child victims of trafficking who are separated and unaccompanied children from going missing and being re-trafficked.

We also thought that it was important for government Ministers to cease using what we see as very harmful rhetoric to child victims of trafficking. We think that the people in authority should be promoting our environment, where all victims of modern slavery, in particular children, should feel safe to disclose their abuse and their experiences to public authorities so that they get the help and support that they need. Those are the top recommendations that we would make at this moment.

Chair: Thank you very much. Thank you very much for an extremely detailed and helpful evidence session. We are very grateful to you for joining us today.