



Department  
for Education

# **Consultation on the draft regulations and statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children**

**Government response**

**July 2014**

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## Introduction

Unaccompanied asylum seeking children and child victims of human trafficking are some of the most vulnerable children in the country. The local authority providing for their care has a duty to provide protection and support that meets the particular risks and needs they face. Because of their particular circumstances, unaccompanied and trafficked children often have complex needs in addition to those faced by other looked after children. The special support required to address these needs must begin as soon as the child comes into local authority care.

To better protect these children, the Government proposed new regulations and accompanying statutory guidance regarding the planning and provision of care for unaccompanied and trafficked children who are looked after by a local authority in England. The regulations require that the care planning process explicitly notes and takes account of the particular needs of unaccompanied and trafficked children. The guidance clarifies the steps local authorities should take in providing appropriate support.

The Government consulted on these regulations and guidance from 28 January to 25 March 2014. Views were sought as to whether the proposed regulations and guidance would be helpful in ensuring unaccompanied and trafficked children receive the specialist support and care that they need from local authorities. This document summarises the results of that consultation and sets out the Government's response.

## Summary of responses received and the Government's response

A public consultation on proposed new regulations and accompanying statutory guidance regarding the planning and provision of care for unaccompanied and trafficked children closed on 25 March 2014. It attracted responses from, among others, local authorities, immigration lawyers, and from organisations that promote the interests of children.

### Numbers of responses received

<b>Total Responses received:</b>	<b>58 (100%)</b>
Local Authority	11 (19%)
Representative body	2 (3%)
Young person	1 (2%)
Police	1 (2%)
Carer (children's home/foster carer)	1 (2%)
Carer (other)	1 (2%)
Voluntary sector	12 (21%)
Other	29 (50%)

### Main findings from the consultation and government response

The key issues raised are described below, along with description of how these issues have been addressed in the final published guidance.

- The vast majority of responses welcomed the proposed regulations and guidance as measures that would improve the care of unaccompanied and trafficked children. Some respondents suggested, however, that they did not go far enough, and that trafficked children should be allocated a specialist guardian to provide them with dedicated support.

**Trafficked children are best supported when the personnel involved in their care work effectively together to meet their need. The draft guidance under consultation set out how those roles should be fulfilled with reference to the specific needs of trafficked children. There should be no need for an additional role of guardian. The Home Office is, however, trialling a role of Child Trafficking Advocate. These advocates will have specialist knowledge and experience of the issues affecting trafficked children, as well as of the immigration and criminal justice systems. They will input to the care**

**planning process and provide independent advocacy support, guidance and advice to trafficked children. Outcomes of the trial are expected in 2015.**

- A small number of consultation respondents suggested changes to some of the text of the Regulations. As drafted for consultation, the Regulations would apply to “potential victims of trafficking”. One respondent suggested this was too high a threshold. Other suggestions referred to the terminology around asylum and immigration status.

**The wording on “potential victims of trafficking” has been changed so that the Regulations apply where there is “reason to believe” a child is a victim of trafficking. This is in line with the wording of the Modern Slavery Bill. The suggestions on terminology around asylum and immigration status were not incorporated as the Regulations as originally drafted were sufficient to describe unaccompanied asylum seeking children.**

- Several respondents felt that it was not always clear when the draft guidance referred to unaccompanied or to trafficked children, or to both. There was also criticism that the text sometimes implied that trafficked children must have been trafficked from overseas.

**Text has been revised throughout to provide more clarity on these points.**

- Some respondents felt that that the text could have been clearer in noting that not all children trafficked within the UK would become looked after.

**Text has been revised accordingly.**

- The draft guidance had made reference to “status” as an unaccompanied or trafficked child. Some respondents found this term unhelpful given that “immigration status” is also used in the document and has a specific meaning.

**To avoid any confusion, “status” as an unaccompanied or trafficked child has been changed to “needs” or “circumstances” depending on context.**

- The draft guidance referred to “core assessment” within the care planning process. Working Together to Safeguard Children 2013 no longer uses that term, referring just to “assessment”.

**References to “core assessment” have been amended to “assessment” or “child’s assessment” throughout to bring it into line with Working Together.**

- There was some concern that the section of the guidance on seeking initiation of contact with an unaccompanied child’s family, or seeking permanence through

family re-unification, was not appropriate in all cases with insufficient focus on safeguarding the child.

**This section has been revised to make clear that child protection considerations are paramount.**

- Sometimes the age of an unaccompanied asylum seeking child is unclear or is disputed by the local authority caring for them. It was suggested that the guidance should cover age assessment for these cases.

**Guidance on age assessment has been added.**

## **Next steps**

The Department for Education will lay the regulations before Parliament and publish the final guidance in July 2014.

# Annex A: List of organisations that responded to the consultation

## Local Authority

- Blackburn with Darwen Borough Council
- Buckinghamshire County Council
- Devon County Council
- Kent County Council
- Leicestershire County Council
- Lincolnshire County Council
- London Borough of Lewisham
- Plymouth City Council

## Representative body

- Association of School and College Leaders (ASCL)
- British Association for Adoption & Fostering (BAAF) Health Group

## Police

- West Yorkshire Police

## Voluntary sector

- Barnardo's
- Centrepont
- Coram Children's Legal Centre
- Coram Voice
- ECPAT UK
- Europeace Youth
- National Children's Bureau (NCB)
- Refugee Council
- The Children's Society
- United Nations Children's Fund (UNICEF) UK



## Other

- Association of Lawyers for Children
- Asylum Welcome Oxford
- BASW (British Association of Social Workers)
- CARE (Christian Action Research and Education)
- Concerned citizen
- Immigration Law Practitioners' Association (ILPA)
- Kent Law Clinic
- Methodist church
- National Crime Agency (NCA)
- Nottingham Children's Hospital
- NVC
- Office of the Children's Commissioner
- St Christopher's Fellowship

## Annex B: Breakdown of responses

**1. Will the proposed regulations help identify in care planning arrangements, unaccompanied and trafficked children and help ensure they receive appropriate care?**

There were **39** responses to this question.

Options	Responses	Across Consultation
Yes	24 (62%)	41%
No	8 (21%)	14%
Not Sure	7 (18%)	12%

**2. Will the proposed guidance help local authorities plan for and deliver appropriate care for unaccompanied and trafficked children?**

There were **37** responses to this question.

Options	Responses	Across Consultation
Yes	21 (57%)	36%
No	7 (19%)	12%
Not Sure	9 (24%)	16%

**3. Are there any additional steps local authorities could be taking within existing care arrangements that could be included in the proposed guidance?**

There were **26** responses to this question.

Options	Responses	Across Consultation
Yes	21 (81%)	36%
No	3 (12%)	5%
Not Sure	2 (8%)	3%

**4. Is anything included in the proposed guidance that should be removed?**

There were **26** responses to this question.

Options	Responses	Across Consultation
Yes	7 (21%)	12%
No	21 (64%)	36%
Not Sure	5 (15%)	9%

**5. Do you have any suggestions for further links or resources that could be included at Annex A of the guidance?**

There were **26** responses to this question.

Options	Responses	Across Consultation
Yes	11 (44%)	19%
No	13 (52%)	22%
Not Sure	1 (4%)	2%



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