

Refuge and Asylum in Scotland

**Social work support a human right
not an administrative burden**



A Guide for Members of

UNISON Scotland and Scottish Association of Social Workers



Introduction

This guidance was first issued in October 2006 in order to provide a framework for ethical practice to UNISON and SASW members Scotland who are social work and social care practitioners providing a service to asylum seeker families with children, or to unaccompanied asylum seeking children. Since then the issues that underlie the movement of peoples from their homelands to other parts of the world have escalated and increasing numbers of migrants are seeking refuge in Europe from wars and economic disaster – much of it created by the policies of governments in the richer nations. Many face death, harassment and exploitation on their journeys and the situation facing migrants is both complex and seemingly overwhelming. To keep all this in context it should be stated that most of the estimated 59.5million (2014 figures) refugees who are displaced, seek refuge within their own countries or neighbouring developing (i.e. poor) countries: 95% of Syrian refugees are hosted in just five countries: Turkey, Lebanon, Jordan, Iraq and Egypt. The UK has estimated refugee numbers of just over 117,000 - 0.18% of the total population of the UK. Issues are often exaggerated in the mainstream press to bolster the views of populist right wing politicians who feed off the plight of the world's most vulnerable.

Against this background it is increasingly common for social workers across Scotland to be asked to intervene in the lives of children who have come to this country from devastated areas of the world. Some arrive legally through government sponsored relocation schemes, some come with their families, some arrive as unaccompanied children, some arrive illegally through their own efforts, and some through deliberate trafficking to work in illegal settings such as cannabis farms or the sex industry, or even legal settings such as nail bars, hotels or private homes. All are vulnerable and in need of varying degrees of support.

This updated and very brief document will provide some underlying general guidance and signpost to other more detailed information sources. It should provide a useful tool for negotiating with employers to ensure that the right resources are put in place, including awareness training and staffing. The original guide was focused on asylum seekers, but as refugees, particularly from Syria, are being relocated in Scotland, the document will also cover aspects of the support they too require. It will also touch on migrants from EU countries, who face uncertainties as well as increases in racism and hate crime, as a result of the Brexit process.

Principles

- Asylum seeking, refugee and migrant children in Scotland have the same rights under Scottish legislation as any other child, and the local authority has the same duty toward them

- Social workers employed by local authorities to provide services to children and families have a statutory duty to protect the rights and interests of all children

- Likewise Scottish legislation applying to the support and protection of vulnerable adults does not differentiate on the basis of immigration status or citizenship

- The SSSC Codes of Practice for social workers and employers describe standards of professional conduct and the practice required of social service workers in Scotland. They also describe the responsibilities of employers to support and regulate these standards. The Codes inform ethical practice with all service users including asylum seeker children and their families

- SASW members are also bound by the SASW/BASW Code of Ethics

- All policies and procedures established by the Scottish Government and individual local authorities in respect of the welfare, well-being and protection of children apply equally to the children of asylum seekers, refugees, migrants and to unaccompanied asylum seeking children

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The Law

Children (Scotland) Act 1995

The Act states in its overarching principles that the welfare of the child must be paramount and that the child's views should be taken into account in all matters affecting him or her. These principles are underpinned by the UN Convention on the Rights of the Child and apply to all children living in Scotland. The principles behind the Act have been incorporated into the general Scottish Government guidance for interagency working with children – GIRFEC (Getting it Right for Every Child) and other more specific practice guidance.

Because of their particular circumstances and vulnerabilities, asylum seeker children, whether unaccompanied or living with their families, should be regarded as 'children in need' under s93 of the Act. This is defined as:

a) being 'in need' is to being in need of care and atten-

tion because –

- (i) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development unless there are provided for him, under or by virtue of this Part, services by a local authority;
- (ii) his health or development is likely significantly to be impaired, or further impaired, unless such services are so provided;
- (iii) he is disabled; or
- (iv) he is affected adversely by the disability of any other person in his family;

These children are therefore entitled to all the rights and services accorded to 'children in need' under the Act. The Children (Scotland) Act 1995 s22 places a duty on local authorities to safeguard and promote the welfare of children in need and so far as is consistent with that duty to promote the upbringing of such children by their families by providing appropriate services including assistance in cash or in kind.

The Children (Scotland) Act 1995 provides for through-care support for children and young people leaving care – these are laid out in The Support and Assistance of Young People Leaving Care (Scotland) Amendment Regulations 2015 (which supersede the 2003 regulations), amends the original wording in s29 of the 1995 Act and extends support laid down in the Children and Young People (Scotland) Act 2014. In effect this provides support to care leavers until they are age 26, and the right to be accommodated until the age of 21.

However, these rights have been compromised for asylum seeker children by various pieces of Westminster immigration related legislation that have emerged since 1999, including the Immigration Act 2016 which further restricts the rights of ‘failed’ asylum seekers (those whose applications for asylum have been refused, and others whose claims for refugee status have not been recognised) and the responsibilities of public agencies towards them. All such pieces of legislation have been designed to restrict immigration to the UK in response to perceived electoral pressure – it should be noted that both UNISON and SASW/BASW have policy questioning the validity and ethics of such legislation. The UK Government is however committed to the United Nations Convention on the Rights of the Child (UNCRC), previous ‘reservation’ about Article 22 (which concerns refugee children) having been withdrawn since the first edition of this guide in 2006. In Scotland, the Scottish Commissioner for Children and Young People (SCCYP) includes in his jurisdiction all children living in Scotland and concerns about infringement of UNCRC Articles (which underpin GIRFEC principles – Getting it Right for Every Child) can be referred to the Commissioner, who has new powers of investigation under the 2014 Children and Young Persons (Scotland Act 2014). It is well worth being familiar with the UNCRC.

Guidance for statutory and voluntary agencies concerning the additional risks and vulnerabilities experienced by young asylum seekers is included in the National Guidance for Child Protection in Scotland 2014. These guidelines tend to inform local child protection procedures. Furthermore, it is recommended that that workers read the Scottish Government’s Inter-Agency Guidance for Child Trafficking (2013), which provides guidance and a toolkit for identifying victims of trafficking. Safeguarding Children in Scotland who may have been Trafficked (2009) also outlines Scottish Government guidance.

Details of these resources are in the list at the end of this guide.

Social Work (Scotland) Act 1968

Local councils have a duty under s12 of the Social Work (Scotland) Act 1968 to assess a person’s community care needs and decide whether to arrange any services. Any assistance should be based on an assessment of the person’s care needs and should take account of their preferences. This provision for assisting vulnerable adults applies to anyone resident in Scotland and, like s22 for children described above, enables local authorities to provide whatever support and services, including (arguably) financial support, they require for their needs to be met. The question of what constitutes ‘vulnerability’ and ‘need’ is of course open to a wide interpretation.

Human Rights Act 1998

Local councils also have an obligation not to breach individuals’ human rights. In making a decision to accommodate or support an individual or a family; or indeed in making a decision to not offer support, or to discontinue such support, there is a possibility that vulnerable individuals can be made homeless and destitute, potentially infringing their right to freedom from inhumane and degrading treatment under Article 3 of the European Convention on Human Rights 1950 (ECHR).

Similarly, a decision taken by a local council to separately accommodate family members, or to only accommodate some – and not all – members of a family could potentially breach an individual’s right to family life, which is protected by Article 8 of the ECHR.

The Human Rights Act 1998 and the ECHR also do not generally permit discrimination on the basis of nationality or migration status.

Definitions

Asylum or Refugee Status?

Asylum and Refugee legislation (and associated orders) changes all the time and can affect the status of adults and children coming to Scotland – many of whom are resettled under Westminster Government (Home Office) programmes. Others arrive under their own capacity (in official terms ‘illegally’) and present themselves as Asylum Seekers – this can happen in any locality. Unaccompanied Asylum Seeking Children must be accommodated and supported by the local authority in which they present themselves. Adults (unless they fall within limited exceptions) can only claim asylum at port or at Croydon and will be directed to Croydon if they present in Scotland. After initial processing in Croydon, some

asylum seekers who fail to be housed by the responsible Home Office Department – the United Kingdom Visas and Immigration (UKVI), are then dispersed back up to Glasgow.

At the time of writing Asylum Seekers are placed for residence (whilst their applications are being processed by the Home Office) in Glasgow only in Scotland, but other local authorities have shown interest and this may change.

The information provided in this guide is necessarily short and is not a definitive statement on the current law or its application. A list of useful organisations is provided later.

IT IS IMPORTANT TO CHECK FIRST AND ASSIST INDIVIDUALS TO TAKE EARLY LEGAL ADVICE IF THEY ARE NOT LEGALLY REPRESENTED OR THEIR IMMIGRATION STATUS IS UNCLEAR OR DISPUTED.

Giving advice on refugee status is strictly regulated by the Office of the Immigration Commissioner (OISC) and it is unlawful to give immigration advice to individuals unless you are an OISC regulated advisor or exempt from regulation. Even well-meaning advice might be in breach of the law. Referral should be made to specialist organisations (see appendix).

Refugee Status

The Home Office recognises refugee status and grants asylum when they consider someone falls within the 1951 UN Convention definition of a refugee. People deemed to be refugees are granted five years limited leave to remain (LLR) and are entitled to apply for a UN Convention Travel Document and for some immediate family members living outwith the UK to join them. At the expiry of the five year period, they are entitled to apply for ‘Indefinite Leave to Remain’ (ILR), which means there will then be no limit on the time they can stay in the UK. In most cases they are entitled to apply for British Citizenship after holding ILR for a minimum period of one year. They are entitled to the same economic rights as UK citizens i.e. full rights to work under employment law and full access to medical treatments, benefits, education and housing.

The UK also grants Humanitarian Protection (HP) to some individuals who cannot return home because of serious risk of suffering harm or death through indiscriminate violence in their home countries. A grant of HP confers similar rights to those held by refugees.

The UK also grants periods of Limited Leave to Remain (LLR) or Discretionary Leave (DL) in order to avoid breaching the human rights of some individuals, and for cases in which the Home Office wishes to exercise discretion on policy or other grounds. These grants of leave vary from short periods of 3-6 months up to 30 months. A grant of LLR or DL will include the right to work and may confer access to mainstream benefits or may be subject to a condition that the individual has “no recourse to public funds” (NRPF). Such a grant does not confer the right to apply for family members living outwith the UK to join the holder in the UK.

Under the latest Home Office programme for the relocation of Syrian refugees in the UK, a number of Scottish local authorities have offered housing and this group is now widely dispersed throughout the country – usually in areas with a surplus of local authority housing – which may be into what is sometimes described as ‘hard to let’ accommodation: this can bring attendant problems to individuals and families already traumatised by their experiences.

- Refugees and holders of HP are free to work and claim welfare benefits; those subject to LLR or DL are free to work and claim welfare benefits unless their grant of leave is subject to an NRPF condition (see below).

- However, the imposition of an NRPF condition can be challenged and overturned if it is not logical or appropriate in light of the financial situation, personal responsibilities and capacity of the holder. For example, if the family were granted leave to remain out of regard for the welfare of the children, but the only adult family member is unable to work and therefore the NRPF condition is likely to force the family (including the children) into destitution. If you think an NRPF condition should be challenged, you should assist the individual to seek legal advice on this issue.

Asylum Seeker Status

An Asylum Seeker is a person who has applied for asylum under the 1951 Refugee Convention on the grounds that if they return to their country of origin they have a well-founded fear of persecution on account of race, religion, nationality, political belief, or membership of a particular social group. This status lasts while application for Refugee Status (or appeal against refusal) is in process, during which they are not allowed to work or claim benefits – only a special payment which is less than normal income support entitlement (at the time of writing £36.95 per person over the age of 3yrs), that may be paid in vouchers rather than cash. Refused Asylum Seekers are barred from public income maintenance and oth-

er forms of assistance under Immigration Legislation, but may be entitled to assistance from their local authority under certain circumstances (e.g. in order to provide for children). There is provision for SOME refused asylum seekers – known as Section 4 Asylum Support. However this is not available to all refused asylum seekers, just a small number who are taking steps to leave the UK but cannot leave, or who are exceptionally vulnerable.

Dungavel Immigration Removal Centre in Lanarkshire is used to incarcerate up to 250 adults whose asylum seeker applications have been refused, pending their removal from the UK. It is privately run by the US GEO Corporation and operates alongside similar facilities in England including Yarl's Wood near Heathrow Airport. Since 2010 it has not housed any children but its presence and use in Scotland (where the Scottish Government has no jurisdiction as immigration matters are reserved to Westminster) remains controversial and the subject of regular protest. Its closure was announced in 2016, with replacement by a new facility near Glasgow Airport but after Renfrew Council refused planning permission, is now to remain open.

Unaccompanied Asylum Seeking Children (UASC) or Separated Children

The UN defines separated or unaccompanied children as 'those who are separated from both parents and are not being cared for by an adult who, by law or custom, has responsibility to do so.'

The Home Office uses the term to describe a child under 18 (or if there is no proof, appears to be under 18) outside their country of origin who is not accompanied by a close relative (regardless of whether or not that relative normally cares for the child). This makes it a more narrowly defined term than 'separated' children under the UN Convention. The UKVI does not consider a child to be unaccompanied if he or she is being cared for by an adult prepared to take responsibility for them. The UKVI says it will involve Social Services if there are any concerns about the child's relationship with the 'responsible' adult. It follows that a Social Services assessment will be required to determine, for instance, whether a child is enslaved or subject to trafficking.

UASC children are not included in the definition of 'asylum seeker' for purposes of assessing eligibility for asylum support whilst they are under 18. They are instead the responsibility of the local authority in which they are found and require to be accommodated and supported as children in need under Section 25 of the Children (Scotland) Act. Unaccompanied Asylum Seeker

Children are therefore as entitled as any other child to full range of supports that can be made available to children under this and associated legislation and provisions. They should be allocated a social worker and be subject to the same Looked After Children processes as any other child looked after under that legislation. This includes access to the full range of health care and education opportunities.

'Failed' or 'Refused' Asylum Seekers

If unsuccessful the applicant becomes a 'Refused Asylum Seeker' with no entitlement to benefits or public assistance (NRPF). These punitive measures are designed to encourage such people to leave the UK for their home country as quickly as possible and have been condemned by human rights and refugee support organisations.

However, the ability of local authorities to provide assistance under the general legislative provisions of the Children (Scotland) Act 1995 – in particular under s22 of the Act – applies,

As stated earlier, to ALL children resident in Scotland. It is important to note, in this regard, that assistance provided under the Children (Scotland) Act 1995 is not a "public fund" for purposes of the NRPF condition in immigration legislation.

Support and advocacy organisations reported in 2017 that in a number of UK local authorities (including Glasgow) where there are large numbers of NRPF victims, quite unacceptable practices by local authority social work teams have become common: these include refusal to pay out under s22 or other legislation for vulnerable adults, or if making payments, to set them at very low levels – including placing families in Bed and Breakfast accommodation for periods that can last years. Such practices can be successfully challenged by the applicant through legal representation, the threat of a Judicial Review often resulting in more sympathetic treatment. Referral to an organisation that can provide legal representation is therefore an imperative. This also applies in the case of s12 in relation to vulnerable adults 'in need'. It should be borne in mind that Article 8 of the Human Rights Act 1998 has applicability here and should convince recalcitrant authorities of their legal obligation (in contrast to discretionary duty) to assess need in order to guarantee family life. Individuals and children in this group should also be helped to access health care services and educational opportunities and may require advocacy in this regard. It should be noted that concerns about this area of social work practice in local authorities were highlighted in the Scottish Parliament's Hidden Lives Report published in 2017.

UNISON Position

In line with the union's rules and procedures on representation, UNISON will advise and support members whose practice with refugees and asylum seekers conforms to the SSSC Codes of Practice, the Children (Scotland) Act 1995 and UNISON's own policies and principles concerning equality and anti-discriminatory practice.

BASW code of ethics for social workers (incorporated by SASW)

The BASW/SASW code of ethics takes in the SSSC Codes but offers an additional framework for ethical practice. Its five basic values state that social work should promote respect for human dignity and pursue social justice, through service to humanity, integrity and competence. SASW will support members whose practice conforms to their Code of Ethics and where they have followed all the protocols of their employing agency.

Seek advice early: members faced with the issues outlined in this guide may wish to seek advice from their union or professional association. It is always better to seek advice from UNISON or SASW at an early stage in the process – in advance of perceived difficulties.

Migrant Workers – from within and out-with the EU

Residents from EU member countries are currently allowed to live and work in the UK, so long as they are exercising their rights to free movement under EU law, and generally do not require to seek permission to enter the UK beforehand. Over the years the rights of EU migrants in the UK to benefits have been gradually eroded as successive governments have responded to criticism concerning 'benefits tourism'; these are now

restricted to basic entitlements arising from 'right to reside' status under EU law. As with all benefit entitlement, this is a complicated area and reference should be made to specialist advice or the regularly updated Benefits for Migrants Handbook published by the Child Poverty Action Group. These entitlements will change because of the UK's withdrawal from the EU ('BREXIT') and are subject to the negotiations that are underway as this was being written.

If migrants are from outside the EU, visas or work permits (also called "entry clearance") are required prior to entry to the UK and these are issued on a points basis. The rules are complicated and beyond the scope of this guide. Visas require to be renewed prior to their expiry, and this may require an individual to return to her home country in order to do so. Some forms of limited leave can lead to a right to apply for ILR, and eventually British citizenship, but these routes have narrowed significantly over the years. Most holders of limited leave to remain therefore are expected to leave the UK and return home, after the reasons for their visit come to an end (such as work or studies), and not to seek permanent residence in the UK. Reference to the CPAG Benefits for Migrants book is useful in relation to benefits, but again, it must be stressed that early signposting for specialist legal advice is essential for those in difficulty due to immigration status.

Codes of Practice

The SSSC Codes of Practice require Social Services workers to practice to a set of professional standards when providing a service. The following (updated from November 2016) standards may be particularly relevant in working with asylum seeker families and refugees in Scotland. (NB Whilst space considerations preclude detail, Health professionals working in Social Services settings - such as Occupational Therapists - will have similar codes of practice relating to their registration to practice.)

1. As a social service worker, you must protect and promote the rights and interests of people who use services and carers.

1.1 Treat each person as an individual.

1.2 Respect and, where appropriate, promote the views and wishes of people who use services and carers.

1.3 Support the rights of people who use services to control their lives and make informed choices about the services they use.

1.4 Respect and maintain the dignity and privacy of people who use services.

1.5 Work in a way that promotes diversity and respects different cultures and values.

3.As a social service worker, you must promote the independence of people who use services while protecting them, as far as possible, from danger and harm.

3.1 Promote the independence of people who use services and empower them to understand and exercise their rights.

3.2 Use established processes and procedures to report allegations of harm and challenge and report exploitation and any dangerous, abusive or discriminatory behaviour or practice.

3.4 Tell my employer, or the appropriate authority, about any resourcing or operational difficulties that might get in the way of providing care.

3.10 Recognise and use responsibly the power and authority I have when working with people who use services and carers.

6. As a social service worker, I am accountable for the quality of my work and will take responsibility for maintaining and improving my knowledge and skills.

6.4 Ask for assistance from my employer or the appropriate authority if I do not feel able to, or well enough prepared to, carry out any part of my work or if I am not sure about how to proceed.

Employers also have responsibilities under the Codes: As a social service employer, you must have the culture and systems in place to support social service workers to meet their Code of Practice

2.2 Effectively manage and supervise social service workers to promote best practice and good conduct and support staff to continuously improve their performance and make sure they are fit to practise.

2.3 Have systems in place to listen to and consider feedback from people who use services, carers and oth-

er relevant people, to shape and improve services and the performance of social service workers.

2.4 Have systems in place for social service workers to report inadequate resources or difficulties which might have a negative effect on the delivery of care. Work with social service workers and relevant authorities to tackle such problems.

3.As a social service employer, you must provide learning and development opportunities to enable social service workers to strengthen and develop their skills and knowledge.

3.1 Provide good quality induction, learning and development opportunities to help social service workers do their jobs effectively and prepare for new and changing roles and responsibilities.

3.2 Contribute to providing social care and social work education and learning, including effective workplace assessments and practice learning.

Both UNISON and SASW can support you to ensure that your employer is meeting their obligations under the Codes if this is in doubt, and you should seek advice if you believe they are failing – examples might be in providing adequate resources and training for staff, or facilities and support for asylum seekers and refugees.

Practice Issues and Professional Dilemmas

Age Assessments for Unaccompanied Asylum Seeker Children

Determination of age has become a controversial issue with the increase in recent years of numbers of UASC children emerging within the borders of the UK, or seeking entry from other countries (e.g the unaccompanied children in the Calais Camp and other official and unofficial camps in Europe). As many who present

have no proof of identification or birth details, if there is doubt as to whether they are a child or not then an age assessment may need to be conducted. This statutory function falls on local authority Social Services because they require to determine whether the young person is indeed a child in need for purposes of assessing their responsibilities under the Children (Scotland) Act 1995. This is a complex and difficult area with some social workers being of the view that this should not be a social work task, particularly when it is linked with Immigration procedures. Others take the view that it is better that social workers do this using holistic and human rights based forms of assessment rather than to refuse and the task falling within the remit of the Home Office; it is possible that the Home Office would outsource this to a private contractor as with the controversial assessments undertaken by ATOS and other private agencies to determine eligibility for disability benefits.

Guidance on Age Assessment issued in 2016 by the English Association of Directors of Children's Services (ADCS) was developed in consultation with so-called expert professionals, and has been circulated by UNISON as representing the best available practice guidance on the issue. BASW had some limited input after the exercise was completed and cautioned that age assessment was not a task social workers can do. It should be noted that the guidance states that age assessments should only be conducted where there is doubt that the young person is actually a child, and it suggests best practice that all age assessments should be undertaken by two qualified social workers, at least one of whom is experienced with working with asylum seeking children and age assessments. They should also be ready to apply the benefit of the doubt where appropriate when conducting the assessment, and take into account cultural and linguistic differences as well as the impact of trauma. In Scotland, Glasgow City Council in conjunction with the Scottish Refugee Council issued similar guidance in 2012 and this is also included in the list of resources – it should however be read alongside the fuller UK guidance. This "Glasgow Guidance", as it is known, it in the process of being updated to coincide with the coming into force of the Human Trafficking and Exploitation (Scotland) Act 2015.

Separation of Children from Their Families – and Reunifications in Countries of Origin

UNISON and SASW believe that in conformity with Article 9 of the UN Convention on the Rights of the Child and Article 8 of the EHCR, social workers should only seek to separate children from their parents or carers

where this is adjudged to be in their best interests and where no other options are available.

We believe that children of Refused Asylum Seekers should not be separated from their families unless they are at risk of significant harm. Separating children from parents, even for short periods of time, can result in lifelong emotional damage. It is also illegal in Scotland to do so purely because of destitution (the legal premise underlying s22). The question of practices associated with NRPF has been discussed earlier – the UNISON and SASW view is that punitive practices that seek to deny assistance should be challenged and resisted and that members who find themselves being instructed to do so should seek advice as soon as possible. Challenges are, of course, best conducted collectively.

Children who have experienced violence including murder, torture and rape (often state perpetrated) will already be severely scarred (i.e. psychologically and possibly physically by this trauma) and consequently will suffer further devastation by being separated from their parents and may perceive this as the ultimate punishment in their already damaged young lives. It should also be borne in mind that separating children from parents may increase the likelihood of self-harm and suicide.

According to research conducted by the National Expert Centre for the Treatment of Victims of Persecution, War and Violence, unaccompanied refugee minors have high severity levels of psychosocial problems (anxiety, depression, and traumatic stress reactions) – more so than those who are accompanied by their parents.

Their need for additional services to help them cope with their experiences should be considered.

This opens up questions surrounding the situation facing children being removed from the UK and returned with their 'refused' parents to their countries of origin, and social work's responsibility in such situations. It very pertinently applies to unaccompanied children being sent home to be 'reunited' with their families. This question was raised in the original version of this guide ten years ago and remains unanswered. How can an assessment of that child be completed satisfactorily without full knowledge of how welcoming and supportive the environment will be to which they are returning? In law, the social work assessment for a child who UKVI proposes to return to another country MUST take into account the situation that the child will return to in her home country. If it does not, and the child is returned to a harmful situation, the local authority may be legally responsible for a breach of the child's right to life, and freedom from

serious harm, inhumane or degrading treatment under Articles 2 and 3 of the ECHR. Similarly, if the local authority returns a child to a situation in which she may be trafficked or re-trafficked or subject to slavery or slave-like conditions, it is arguably responsible for breach of her right to freedom from slavery (Article 4 ECHR).

Other Issues Faced by Children Seeking Asylum Turning 18:

Children turning 18 who are or have been 'looked after' should be subject, as described earlier in this guide, to the same supports from that age as any other child in Scotland. However if they have not been looked after (which all unaccompanied asylum seeking children should have been) they may find themselves subject to the law as it is applied to their parents or carers: supports may be withdrawn if they have been refused asylum and appeals have been exhausted and they may face return to their country of origin.

Trauma and its Impact on Behaviour

Children and families may have experienced loss, bereavement, and separation, along with problems related to asylum itself and the arrival in a new country. Fears of being sent back, the stresses of poverty, culture shock, obstacles to integration, racism, unemployment and boredom are common issues. They have to adjust to a new culture, language and to construct a new sense of identity and belonging.

Young people are trying to manage these transitions at a crucial time in their own development. Many children may be suffering from trauma which might lead to perceived behavioural problems. Some may have guilt feelings about having to escape and leave family members behind. Some may have experienced extreme events like torture, other assault or uncertain imprisonment. They may have witnessed inhumane acts or had to deal with the aftermath of these. Unaccompanied children might be anxious about the security of personal information and trust building will be a key issue. If children are removed or displaced by immigration authorities it must be acknowledged that this can compromise recovery from what can often be significant trauma. This will be exacerbated if children have been settled for a while in Scotland, have built new identities and relationships, and have begun to recover their lives. Uncertainty itself might be enough to impede recovery.

Social Work Practice

Practitioners in the social work and social care professions are well equipped to help children and their families recover from all the effects outlined above. Practical assistance (where possible) and referral to specialist advocates is one part of this process but should not be the only forms of intervention.

Many families will need the individual and emotional support and therapy that social workers have traditionally provided. This may be at variance with current managerialist practice which is focused on computer friendly processes and outcomes, but should nonetheless be argued for at every level.

It is clear that progressive Scottish legislation, designed to meet and support the needs of children with the central principle that the child's welfare is paramount, is compromised by immigration legislation. This is the greatest dilemma for social workers – acting as part of a system that seems intrinsically oppressive. Such dilemmas however, are as old as social work itself and will not be new to those who aspire to progressive/radical practice within statutory settings.

UNISON and SASW have always lobbied for the interests and rights of children and against legislation that compromises those interests and the rights that underlie them. Practitioners should not collude with practices and processes that do not have children's interests at their heart. It is not a social work role to put a humane face on inhumane processes – but where possible social workers should do all they can to promote a child's interests. That should include using all the legislation we have at our disposal and being prepared to intervene and challenge within the parameters of the SSSC Codes of Practice, the UN Convention on the Rights of the Child and the Human Rights Act 1998. We should expect the support of our agencies in doing that.

This applies equally to vulnerable adults in need of protection and support.

All of this very complex field of practice has obvious training implications for staff and local authorities should be providing a range of broad and specific training opportunities.

Wider Campaigning

UNISON and SASW have made many representations to Government at Scottish and UK level to campaign for the interests of asylum seeking children, their families, and all other refugee families. At the time of the infamous 'Dawn Raids' involving the inhumane removal of families and children, meetings were held with senior Scottish Civil Servants. Such issues will continue to be pursued. UNISON has a policy of seeking amnesty for all asylum seekers who have been in the UK for more than a year, and has published information on the myths surrounding asylum for members and others who are interested. Such work, in conjunction with other organisations, has resulted in successes at Scottish level, including the ending of detention for children. Such work will continue and will be enhanced by information being fed back from members of both UNISON and SASW about abuses and poor organisational practices (at the time of writing practice in relation to NRPF is under scrutiny). We also campaign against racism more generally – very necessary work in the light of an increase in racist attacks (including murders) on asylum seekers, refugees and migrant workers in the wake of the Brexit Referendum (2016).

Some of our members in England are involved with Social Workers Without Borders – a voluntary association of social workers who, in their own time, have worked to secure entry to the UK of unaccompanied asylum seeking children stuck in refugee camps in mainland Europe. Efforts are in hand to step up our support for such activity. SWWB believe that the 'refugee crisis' in Europe is a result of structural oppression both here and overseas - and is a crisis of care, not a crisis caused by those who flee wars, extreme oppression and poverty in their homelands. We would endorse this view.

References

- Age Assessment Task and Finish Group (November 2014) Age Assessment and Guidance – guidance to assist social workers in completing age assessments in the UK http://cdn.basw.co.uk/upload/basw_35330-3.pdf
- BASW Code of Ethics <https://www.basw.co.uk/codeofethics/>
- Benefits for Migrants Handbook (9th edition Autumn 2017) Child Poverty Action Group

- Child Trafficking Legislation Guide: <https://www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/child-trafficking/legislation-policy-guidance/>
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- Asylum Seeker Housing Project (Glasgow) <https://www.facebook.com/asylumseekerhousingproject>
- Children and Young People's Commissioner Scotland <https://www.cypcs.org.uk>
- JustRight Scotland (legal advice, representation and training) <http://justrightscotland.org.uk/>
- Legal Services Agency Scotland (legal advice, representation and training) <http://www.lsa.org.uk/>
- Scottish Refugee Council <http://www.scottishrefugeecouncil.org.uk/>
- Social Workers Without Borders (SWWB) : <https://www.socialworkerswithoutborders.org/>

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