

Refugee and Migrant Children’s Consortium

Department for Education Consultation on Unregulated Accommodation June 2020

Introduction

The Refugee and Migrant Children’s Consortium (RMCC) is a group of over 50 NGOs working collaboratively to ensure that the rights and needs of refugee and migrant children are promoted, respected and met in accordance with the relevant domestic, regional and international human rights and welfare standards. For more information and a list of members, please visit www.refugeechildrensconsortium.org.uk.

Regardless of their circumstances, all unaccompanied and separated children have the rights set out in the UN Convention on the Rights of the Child (UNCRC),¹ and as children temporarily or permanently deprived of their family, they are entitled to special protection and assistance under Article 20 of the UNCRC. In addition, the UN General Assembly Guidelines for the Alternative Care of Children 2010² emphasise that unaccompanied or separated children should “enjoy the same level of protection and care as national children in the country concerned” (the non-discrimination principle).

The Department for Education (DfE) recognises that unaccompanied asylum-seeking children form a significant part of the ‘growing’ number of children being placed in independent and semi-independent settings, which are not registered or inspected by Ofsted. Despite unaccompanied asylum seekers only forming 6% of the population of looked-after children, they form 43% and 36% of the children living independently and in semi-independent accommodation, a significant difference.³ The Children’s Minister has explained this difference as being because “the majority” are aged 16 and over and so are “more likely to benefit from high quality placements in these settings than the wider cohort of looked-after-children”.⁴ While she is correct about the demographics of this group - at 31 March 2019, there were 5,070 unaccompanied children looked after by local authorities, of which 4,330 were aged 16 and 17⁵ - there has been little research undertaken to ascertain whether this group of children are in fact “more likely to benefit” from being placed in unregulated accommodation. In fact, there is an existing body of evidence that suggests these children’s needs are not being properly assessed prior to and after placement, are not

¹ UN Convention on the Rights of the Child, 20 November 1989 at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

² Part VIII, B No 141 - Provision of care for a child already abroad, available at: <https://digitallibrary.un.org/record/673583?ln=en>

³ Department for Education, Use of unregulated and unregistered provision for children in care Research to understand the increase in use of unregulated and unregistered provision for children in care and care leavers, and concerns about quality, February 2020, at <https://www.gov.uk/government/publications/use-of-unregulated-and-unregistered-provision-for-children-in-care>, p 6

⁴ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-03-10/27597/>

⁵ <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2018-to-2019>

being met in unregulated accommodation and that they often do not understand their options for care/ accommodation and do not have their views taken into consideration.

This consultation response draws on existing reports, the experience of a number of RMCC members and direct feedback from 21 children and young people receiving support from members.⁶ Evidence for this consultation response was collected prior to the child-friendly, accessible version of the consultation being made available; children and young people and those working with them were asked about the following areas:

- Their level of understanding and the extent to which their voices were heard when a decision has been made that they will be placed in unregulated accommodation.
- The support received in unregulated accommodation.
- Whether children and young people felt safe in unregulated accommodation.
- What could be done to improve the accommodation provided to young asylum seekers.

Consultation questions

1. We are proposing legislating to ban the placement of children under the age of 16 in independent and semi-independent settings. This would prohibit the placement of under-16s in any setting that is not a regulated setting, such as a children's home or a placement in foster care. Please set out any positive and/or negative impact you think this change would bring about, and the areas we should consider to ensure it is effectively implemented

The RMCC believes that all children in care (by which we mean both children looked after under section 20 of the Children Act 1989 and those under full care orders) should live in families or residential settings where they both receive both support and *care*. Therefore we do not believe that this proposal goes far enough and by only introducing this change for under 16s, the government's statistics show it will only help fewer than 100 children in care.

A review of the literature on placement decisions made for unaccompanied asylum seeking children reveals a more complex picture of need that neither can nor should be factored solely by age.⁷ For some unaccompanied young people aged 16 or 17, living in semi-independent or independent accommodation means they have a more limited access to regular support and guidance; this can have a detrimental impact on their access to, and progress in, education, their emotional wellbeing and their social integration.

We believe that the DfE should seek to improve the standards for all settings in which young people might be placed and take further action to ensure that all placement decisions are based on what is in the best interests of the child, as the law requires, rather than being resource-led and/or based solely on age. We explore this in further detail in our answers below to, particularly in our answer to question 7.

⁶ 11 children and young people were consulted by CARAS, four by the British Red Cross, four by Young Roots, and two by the South London Refugee Association

⁷ Hardy, Placement making in social work with unaccompanied asylum seeking children, Community Care, 22 May 2018

2. Please share your examples of good practice [of local authorities dealing with emergency placement]

n/a

3. Do you agree that we should introduce a new requirement for local authorities to consult with relevant local police forces when they place a child out of area in independent and/or semi-independent provision?

Yes, with reservations.

4. Please explain your answer, including any positive and/or negative impact you think this change would bring about

Section 27 of The Care Planning, Placement and Case Review (England) Regulations 2010 make clear that before placing a child in accommodation in an unregulated setting, the responsible authority must:

“(a) be satisfied that the accommodation is suitable for C, having regard to the matters set out in Schedule 6,

(b) unless it is not reasonably practicable, arrange for C to visit the accommodation, and

(c) inform the IRO.”

Schedule 6 includes the location of the accommodation.

The Children Act Guidance 2015 (section 3.119) also outlines the different factors that should be considered when establishing, before making the placement, that the accommodation is suitable.

Together with the overarching duty to safeguard and promote the child’s welfare, the law therefore already requires local authorities to check the safety and the location of unregulated accommodation before they put a child there. The RMCC does not object to a new, explicit requirement for local authorities to consult with relevant local police forces, especially in light of the number of children in unregulated accommodation who have been victims of trafficking and/or are at risk of exploitation or going missing. However, this on its own will not guarantee children are safe. Moreover, the proposal that consultation with police forces takes place only when out-of-area placements are being proposed in independent or semi-independent provision appears to concede that these settings carry particular risks which other types of placement types do not.

For unaccompanied children at risk of trafficking, out of area placements *in regulated settings* may be an appropriate response to prevent re-trafficking and may address factors that increase the risk or directly cause missing episodes - for example, in the context of unaccompanied children it can be very dangerous to be placed in the same village as where they were arrested for working in a cannabis farm. Another example provided by an RMCC member concerned one region where criminal networks were targeting young people in semi-independent accommodation to try and involve them in selling drugs and a young person was subsequently placed out of area because of concerns for his safety. Some

research suggests that the most effective foster placements for sexually exploited children are out of the authority where they are forced to break links with those who exploited them.⁸

However, out-of-area placements can also be problematic if undertaken without a proper best interests assessment, sufficient evidence of effectiveness or due care for planning, and when information is not shared between the responsible authority and the receiving authority and relevant actors.⁹ Introducing a requirement to consult with police whenever any out-of-area placement is being considered (not only in independent and semi-independent provision) would help address the latter issue. It would allow for exploitation and trafficking risk to be better identified ahead of time in a new area before a child gets moved. It would allow for information on known traffickers and exploiters to be highlighted, so that decisions can be based on better knowledge of possible risks to that child.

That said, we also believe that there is a broader issue regarding placing children out of area in independent and/or semi-independent accommodation that needs addressing urgently through a focus on ensuring that there is sufficient provision of foster care and children's homes in each local authority and that placement decisions are always made in the best interests of every child rather than because there aren't any available local placements.

The DfE's guidance on the care of unaccompanied migrant children makes clear that "*many unaccompanied and/or trafficked children are at risk of going missing from care, often within the first 72 hours, whilst others may be at risk of repeated missing episodes due to ongoing exploitation. Children may go missing because of uncertainty over their immigration status or due to feeling unsupported or being unsure or unaware of what it means to be "looked after" and that they need to communicate their whereabouts to carers.*"¹⁰

Research by The Children's Society found that 71% of 41 police forces that responded to their information request stated that placing looked after children out of area increases their risk of exploitation, often resulting in them being coerced into going missing.¹¹ ECPAT UK's research also highlighted the alarming rates of unaccompanied and trafficked children going missing from care.¹² In 2017, 1 in 4 (24%) trafficked children and 15% of unaccompanied children were reported as going missing from care and 190 children had not been found. Each trafficked child went missing on average 7.4 times. The lack of appropriate accommodation has been identified as a significant factor contributing to the shocking number of children who have gone missing.¹³

Yet RMCC members continue to see trafficked young people placed both out of area and in unregulated accommodation. Members also see many cases where children are not

⁸ Farmer, E. & Pollock, S., Managing sexually abused and/or abusing children in substitute care. 2003

⁹ Catch 22 and Missing People, Running the Risks: The links between gang involvement and young people going missing., 2015, at: <https://www.missingpeople.org.uk/runningtherisks>

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656429/UASC_Statutory_Guidance_2017.pdf, para 40

¹¹ <https://www.childrenssociety.org.uk/sites/default/files/no-place-at-home.pdf>

¹² ECPAT UK and Missing People, Still in Harm's Way: A study on trafficked and unaccompanied children going missing from care in the UK, 2018 at <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=96016be0-cc60-48e0-ab9c-635b742f5b7f>. ECPAT UK and Missing People, Heading back to harm: A study on trafficked and unaccompanied children going missing from care in the UK, 2016 at www.ecpat.org.uk/heading-back-to-harm-a-study-on-trafficked-and-unaccompanied-children-going-missing-from-care-in-the-uk.

¹³ Missing People and ECPAT UK Information Sheet, 'Trafficked children and missing', at <https://www.ecpat.org.uk/trafficked-children-and-missing>

consulted with or informed before out of area placement moves – this was especially prevalent when unaccompanied children were moved under the National Transfer Scheme. This causes additional stress and disruption in their lives increasing their level of vulnerability and can contribute towards why they go missing from out of area placements.¹⁴

There is also a particular issue for young people who have been accommodated in foster care out of area when under 16 but then are offered semi-independent accommodation in the local authority that holds responsibility for them when they turn 16 due to resource issues. This can be very destabilising and distressing, with young people afraid of starting again where they feel alone, worrying that they will not be able to complete college courses, and feeling that they won't be able to practice their religion easily because they will be far from their faith communities. Challenging these decisions usually requires representation by a community care solicitor.

In short, it is vital that decisions are made based on what is in the child's best interests rather than being driven by availability, or lack, of resources.

Recommendations:

- **The DfE should develop an Emergency Action Plan to ensure that out of area placements (or a return to accommodation having been placed out of area) only take place when in the child's best interests. This plan should be backed by appropriate funding.**
- **Further training and awareness raising should be undertaken to ensure that every out of area placement decision is supported by evidence to demonstrate that the decision to place a child at a distance is in the child's best interests, will keep that child safe and will meet their long term needs, as outlined in legislation and guidance. If a child wishes to be placed out of area because, for example, their religious/cultural needs are not being met within the local authority, then these wishes should be given due weight.**
- **Data on the numbers of unaccompanied asylum seeking children placed out-of-area should be provided as part of the DfE's 'Children looked after in England' statistics.**

5. Do you agree that we should amend legislation to define 'care' in order to provide clarity on what amounts to 'other arrangements' i.e. 'unregulated' provision, and what constitutes 'unregistered' provision? No

6. Please explain your answer, including any positive and/or negative impact you think this change would bring about.

While the RMCC understands that local authorities are not clear as to what constitutes 'care' in the context of unregulated accommodation, we believe that this problem is better

¹⁴ The APPG for Runaway and Missing Children and Adults, No Place at Home: The final report on the Inquiry into children and young people who go missing from out of area care placements and the risks they face, September 2019 at <https://www.childrenssociety.org.uk/sites/default/files/no-place-at-home.pdf>

addressed by changes to the legislative and regulatory framework that would ensure that *all* children receive care in their accommodation.

Arguably there is already a legal definition of care provided in The Children's Homes (England) Regulations 2015. These regulations require children's homes to follow 9 quality standards, including one on 'the purpose and quality of care'. This states that staff should:

- protect and promote each child's welfare;
- treat each child with dignity and respect;
- provide personalised care that meets each child's needs, as recorded in the child's relevant plans, taking account of the child's background;
- help each child to understand and manage the impact of any experience of abuse or neglect;
- help each child to develop resilience and skills that prepare the child to return home, to live in a new placement or to live independently as an adult;
- provide to children living in the home the physical necessities they need in order to live there comfortably;
- provide to children personal items that are appropriate for their age and understanding; and
- make decisions about the day-to-day arrangements for each child, in accordance with the child's relevant plans, which give the child an appropriate degree of freedom and choice.

These needs are just as applicable to older teenagers who may be living in semi-independent or independent accommodation, and the RMCC recommends moves to ensure that *all* children for whom the local authority is the corporate parent receive this care and support. See question 7 for further details on the specific needs of unaccompanied children.

There can be a tension between a young person's desire for independence and their willingness to receive 'care' but frequently RMCC members hear from the young people they work with that they feel as if 'no-one cares' about them. Rather than denying these young people care, more effort is needed to ensure they fully understand the implications of *not* receiving care and that receiving care and moving towards independence are not incompatible. When adhered to, the care standard connects the care and stability that can be provided through the care system, with the day to day interactions and supportive relationships provided by the trusted individuals who work with the young person (carers, keyworkers, social workers, personal advisers, advocates etc) and through that work, demonstrate that they 'care about' the young person.¹⁵ That professional care continues throughout the child's care experience, through preparations for leaving care, and the transition into adulthood.

¹⁵ For example, Happer, H, McCreadie, J and Aldgate, J (2006) Celebrating success: what helps looked after children succeed. Edinburgh: Social Work Inspection Agency

7. Do you have any suggestions for areas where we might go further? In making your suggestions, please provide any supporting evidence or information you have.

The RMCC believes that there is a pressing need for further measures to ensure that unaccompanied children receive the support and care that they need. Once in the UK, children seeking protection face many difficulties, including the following interrelated problems:

- emotional or mental health problems, such as loneliness or depression.
- social isolation and limited knowledge of English.
- separation from family and friends and/or personal bereavement.
- discrimination and racism.
- difficulties in accessing mainstream services, such as GPs, appropriate local authority support, and school and college places, and a lack of understanding about how 'the system' works.
- having their age disputed and being treated as an adult, which in some instances results in a young person being held in immigration detention.
- living with the anxiety of potentially being removed from the country.
- confusing asylum, immigration and appeals procedures.

As the DfE's statutory guidance makes clear, unaccompanied migrant children, including child victims of trafficking, "can be some of the most vulnerable children in the country". They *"are alone, in an unfamiliar country and may be surrounded by people unable to speak their first language... They are at increased risk of going missing, often leaving the care of those who would protect them to return to traffickers who will continue their exploitation. All groups may have experienced emotional trauma in their country of birth, on their journey to the UK or through their treatment by adults in the UK."*¹⁶

Local authorities have a duty to protect and support these children, yet RMCC members who work with this group see the ongoing issue of assumptions being made about the resilience and independence of older teenagers, perhaps because they may have demonstrated those traits in their journey to the UK – some children will have travelled for weeks or months and undertaken extremely dangerous journeys to have reached this country. Even though they will have had to demonstrate considerable fortitude, this does not necessarily mean that independent living is appropriate for them once they have reached the UK.¹⁷ Although the trauma and stress that unaccompanied young people might face in their journeys from their country of origin is recognised, misconceptions can exist about that stress ending when young people arrive in their destination country¹⁸ and "prejudicial assumptions" can be made regarding these young people based on their ethnicity and nationality, leading to them "being

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656429/UASC_Statutory_Guidance_2017.pdf

¹⁷ UNHCR, A Refugee And Then: Participatory Assessment of the Reception and Early Integration of Unaccompanied Refugee Children in the UK, June 2019, at: <https://www.unhcr.org/uk/5d271c6a4.pdf>

¹⁸ The APPG for Runaway and Missing Children and Adults, No Place at Home: The final report on the Inquiry into children and young people who go missing from out of area care placements and the risks they face, September 2019 at <https://www.childrenssociety.org.uk/sites/default/files/no-place-at-home.pdf>

held to a set of norms and expectations that would not, in all likelihood, be applied to a 'native' [child or young person]."¹⁹

The voice of the child

Article 12 of the UN Convention on the Rights of the Child requires a child's views to be listened to and taken into account in decision making. The UN Committee has made clear that *"to allow for a well-informed expression of such views and wishes, it is imperative that [unaccompanied and separated] children are provided with all relevant information concerning, for example, their entitlements, services available..."* In care and accommodation arrangements, children's views should also be taken into account and information must be provided in a manner that is appropriate to the maturity and level of understanding of each child.²⁰ These Article 12 requirements are replicated in domestic law through Section 22(4)-(5) of the Children Act 1989.

A number of RMCC members reported that the young people with whom they work feel that they have had little say in the decisions about their placement. Most are unaware of their options, but do not seek to challenge any decisions about their accommodation/care arrangements because they are unaware of their right to do so.

"They moved me into shared accommodation and didn't tell me what the options were. They told me it was going to be for a week, but then it lasted for much longer and I was just waiting to be told when I would be moved out."

Extract from write up of interview with a young person for this consultation

Many member organisations become involved in Looked After Children/ pathway plan reviews because of concerns about housing, and because the young people they work with feel that either the placement itself, staff or location are not right for them. They regularly have to advocate for young people to have access to basic necessities in the accommodation and to prove that young people "deserve" to be heard and believed. There are very low levels of understanding amongst young people about the types of accommodation on offer and the reasons why they are in a particular placement – for example, unregulated accommodation rather than foster care.

Very few young people consulted directly reported having any choice at all in terms of their accommodation. Some had moved from foster care and had asked to live in semi-independent accommodation, but the majority were placed in unregulated accommodation first with no other options offered. A number of members reported that in their areas, *all* young people in the care of social services and subject to immigration control would be placed in unregulated accommodation if they are over 16 and raised concerns that these decisions are not usually based on the young person's wishes or a meaningful assessment of the young person's needs.

¹⁹ Migrant and Refugee Children's Legal Unit, Precarious Citizenship: Unseen, Settled and Alone , 2017 at <https://miclu.org/assets/uploads/2017/04/Precarious-Citizenship-Report.pdf>

²⁰ UN Committee General Comment 6 on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, para 35, at <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

“I was living with my foster carer for two years then they asked my social worker. I was scared first as I did not know what was going to happen. I had one week from my home [in emergency accommodation for homeless young people]. They found me a place. Only one place. They said it would be fine”

Young person in semi-independent accommodation

“I wasn’t given any choice. I was put in an emergency foster placement for 4 or 5 days, then I was moved to unregulated accommodation. I was told that this was so that I could learn to be independent. I told them that I didn’t want to stay at the new house. I told them I wanted to be moved back to a foster placement. They told me that they would look for a foster placement and move me there if they found one. My social worker told me she would discuss this with her manager and get back to me.”

Young person in semi-independent accommodation

The UN Committee on the Rights of the Child has made clear that “[placement] decisions have to be taken within a child-sensitive due process framework, including the child’s right to be heard... and should take into account the vulnerabilities and needs of the child, including those based on their gender, disability, age, mental health, pregnancy or other conditions.”²¹ This is also required by domestic law and statutory guidance.

Decisions around each placement should take into account the needs of the child; whether or not they have been trafficked; their experience during their journey to the UK; their culture, age, sex and personality; their sense of personal autonomy and ability to live independently; and their sense of safety and ideas on what will make them feel safe. A number of young people placed in independent accommodation simply do not have the requisite life skills, such as the ability to budget and cook meals, and ability to care for themselves. However, an unaccompanied child may have developed survival skills and possibly a veneer of being able to cope, which may mask their actual needs. DfE guidance makes clear that “assessments should be carefully completed before assuming any level of physical, social and emotional resilience” and these should cover “language and communication skills, ability to buy and cook food, ability to care for themselves and keep themselves safe, their understanding of British laws and social customs, and their ability to access education and public services”.²²

For many unaccompanied young people, foster placements can offer the support and care they need to recover from their experiences, learn about life in the UK, integrate with their local community and thrive. Research shows that for these children, including those over 16, foster care is often more appropriate than semi-independent living arrangements and result in fewer cases of children going missing from care and stronger integration outcomes.²³

²¹ UN Committee General Comment 23 on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, para 13, at <https://www.refworld.org/docid/5a2fa3e44.html>

²² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656429/UAS_C_Statutory_Guidance_2017.pdf

²³ See for example, UNHCR, A Refugee And Then: Participatory Assessment of the Reception and Early Integration of Unaccompanied Refugee Children in the UK, June 2019, at: <https://www.unhcr.org/uk/5d271c6a4.pdf>; IOM and Coram, Mapping of existing training for family-based carers and professionals in the United Kingdom, 2018 at <https://eea.iom.int/publications/mapping-existing-training-family-based-carers-and-professionals-united-kingdom> and European Agency for Fundamental Rights, Background note on ways to prevent unaccompanied migrant children from going missing, at

However, the work of RMCC members suggests that in many cases foster care is not even considered and young people are not having their options for accommodation and carefully explained to them. It is essential that placement decisions are made on the basis of *need*, not age or other status and that the full benefits of a foster placement must be explained to a young person by their social worker, particularly as their first impulse might, understandably, be to live somewhere more independently.²⁴

“What do you think needs to be changed to improve the accommodation provided to young people?”

For social services to really listen to what we want before making decisions”

Young person living in semi-independent accommodation

Support received in unregulated accommodation

The amount of support provided to young people in unregulated accommodation is very inconsistent, dependent both on the individual accommodation and individual workers operating within it, and determined by the contracts for each provider. Some young people are in shared flats where they very rarely see any professionals; others are in accommodation with 24 hour support via a staff reception and on-call workers. Some report excellent linking up with services, with onsite staff in close contact with, for example, nearby GP practices and colleges, while others feel entirely left on their own. The experiences of frontline staff matched the feedback we received from young people on this.

The most common practice identified was that young people are given a standard package of support, usually consisting of one or two visits a week from a key worker who meets them in their home. Key workers rarely have enough contracted hours to accompany young people to appointments with their solicitors, or to tribunals, even though these cause enormous anxiety and distress for young people going through the asylum process. Key workers rarely have access to interpreters which often makes full understanding at the beginning of relationships very difficult – the young people do not know what they can ask for, what the limits of support are, or what the difference is between a key worker and a social worker or personal adviser. Key workers also rarely have expertise in working with separated young people and/or a sufficient understanding of the asylum system and support needs of this group.

“My keyworker never used an interpreter for our meetings. This made communication between us very difficult and put a strain on our relationship.”

Extract from interview with a young person for this consultation

For example, one young person explained that he has a support worker who lives very close to the accommodation and he has five hours with her every week (new people have 10 hours). He is very happy with her; she helps with college, health issues, social services and goes to appointments with him. Another explained that there are support staff on the ground floor of his accommodation who can help with a range of issues, including college, healthcare or housing and it is better than the support from social workers because they are easy to reach, being just downstairs. By comparison, another young person had a support

https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-libe_missing_children_21_april_2016_background_note.pdf

²⁴ https://www.childrenssociety.org.uk/sites/default/files/distress-signals-report_0.pdf

worker who came to his shared house once a week but did not help with the problems he faced – he gave the example that they did not have hot water for over a month during the winter and he was forced to boil water to wash in. The support worker provided little practical support and would simply signpost to other organisations such as the British Red Cross or Migrant Help. Eventually he stopped asking her for help.

“There should be more support to help young people transition from semi-independent or supported lodgings to independent accommodation because so many people struggle to pay bills, rent and manage their money. Key workers do teach these things but always in English and lots of young people don’t understand at the beginning.”

Many young people have complained about the other young people they are placed with in semi-independent accommodation because, for example, they drink, play loud music and/or smoke cannabis which makes it very difficult for them to sleep (and many young asylum seekers already have problems with sleep), to focus on homework or to feel comfortable in their placement.

Following arrival in the UK, unaccompanied young people’s trauma symptoms can be triggered by living in an unstable environment. They are forced to live under incredible stress as a result of ongoing insecurity as well as “fluctuating support from the Home Office and local authorities, poor accommodation and subsistence” and as a result have a high risk of experiencing psychological distress, including sleep disturbances, attention and concentration difficulties, flashbacks of previously experienced trauma and post-traumatic stress disorder (PTSD). Research has highlighted that better support in their living arrangements can help mitigate the effects of the considerable trauma some of these young people have experienced.²⁵ Yet, several of the mental health practitioners interviewed as part of an inquiry by the APPG for Runaway and Missing Children and Adult noted that their service had been required to intervene where young people were placed in inappropriate accommodation placements without the child-specific support needed for them to secure better mental health outcomes.²⁶

Case study

M has a history of running away from his placements. He has lived in foster care and in semi-independent accommodation, and has gone missing from each placement. He has consistently said that he is unhappy, that he feels unsafe, and that he is worried that people will hurt him or steal from him. All of his material needs have been met, and it was clear from very early on that he had significant unmet needs in terms of his mental health. These were not addressed at all throughout four different placement breakdowns.

He is now currently under the care of a mental health hospital and is receiving the care he needs. However, he was asking for this for at least six months before he had a full assessment. His PA did not visit him and throughout his descriptions of unhappiness, feelings of lack of safety, and repeated fears that he would be put into prison ‘like in Libya’ his experiences as a young refugee with significant trauma went un-considered. It appeared

²⁵ Chase, E. (2017) Health and Wellbeing, Becoming Adult Research brief no. 5: UCL <https://becomingadultproject.files.wordpress.com/2017/12/ba-brief-5-low-res.pdf>

²⁶ No Place At Home: APPG inquiry into children missing from out of area care placements and the risks they face, September 2019, at <https://www.childrenssociety.org.uk/sites/default/files/no-place-at-home.pdf>

that no one in his professional network was fully aware of the risks that young asylum seekers in terms of their mental health. There was a great deal of surprise that he couldn't be happy and didn't trust the provision he was offered because there was 'nothing wrong with it'.

He is an example of a young person who could not make meaningful choices for himself because he was increasingly unwell; however, these reasons were looked upon as ingratitude until he reached a crisis point.

RMCC members have raised concerns that they are less able to engage successfully with children who are in semi-independent or independent accommodation than with those who are living in foster care, or with relatives. This is in part because of the lack of ongoing support these young people receive to ensure that they engage with other services.

"I had a keyworker who came to see me once or twice a week. He would sometimes take me shopping or to my health appointments. Didn't get support with getting Oyster Card until after I had been here for more than five months, so I wasn't able to travel by myself for a long time. I arrived in February and wasn't able to find a college place until the following September. I had some support with attending health appointments initially. I couldn't access charities/support services because I had no Oyster card and therefore couldn't travel. It was very hard for me to find my way around. I was given very little money for travel and my keyworker did not support me to attend my appointments with my immigration solicitor."

Extract from write up of interview with a young person for this consultation

Research from UNICEF has also highlighted 16 and 17 year old children placed in unregulated accommodation "were less able to complete the substantial amount of self-directed learning often incorporated into courses for this age group" and that this living situation was a barrier to their educational progress.²⁷ While "the presence of a pro-active and supportive foster carer has long been established as a key determiner of educational success for looked-after children" the same research highlighted difficulties faced by local authorities in finding appropriate foster placements, suggesting that the decision to place an unaccompanied child in unregulated accommodation can be resource driven, rather than based on the child's needs and wishes.²⁸

Safety and security

"T feels safe now because she has her own space but didn't feel very safe previously in the house shared with boys. Feels that young female asylum seekers are particularly vulnerable and some will be afraid of mixing with other people while others won't want to be alone, so they should be given lots of options about where they live"

Extract from write up of interview with a young person for this consultation

One RMCC member reported a number of cases in the last year of young people who have reported feeling unsafe in semi-independent accommodation. This includes those who feel unsafe because they share a flat with strangers; because they are hyper-vigilant and

²⁷ UNICEF, Education for refugee and asylum seeking children: Access and quality in England, Scotland and Wales, July 2018, at <https://www.unicef.org.uk/wp-content/uploads/2018/09/Access-to-Education-report-PDF.pdf>

²⁸ *ibid*

experiencing the effects of unaddressed trauma; and those who are unsafe because there are very real threats and dangers within their accommodation. These include drug dealing and other criminal activity within the household or in the immediate vicinity; accommodation being known to previous residents who still hold keys and let themselves in; theft of possessions from within the accommodation; and in one case local criminals targeting residents of a flat for money, and entering the flat carrying a knife that was used to intimidate the young residents. Alerting people to these problems can be difficult because the accommodation is not typically staffed. Young people can be left feeling ignored, or that they have no options as they have already been told that where they currently live is the only possible option available.

“TA got released from a juvenile detention facility and placed in a semi-independent accommodation setting. He disclosed having problems with other young people in the accommodation, in addition to feeling afraid of people he knew outside of the accommodation. He said he didn’t feel protected and couldn’t share fears with police or his social worker because of fear and being judged by the other young people he lived with”

Extract from write up of interview with a young person for this consultation

“After me and my friend A were put in this accommodation, we felt that we had been left alone by social services and that they did not care about us. The door to the accommodation was often left open by the other residents, so it was not very secure.”

Extract from write up of interview with a young person for this consultation

Recent research from UNHCR highlighted the number of young people interviewed “reported experiencing violence and (racist) bullying in shared accommodation and support living placements” and that in many cases they were left for months in these placements, despite reporting the difficulties there were facing to their social workers.²⁹

“When I first came to the UK I couldn’t speak English, it was really stressful. It was really hard. I missed my family, I didn’t feel happy with myself. I was 15, I should have been with my family, but I didn’t have that chance... Me and my friend were paying our bills, but the others refused to pay. Sometimes we would come home and there was no electricity. No light. We couldn’t charge our phone. Couldn’t eat. I was so stressed and tired seriously. At that time I was really, really crying. Sometimes I went to college and I didn’t even take a shower because of the electricity. I was living there like 6-7 months but it felt like 10 years. It was a disaster, they were smoking weed kind of thing. One of the guys used to cut himself.”

Refugee, 18 years (male), quoted in UNHCR report ‘A refugee and then...’³⁰

Case study

B is an 18 year old living in semi-independent accommodation. He was moved there at 16 after being in foster care but did not realise that he could refuse to move there. He is not happy with his accommodation. His foster carer, when she visited with him, was concerned about him moving there but the young person felt that he did not have a choice.

²⁹ UNHCR, A Refugee And Then: Participatory Assessment of the Reception and Early Integration of Unaccompanied Refugee Children in the UK, June 2019, at: <https://www.unhcr.org/uk/5d271c6a4.pdf>

³⁰ *ibid*

B does not feel that he receives enough support. There are no key workers living at the accommodation and visits are infrequent. B's college and GP are very far from his accommodation, and the train station is also far away so he travels by bus.

B is not sure he feels safe there. The area is 'not nice' and his 'flatmate' broke the front door and it never got fixed so anyone could come in from the street and he can only lock the door of his room once he is inside the room.

B has been complaining about this accommodation since 2018. It is very old and dirty and the people he is sharing with never clean. They also make a lot of noise because they bring friends over and they kick the doors.

When asked what accommodation should be provided to young people, B explained that it should be clean and not old, in a safe area. In his accommodation there is no living room, no table in the kitchen, so he has his meals in his room. He feels "they should give a choice to young people, not just move them straight away with keys in hand".

There is very low awareness of support staff in semi-independent accommodation on the risks associated with the on-going exploitation of unaccompanied children. Respondents to a survey of professionals stated support workers possessed little awareness or experience of caring for trafficked or unaccompanied children, and effectively addressing risks associated with going missing.³¹

Recommendations:

- **The Fostering Network has highlighted the ongoing shortage of foster carers,³² and this is particularly the case for older teenagers. The government should take steps to increase the number of foster carers for teenagers and the number who specialise in providing care for unaccompanied children – research has shown that, on average, foster placements for 16 and 17 year olds are not more expensive than semi-independent placements.³³**
- **The Department for Education should commit to long-term funding for all local authorities in England to train foster carers on the needs of unaccompanied young people, so that they can be better supported in their accommodation placements.³⁴ Training provision should utilise the training modules already developed by the British Red Cross (see <https://safeproject.eu/about-the-project/>) and IOM with Coram (see <https://eea.iom.int/fostering-across-borders>)**

³¹ <https://www.ecpat.org.uk/one-the-safe-side-principles-for-the-safe-accommodation-of-child-victims-of-trafficking>

³² <https://www.thefosteringnetwork.org.uk/media-release/2019/thousands-new-foster-families-needed-year-help-change-childrens-futures>

³³ Analysis of Local Authority costs incurred in support of Unaccompanied Asylum Seeking Children in the East Midlands 2017 at <https://www.emcouncils.gov.uk/Latest-News>

³⁴ The Children's Society, Distress signals: Unaccompanied young people's struggle for mental health care , June 2018 at https://www.childrenssociety.org.uk/sites/default/files/distress-signals-report_0.pdf

- For appropriate decisions to be made about their accommodation, unaccompanied children should receive support from an independent guardian. It can be difficult for a child with this background to engage meaningfully without support to understand their rights and develop a relationship of trust with an adult who understands their needs. Unaccompanied children are particularly at risk of exploitation or may be trafficking victims but not yet identified, and have additional needs.³⁵
- The government should introduce a national strategy to ensure sufficient supply of children’s homes
- Paragraph 3.119 of the Children Act 1989 Care Planning, Placement and Case Review guidance should be amended to ensure ‘suitable accommodation’ not only has to meet health and safety requirements, but must also protect the safety of the young person by complying with wider safeguarding statutory duties
- Ofsted should play a greater role in ensuring that the relevant, welcome, aspects of existing policies and guidance are implemented.
- In its 2017 ‘Safeguarding Strategy: Unaccompanied asylum seeking and refugee children’, the government committed to working with NGOs “to develop information and good practice resources on high quality supported accommodation to be shared with local authorities.”³⁶ These have yet to be produced and should be prioritised.
- Further work, through training, awareness-raising and monitoring/oversight is required to address the areas where good policies and guidance exists but practice is deficient, including:
 - ensuring practitioners understand the rights and entitlements of this group, as well as their additional challenges and vulnerabilities and how best to support them
 - the need to ensure that placement decisions are based on an assessment of the young person’s needs and best interests, taking into account the need to be near core services, religious institutions and other relevant provision.

³⁵ European Union Agency for Fundamental Rights, Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking, 2015: <http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care/>.

³⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656425/UASC_Safeguarding_Strategy_2017.pdf

8. Please set out any positive and/or negative impact the introduction of new national standards would have

We agree that the absence of shared standards leaves ‘too much room for poor provision that does not meet the needs of young people’ and that new national standards could help drive up the quality of provision for children and young people.

For the reasons outlined in our response to question 7, the RMCC does not support the development of standards which do not include the provision of care to 16 and 17 year-olds. There should be one set of standards for children’s residential care. Unaccompanied children of all ages need both care and support. Standards must ensure that all children’s individual vulnerabilities and needs, including the impact of trauma, are identified and addressed.

There are currently nine quality standards which already exist for children’s homes, where children can live up to and beyond their 18th birthday. These are:

1. The quality and purpose of care standard
2. The children’s views, wishes and feelings standard
3. The education standard
4. The enjoyment and achievement standard
5. The health and well-being standard
6. The positive relationships standard
7. The protection of children standard
8. The leadership and management standard
9. The care planning standard.

These standards could be replicated for independent and semi-independent care. Modifications already exist in the children’s homes standards for two types of care – short breaks (for disabled children) and secure (where children are detained for their own welfare or following remand or sentencing by a criminal court). Following this precedent, modifications could be made for children’s homes specifically looking after teenagers aged 16+ – recognising their need for growing autonomy while still providing care and support. As with short breaks and secure care, there is no reason why a form of accommodation adhering to these standards could not be provided, but with a more appropriate name / description which would be more appealing, and carry less stigma, for teenagers.

9. Please set out any other areas you think should be covered in the new national standards

See above.

Provision for this group highlights the need for standards to cover the size of accommodation, ratio of support staff to young people and also number of support hours per week to ensure a nurturing ‘home like’ environment is provided. This would be covered by the existing children’s home quality standards.

In addition to applying the children’s home quality standards, refreshed guidance could be issued outlining what is expected of settings and providers in their protection of young people against exploitation, trafficking and the risk of going missing. This should include

what policies and protocols on these topics should be in place to prevent against these risks and to inform actions to be undertaken by staff members when this occurs. They should also include information about how they involve children and young people in decision making about the accommodation itself, changes that are made to the accommodation and how it is run.³⁷

10. We are inviting views on how we might implement the standards:

1. Changing the regulations, to make the standards mandatory for local authorities: We would require local authorities to only place children in provision that meets the standards.

2. Legislating to introduce a new quality and inspection regime: This would require all providers of independent and semi-independent provision to register with Ofsted and be inspected against the new standards.

How effectively do you think either option 1 or 2 would raise the quality of independent and semi-independent provision?

Option 2 provides a means of supporting vulnerable young people by providing a legally binding set of standards and regulatory checks that should lead to substantial improvements in children's care and protection.

Having an agreed set of standards in law provides a means of challenging poor practice, either through Ofsted's regulatory enforcement mechanisms or through the courts.

Please explain your answer, including why the options would be particularly effective or ineffective

Local authorities already have an overarching duty to safeguard and promote the welfare of each child in care. In addition, they already have duties to ensure the accommodation in which they place children is suitable – this includes safety and location. However, BBC Newsnight's investigation,³⁸ and other inquiries and investigations, have shown that current arrangements are not working, so clearly the independent scrutiny of Ofsted is required.

11. Please set out the consequences and implementation challenges that should be considered when introducing new standards

Regulation to protect against unsuitable placements will only be effective if coupled with additional investment in accommodation provisions, particularly specialist accommodation for the most vulnerable children. Without addressing the supply of accommodation options available, local authorities will still be forced to make decisions that go against the best interests of children and unsuitable accommodation will continue simply due to demand.

Local authorities need to be properly resourced to understand and develop local provision to match children's needs.

There will also be implications in terms of cost and capacity for Ofsted inspections.

³⁷ See ECPAT UK, One the Safe Side: Principles for the safe accommodation of child victims of trafficking, at <https://www.ecpat.org.uk/one-the-safe-side-principles-for-the-safe-accommodation-of-child-victims-of-trafficking>

³⁸ <https://www.bbc.co.uk/programmes/p07tqw8x>

12. Do you agree that we should clarify statutory guidance, to ensure that IROs undertake visits to a placement to be able to assess whether it is meeting the needs of the child or young person and that they must send a report to the local authority to inform their decision making process about next steps for the individual child or young person? No

13. Please explain your answer

It is important that IROs, who are meant to operate independently of local authorities, are not handed sole responsibility for making decisions about the suitability of accommodation for individual children in care.

Under section 25B of the Children Act 1989, the IRO role is not to assess the suitability of a placement but to monitor the local authority's performance in relation to the individual child; participate in any review of the child's care; and ensure the child's wishes and feelings are given due consideration by the local authority. The IRO additionally must ensure the child has information about their rights; they must inform the child about their right to an advocate; and, when necessary assist the child to obtain legal advice and representation when they wish to take legal proceedings under the Children Act 1989.³⁹ Further work could be done to ensure that IROs are able to challenge local authority breaches of their statutory duties, including through referrals to Cafcass.

It is also important to note that IROs are already overstretched in their roles.

14. Do you agree that we should legislate to give Ofsted powers to issue enforcement notices to illegal unregistered providers before proceedings with prosecutions?

Yes

15. Please explain your answer

Increased powers to Ofsted will increase the likelihood of providers taking their obligations seriously, and ensuring a high standard of service for children they accommodate. Whilst Ofsted already has powers to prosecute, it is understood that there have been no prosecutions to date, making it unlikely to act as a deterrent to bad practice.⁴⁰ As such, additional powers may increase the deterrent for providers who do not register. Close monitoring of new powers is essential to ensure they are being used effectively and having a positive impact.

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³⁹ Regulation 45(1)-(2) The Care Planning, Placement and Case Review (England) Regulations 2010

⁴⁰ <https://www.bbc.co.uk/news/uk-51443489>.