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**Liberty's briefing on Amendment 135A to
the Children and Social Work Bill: A
National Action Plan for the Welfare of
Unaccompanied Children**

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Liberty (The National Council for Civil Liberties) is one of the UK's leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

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Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at

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Amendment 135A to the Children and Social Work Bill: A National Action Plan for the Welfare of Unaccompanied Children

Page 15, line 46, after clause 19 insert the following new clause –

“National Action Plan for the Welfare of Unaccompanied Children

(1) The Secretary of State must, in consultation with the Local Government Association, the Association of Directors of Children’s Services and the Children’s Commissioner for England, publish a National Action Plan for the Welfare of Unaccompanied Children.

(2) The National Action Plan for the Welfare of Unaccompanied Children must set out the steps the Secretary of State will take to ensure that local authorities are able to safeguard and promote the welfare of relevant children within their area and in particular to ensure that relevant children have adequate access to:

- (a) legal advice;
- (b) mental health and other healthcare provision;
- (c) appropriate accommodation, including foster care provision and semi-independent accommodation;
- (d) social work support;
- (e) the education system;
- (f) ESOL provision;
- (g) any other services necessary to meet the needs of relevant children.

(3) The National Action Plan for the Welfare of Unaccompanied Children must set out the process by which information about children to be included in the scheme provided for under section 67 of the Immigration Act 2016, is to be communicated to local authorities, including details about:

- (a) age;
- (b) any known medical needs;
- (c) any accommodation preferences expressed by children;
- (d) linguistic competencies and requirements;
- (e) any known special educational needs;
- (f) any other available information necessary to allow local authorities to meet the needs of relevant children.

(4) The National Action Plan for the Welfare of Unaccompanied Children must describe the additional infrastructure that will be put in place to ensure that the welfare of relevant children is protected during and after transfers under section 69 of the Immigration Act 2016, including details about:

- (a) funding to be provided to Regional Strategic Migration Partnerships;
- (b) plans to draw on the expertise of service providers; and
- (c) any other plans to ensure that appropriate expertise and training is available to relevant authorities.

(5) In this section -

“local authority” means a local authority within the meaning of the Children Act 1989 (see section 105(1) of that Act);

“relevant child” means -

- (a) a person under the age of 18 who is unaccompanied and has made a protection claim which has not been determined,
- (b) a person under the age of 18 who is unaccompanied and who requires leave to enter or remain in the United Kingdom but does not have it, or
- (c) a person under the age of 18 who is unaccompanied and who has been granted humanitarian protection, refugee status, discretionary leave or limited leave to remain in the UK as an unaccompanied asylum seeking child.

“service provider” means an organisation providing basic services to relevant children including legal advice.”

Briefing

In recent months the Government has taken some steps to alleviate the suffering of children forced to flee their Homes. In April, it announced that it would work with the UN refugee agency, UNHCR, to resettle 3,000 vulnerable children and their family members from the Middle East and North Africa over the course of this Parliament. This is in addition to a broader commitment to resettle 20,000 refugees under the Syrian Vulnerable Persons Resettlement Scheme. Separately, the Government has undertaken to speed up existing family reunion routes for children in Europe with family members in the UK.

Throughout the passage of the Immigration Act 2016, Parliament also rose to the challenge. Faced with the desperate human tragedy played out on this country’s doorstep, Parliamentarians of all political persuasions and none urged the Government to do more to

alleviate the suffering of unaccompanied asylum seeking children who have already made it to European countries. In May, responding to overwhelming parliamentary and public pressure, the Government agreed to put in place a scheme to bring an unspecified number of children registered in Greece, Italy or France before 20 March for settlement in the UK (“the Dubs scheme”). This commitment is now set out at section 67 of the Immigration Act 2016.

In its response to the Dubs scheme, the Local Government Association announced that “...councils stand ready to play their part in supporting these children”, but urged the Government to “clarify the long-term funding arrangements for councils looking after unaccompanied children”.¹ The LGA has stressed elsewhere that “placements for unaccompanied children need to be carefully planned at a national level to ensure that there is sufficient funding, care placements and support services available”.²

Sub-clause 1 of the amendment requires the Secretary of State to consult with organisations representing local authorities and providers of children’s services as well as the Children’s Commissioner before publishing a National Action Plan for the Welfare of Unaccompanied Children. The plan would require the Government to set out the provision it will put in place to allow local authorities to meet their duty to safeguard and promote the welfare of children within their areas. Sub-clauses 2, 3 and 4 set out a non-exhaustive list of areas the action plan must cover, leaving leeway for the Secretary of State to set out additional provision designed to effectively meet the needs of these vulnerable children.

Access to services

Sub-clause 2 includes a non-exhaustive list of the kind of vital services children must be able to effectively access wherever in the country they are placed. The House has already discussed the vital importance of legal advice. The Refugee Children’s Consortium explains that:

“the guidance on unaccompanied asylum-seeking children sets out that social workers should understand how to access specialist immigration legal advice. However, this advice is often sought too late for children.”³

¹ LGA responds to PM announcement on unaccompanied asylum seeking children in Europe, http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/7814300/NEWS.

² LGA responds to national dispersal scheme for unaccompanied asylum seeking children, http://www.local.gov.uk/media-releases/-/journal_content/56/10180/7793404/NEWS.

³ Refugee Children’s Consortium, *House of Lords – Committee Stage briefing Children and Social Work Bill – June 2016 – care provision and permanence planning for unaccompanied and separated migrant children*, p.3.

Legal advice must be actively promoted if the welfare of children is to be effectively protected. Legal interventions may be necessary to allow a child to regularise his or her immigration status, secure access to special educational needs support, seek redress where he or she has been a victim of crime, such as human trafficking and to secure protection in multiple other areas of life. Particular uncertainty remains around the status of, and provision for, children arriving under the Dubs scheme. These children, as pointed out by Baroness Butler-Sloss during consideration of this Bill, *“perhaps more than almost anyone else, will need the help of lawyers.”*⁴

Aside from the provision of legal advice, health services remain vital as children attempt to recover from the trauma of war, separation from family members and months or even years living in perilous and unsanitary conditions. UNHCR has further highlighted the importance of ensuring adequate access to education for children whose childhoods have been disrupted by conflict and flight.⁵

The Government recently announced that from 1 July 2016 to 31 March 2017, councils will receive enhanced daily rate of funding to meet the needs of children transferred between local authority areas: £114 for under 16 year olds and £91 for 16-17 year olds. This equates to £42,610 and £33,215 per year respectively.⁶ But Cllr David Simmonds, chairman of the Local Government Association’s Asylum, Refugee and Migration Taskforce argues:

“... it costs £50,000 on average a year to support a child in care. We want to make sure children are properly supported, with foster carers and schools. Each child needs a health assessment and subsequent care.”⁷

Local authorities and service providers are further understandably concerned about longer term provision. Whilst regrettable uncertainty exists around the status to be offered to children brought to the UK under the Dubs scheme, many of these children will be here for an extended period and local authorities must feel confident that they will be in a position to provide for children for as long as necessary. Huge and legitimate concerns further remain around the provision to be made for children as they transition into adulthood following

⁴ Lords Hansard, 29th June 2016, Column 55.

⁵ See the UNHCR petition available at: <http://www.unhcr.org/refugeeday/petition/>.

⁶ The LGA, *How will the new transfer arrangements be run and be funded?* Information available at: <http://www.local.gov.uk/refugees>.

⁷ <https://www.theguardian.com/world/2016/may/12/childrens-services-call-for-resources-to-deal-with-rise-in-child-refugees>.

provision in the Immigration Act 2016 which removes support for many care leavers who arrived in the UK as unaccompanied children.⁸

In addition to the funding provided for each child, funding for infrastructure and the development of services is urgently required. The Fostering Network, for example, has made clear that its services are under pressure from local authority cuts. Some 9,070 foster carers are currently needed across the UK, 7,600 in England, to provide homes for “hard to place” children, including unaccompanied asylum seekers. The Network has asked central Government to fund local authorities to undertake the ongoing recruitment, training and support of foster carers.⁹

The Immigration Minister readily accepts that *“there are pressures on fostering, children’s centres, mental health and other facilities”*.¹⁰ Now the Government must be clear about how it intends to respond to these challenges, whilst ensuring that the UK plays its part in a global response to a devastating humanitarian crisis.

Communication with local authorities around children to be included in the Dubs scheme

Sub-clause 3 focuses on the scheme established under section 67 of the Immigration Act 2016 to bring unaccompanied children in Europe to the UK.

Following a recent and harrowing report from UNICEF, we know with certainty that human rights violations do not end when children reach European countries. Unaccompanied children face sexual violence, debt slavery, abuse and tragedy across the continent. Most are lucky to get one meal a day. Their mental and physical health is put at risk as they go without adequate medical care. And their childhoods are put on hold without decent, regular schooling.¹¹

Notwithstanding the obvious and urgent need, considerable uncertainty exists around the Government’s thinking on the implementation of the Dubs scheme. Little detail has been given about the process or criteria by which these children are to be selected for resettlement in the UK. We still have no idea about the likely scale of the scheme or when the first children will arrive. We do not know which implementing partners the Government will work with and how it will communicate with local authorities about the children due to

⁸ Schedule 12.

⁹ <https://www.theguardian.com/world/2016/may/12/childrens-services-call-for-resources-to-deal-with-rise-in-child-refugees>.

¹⁰ Commons Hansard, 10th May 2016, Column 549.

¹¹ UNICEF, *Neither Safe nor Sound: Unaccompanied children on the coastline of the English Channel and the North Sea*, June 2016. See in particular section 1: Exposure to Hazards and Vulnerability of Unaccompanied Children in France.

enter their care. There is an urgent need for the Government to act quickly and decisively to fulfil its commitments. This involves beginning the process of resettling refugee and asylum seeking children quickly and where possible, in time for children to begin school in September. It also requires a concerted effort to share information with local authorities.

Information about the needs and vulnerabilities of children must be communicated to local authorities at the earliest opportunity to allow for the provision of a seamless package of care and support. The needs of a younger child will be different from those of an older child, and provision for, for example, linguistic support and medical interventions will also vary widely. The domestic transfer scheme, discussed below, provides a useful model for early information sharing between those responsible for implementing the Dubs scheme abroad and local authorities in the UK expected to take responsibility for the care of children. When children in the UK begin to be looked after, local authorities are required to fill out forms documenting the age of children, details of their background, details which may indicate an experience of trafficking or torture, health conditions, family details, religious background and educational history.¹² As a starting point, similar information should be collected and shared where children are assessed by implementing partners in France, Greece or Italy for inclusion in the Dubs scheme. Additional useful information could include detail of language capabilities and preferences expressed, by older children, in particular, around the kind of accommodation to be provided.¹³

Transfers and ensuring high standards of care across the country

Sub-clause 4 of the amendment addresses a new statutory framework, set out at section 69 of the Immigration Act, to allow for the transfer of unaccompanied refugee and asylum seeking children between different local authority areas. This provision was created to ease the pressure on local authorities, such as Kent, which provide care for a large proportion of the unaccompanied children entering the country. The move has been welcomed by the Local Government Association as a way of ensuring a more equal distribution of responsibility for vulnerable children across the country.¹⁴

¹² Department for Education, Home Office and Department for Communities and Local Government, *Interim National Transfer Protocol for Unaccompanied Asylum Seeking Children 2016-2017*. See Unique Unaccompanied Child Record form provided at Annex 2.

¹³ UNICEF has emphasised the importance of children's views and preferences in the transfer process. *Ibid.*, p. 17.

¹⁴ LGA responds to national dispersal scheme for unaccompanied asylum seeking children: http://www.local.gov.uk/media-releases/-/journal_content/56/10180/7793404/NEWS.

An *Interim National Transfer Protocol for Unaccompanied Asylum Seeking Children* became operational on 1st July 2016.¹⁵ Liberty welcomes the publication of a document by Government, in consultation with the Association of Directors of Children’s Services and the Local Government Association, which is designed to provide clarity around the respective roles and responsibilities of local authorities, central and regional administration teams during the transfer process.¹⁶ The underpinning principles identified in the Protocol are positive. Liberty agrees whole-heartedly that the best interests of the child must remain at the heart of all decision making concerning unaccompanied children. We further agree that the transfer scheme must “*build on existing regional structures and enable regional pooling and knowledge and resource*”.¹⁷

The Government’s model is based on local authorities accepting unaccompanied children up to a ratio of 0.07% of the overall child population of the area. The Protocol does not, however, address the complex and varied pattern of existing infrastructure and experience across the country. It makes clear, for example, that Merton compliant age assessments must be conducted by local authorities to assess whether individuals are to be considered children for the purposes of access to support and services, but training and support may be required in some local authority areas if these assessments are to be properly conducted. This is a particularly important consideration given that, according to the latest Home Office funding instructions, “*payments cannot be made by the Home Office to local authorities until the age assessment has been completed...*”¹⁸ The Protocol explains that:

“...there is an expectation that, as information about regional and local authority resources increases, the scheme will become progressively more nuanced and sophisticated to be able to meet any specific needs which present. The regional approach of the scheme is intended to build on regional knowledge and mapping of knowledge, support and resources which is already available either via other existing schemes, and so regions will increasingly be able to identify where UASC may be placed in their best interest.”¹⁹

¹⁵ Department for Education, Home Office and Department for Communities and Local Government, *Interim National Transfer Protocol for Unaccompanied Asylum Seeking Children 2016-2017*. The National Action Plan is designed to supplement procedural detail provided in the Protocol and to build on the guidance set out in documents governing inter-agency working to safeguard and promote the welfare of all children. See e.g. The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review, and Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children (2015).

¹⁶ *Ibid.*, p.4.

¹⁷ *Ibid.*, p.5.

¹⁸ The Home Office, *UASC Funding Instruction 2016-2017*, issued June 2016.

¹⁹ *Ibid.*, p. 17.

Whilst the experience of the transfer scheme must be monitored and must inform decision making at the regional level, there is a critical need for a national plan which can consider where gaps in expertise and infrastructure currently exist around the country.

The new challenges local authorities face in responding to the needs of vulnerable children seeking sanctuary in the UK must be tackled head-on to ensure that high quality services are consistently available across the country.