

Committee: **Corporate Parenting Panel**

Date: **16 October 2015**

Title of Report: **Unaccompanied Asylum Seeking and Trafficked Children and Families with No Recourse to Public Funds**

By: **Director of Children's Services**

Purpose of Report: **To update the Panel on the current situation in East Sussex.**

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**RECOMMENDATION:** **The Corporate Parenting Panel is recommended to note the contents of the report.**

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## **1. Background**

1.1 There has been and continues to be considerable focus on the plight of refugees and migrants and the Government will be working with Local Authorities to agree the number of people that will be allowed to enter the UK. Currently there are two broad groups of people that, under existing legislation, Children's Services already have a statutory obligation to safeguard and support both practically and financially:

- i) Children- either Unaccompanied Asylum Seeking Children (UASC) or Trafficked Children
- ii) Families with No Recourse to Public Funds. (NRPF)

## **1.2 Definitions**

1.2.1 An UASC is a child applying for asylum in their own right who is separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.

1.2.2 A trafficked child is a child who is a victim, or for whom there is reason to believe they may be a victim, of trafficking in human beings within the meaning of the Council of Europe Convention on Action against Human Trafficking. Many children falling under this definition will be trafficked into the UK from overseas for a variety of purposes including domestic servitude, sexual exploitation or for fraudulent benefit claims. They may be accompanied by an adult or be unaccompanied on their arrival into the UK. A close multi-agency approach is essential to protecting trafficked children from further risk from their traffickers. In particular, there has to be a clear understanding between the local authority and the police of respective roles in planning for this protection and responding if a trafficked child goes missing.

1.2.3 Families who have No Recourse to Public Funds (NRPF) have no legal entitlement to financial support or assistance from the state via the benefits system. They will include families who are appealing against failed asylum claims, spouses of people who have limited immigration rights etc. They may self-refer for support or are referred from other agencies. NRPF families may have been granted 'leave to remain' but cannot access any benefits or other forms of financial support from the 'national' system and so will present to local services or be referred by other agencies as destitute. It is possible that the additional families that are allowed to enter the UK will be allowed to claim financial support via the benefits system.

1.3 It is not possible to predict numbers of individual children or families that may present for support, but over the past three years numbers have been as follows:

	Current year (4 months to date)	2014-15	2013-14	2012-13	Currently missing
LAC	8	7	2	3	4
LAC and Care leaver status during the year	3	7	9	8	1
Care leaver	13	13	11	9	0
NRPF families	11	11	13	12	

1.4 It is also the case that some young people who are either LAC or Care Leavers will go missing, sometimes as they approach their 18<sup>th</sup> birthday and may face possible deportation. Once that has happened it is very rare that they will be found. In addition some young people who have been found by the UK Borders Agency (UKBA) staff very recently have left their placements before age assessments have been completed. Interpreters who met with these young people felt that it was very likely that they were in fact adults. We also have one care leaver who was deported at 18.

1.5 Assessments are carried out for about 12 families each year on average.

## 2. Children and Young People

2.1 UASC and child victims of human trafficking are highly vulnerable given the emotional trauma they will likely have experienced in their country of origin, in their journey to the UK or through their treatment by adults in the UK. They will probably have difficulties with English as an unfamiliar language.

2.3 ESCC has a legal duty to protect and support these children and once we have become aware that they are in East Sussex we are obliged to assume responsibility for them and they become Looked After Children (LAC) ie they become part of our children in care population. They will then go on to have rights under the Leaving Care legislation.

2.4 They will usually present in an unplanned way and often out of hours eg via the UK Borders Agency (UKBA) following an unsuccessful attempt to enter the UK in a lorry through Newhaven. At the point of presentation a suitable placement has to be identified immediately. For any child under 16 this is likely to be a foster placement and for any young person 16-18 this will likely be in a supported lodgings placement. Every effort will be made to place with in-house carers because of the cost of an agency placement. The next step will be an age assessment as most children/young people present without any documentation. Age assessments are carried out by trained ESCC staff and until this is done and a confident view reached, the presumption will be made that unless it is blatantly not the case, a young person who says that s/he is younger than 18 will be treated as such.

### 2.5 Case examples

- i) Ten people were found in the back of a lorry at Newhaven on a Saturday. When UKBA staff and interpreters spoke with them it transpired that one was a man in his fifties but the other 9 all claimed to be under 18, despite the fact that the interpreters were unconvinced. After considerable effort, nine foster placements were identified over that weekend and the Police were asked to consider a possible trafficking operation, as some of the young people described being brought into the UK for involvement in the sex trade. Within a week 8 of the 9 had gone missing by literally climbing out of windows etc. Age assessments hadn't been completed on any of the 8 that left.

- ii) A young man from Eastern Europe was remanded for criminal activity soon after his arrival into the UK. As such he became LAC. Youth Offending staff pushed for a prompt age assessment but because of his criminal detention in a Secure Training Centre, this took some time to arrange, with the Court being reluctant to expedite it. Meanwhile weekly remand costs of £1106 were being charged to ESCC. When he was eventually age assessed it was agreed that he was probably nearer 26 and costs transferred to the Ministry of Justice. Thus for several weeks ESCC had been paying costs and as an adult he had been remanded to a secure setting for young people. In total the remand costs were £4582 plus significant staff time, travel etc.
- iii) Z aged 13 presented as an UASC having arrived in the UK from the Asian sub-continent. He was granted temporary leave to remain and became a LAC. He was placed in foster care and attended a local independent school on a scholarship where he did extremely well academically. Aged 18 (and just before his A levels) he was notified that he would be deported imminently and following complex and protracted legal challenges this is what happened.

### **3. Families**

3.1 There is a legal duty under the Children Act (1989) for the local authority in whose area the need arose to assess and to provide immediate support for a family that present as destitute. At the end of the assessment period there is then a judgement as to whether there is a continuing need and therefore a legal duty to provide financial and other forms of support on an ongoing basis. As part of this assessment a separate Human Rights Assessment must also be carried out. Failure to assess properly renders ESCC vulnerable to Judicial Review. Before financial support is given all other avenues will be explored eg provision of food vouchers, support from wider family or community networks, whether the family has articles of value to sell etc.

#### **3.2 Case examples**

- i) L aged 4 and M aged 3 are dual heritage children who live with their non-European mother. The children were born abroad and lived there with their mother and father who is from the UK. The family then came to the UK to live. Whilst here the mother disclosed ongoing domestic abuse and sought help from professionals. Children's Social Care became involved and helped the mother and children find safe accommodation in a local Refuge whilst we worked out what other help was needed. The mother has been helped to make an application to stay with the children in the UK in her own right rather than being dependent financially on her husband. We are hopeful that mother will shortly be able to claim state benefits given her status as a victim of domestic abuse but in the interim ESCC is supporting her and the children financially with rent and food costs.
- ii) A, aged 10, has lived all her life in East Sussex with her non European mother and relocating to her mother's birth country would mean a total change for A. After a long process to have her right to remain in the UK recognised, her mother has been granted Leave to Remain, however at the same time she has been given a status of No Recourse to Public Funds. This means she can legally work in the UK but cannot claim any benefits. A's mother needs to care for her daughter she is unable at present to work enough hours to earn sufficient money to support them both. Children's Social Care subsidise their rent and food each month to prevent them from becoming homeless. It is a long process to challenge the Home Office decision making on this case.

## 4. Finance

4.1 In ESCC financial support is calculated using the rates set by the Government for Failed Asylum Seekers and payments are reviewed annually. There were additional payments for pregnant women and an additional £5 a week for a child until his or her first birthday and £3 a week until his or her third birthday. Additional payments were also given if there were additional assessed needs eg if the child is disabled.

4.2 Prior to August 2015 the subsistence rates were as follows but these did not include additional accommodation costs or payment of the Council Tax to the districts and boroughs:

Qualifying Couple	£72.52
Lone parent aged 18 or over	£43.94
Any other single person aged 18 or over	£36.62
Person aged at least 16 but under 18 (except a member of a qualifying couple)	£39.80
Person aged under 16	£52.96

As of 10<sup>th</sup> August a simpler reduced rate of £36.95 per person was introduced but it is too early as yet to determine the impact of this reduction i.e. will it shift the balance to greater financial support being required from ESCC?

4.3 ESCC, in common with all other Local Authorities, can recoup some costs for UASC from central Government in line with a funding formula and at the rate of £95 per day for children under 16 and £71 for young people 16-18. It is not possible currently to recoup any costs for young people aged 18 and over. Once a young person has turned 18 and has acquired Care Leaver status they are also entitled to additional support from ESCC such as setting up grants, fees and additional costs for higher and further education etc.

4.4 The profile of spend within Children's Social Care will show placement costs etc for some children and families but will not cover the additional costs of staff time, health, education or youth justice costs. In addition there will be elements of funding from other services such as Teaching English as an Additional Language which will support these groups but the precise amounts are difficult to quantify.

	Present year (4 months only)	2014-15	2013-14	2012-13
Children	52,744	160,737	156,901	191,835
Grant income claimed	54,900	167,193	162,725	219,871
Net excess income	2,156	6,456	5,824	28,036

Care Leavers	11,398	10,042	35,432	15,280
<b>Total spend on children and young people</b>	<b>9,242</b>	<b>3,576</b>	<b>29,508</b>	<b>12,756</b>

	Present year (4 months to date)	2014-15	2013-14	2012-13
NRPF families				
- <b>Total spend</b>	<b>63,160</b>	<b>146, 505</b>	<b>129,334</b>	<b>73,798</b>
- Accommodation element	55,576	125,376	100,683	60,064

## 5. Conclusion

5.1 Working with children who are UASC or trafficked and with families who have NRPF is complex work and will involve both practical and financial support from within Children's Services. Although budget codes within parts of the service can delineate the spend on this group of children, there will be significant additional spend and work that is not quantified at present eg language support within schools etc.

5.2 Numbers and costs of individual young people and families that are presenting to Children's Services are increasing and current legislation designed to protect and support children means that ongoing spend cannot be avoided. If the intention to reduce the ability of migrants to claim benefits is implemented as recently announced by the Government, this is likely to shift the balance still further away from payments being made at a national level via the benefits system to the onus falling even more significantly on local authorities. However if the Government allows additional families who present as refugees to be supported via the benefits system then the financial impact of the group may reduce.

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**BACKGROUND DOCUMENTS:** None