

Submission to Human Trafficking Foundation's Modern Slavery Inquiry on Separated Children



1. What are the present risks of exploitation including trafficking to separated children in Europe?

What are the most significant risk factors faced by separated children and why?

By virtue of being separated from family and friends, separated children are vulnerable. They are wholly dependent on their agents and/or on other separated children or adults they meet in the course of their journeys. They are indebted to their agents and open to exploitation to expunge that debt. Their pronounced, cultivated dependence on their agent/smugglers is the most significant risk factor for such children. This is quite apart from the inherent risks to their safety of making the perilous journey to and across Europe.

Such children are also at significant risk so long as they judge that they have not reached a safe country or their chosen safe country, and so long as they are housed or forced to congregate with other asylum seekers or migrants – whether in government accommodation or informal camps. Migrant hostels and camps are frequently targeted by criminals and those seeking sexual favours or cheap labour from the inmates.

Are there specific safety and protection needs of separated children that are not being met, or not adequately being met? In UK / elsewhere in Europe?

There are specific safety and protection needs not being met in the UK and Europe.

Children need to be separated from adult strangers and preferably housed in a family setting. While not all foster placements for separated children are successful, when they work they are extremely important, allowing the children/young people to settle, to feel part of a family, to focus on their education and to recover from trauma and their loss of family. Separated children need a safe place away from their agent/smuggler/trafficker and someone (who may be a guardian, foster carer, lawyer or NGO worker) whom they can trust.

Children/young people can lose confidence and trust in those helping them if they are enmeshed in slow, bureaucratic procedures – whether age assessment, asylum processes or pathway planning which the young person does not understand, fully participate in or have

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confidence in the outcome. In those situations the young person is susceptible to traffickers promising better outcomes. It is not so much that new protections are needed but that the protective arrangements and priority processing for children already mandated should be delivered.

The protection afforded to separated children is highly segmented. Teachers and social workers may have important insights or evidence relevant to the child's vulnerability or family history but this evidence is not communicated to the child's lawyer and such professionals are often reluctant to give evidence in a child's immigration appeal. If a child's welfare and best interest is served by their remaining here, these professionals should be encouraged to cooperate with the child's lawyer and provide that evidence to the tribunal. All professionals working with separated children should see they have a joint responsibility to assist an immigration tribunal to make the correct decision on international protection. (*E v Secretary of State for Home Department* [2004] EWCA Civ 49; [2004] QB 1044).

Is there sufficient recognition by UK authorities of the specific safeguarding and protection needs of young adults whose experience of migration or exploitation was as a separated child?

Local authority guidance on separated children suggests that they should develop parallel plans to help young people at risk of removal to plan for a future in the UK or in their home country. As such young people will face hardship and risk if they are returned to their homes, those plans should be practical plans – arranging vocational or IT training, helping set up links with NGOs in the home country, trying to trace family or friends. They should focus on short-term achievable goals so that whilst they undergo the immigration process. In practice, this is not done and the quality of care planning is guided by (and in many cases dictated by) immigration status. The consequence of this is young adults may find themselves unsupported, at risk of support being terminated or being offered on a destitution-basis (rather than developmental basis). For those who are removable from the UK, there is also very little preparation undertaken before young people are removed. Where the young adult has been in the UK as a separated child, such planning is part of the tracing and care obligations owed to such former relevant children.

Is there evidence that separated children or young adults arriving in the UK from other EU Member States have been trafficked or re-trafficked in the UK?

Not all separated children and young adults are trafficked from the UK to EU member states and from EU member states to the UK. It would be wrong to assume this.

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There are certainly children whose journey across Europe was made for the purposes of exploitation. It is widely known that there is an organised criminal network around cross-border trafficking of Vietnamese young people into cannabis farming.

Domestic servitude through private fostering arrangements or Overseas Domestic Worker visa have also been known routes by which children are directly trafficked to the UK.

There is a wider group of separated children who will have experienced forms of exploitation on the journey across Europe to the UK even if the trigger of the journey was not for this purpose. As indicated above, separated children are dependent on smugglers, agents and other adults around them to help them complete their journey to wherever they are meant to arrive at. Our clients have told us about exploitative situations they have found themselves in on their journey to the UK, including working in forced labour situations and sexual exploitation.

2. Legal Options

What have been the outcomes for separated children who travelled to the UK under Dubs/ Dublin/ other schemes operating to offer safe and legal passage from within European Member States? How does this vary from the outcomes for children who have made their way independently to the UK?

It depends on what legal outcomes this question is driving at.

In terms of immigration outcomes: many of the children's immigration applications remain pending so it is difficult to discern patterns of their immigration status outcomes. We have observed delays in the processing of asylum applications, including interviews and decision-making. This is a wider spread issue than for Dubs / Dublin children and applies more generally to applications from separated children. It matters more for those who are not in the UK on a family reunion basis because there is always the risk of aging out in terms of the immigration application and having a decision made when the young person has already turned 18 because of delays in the asylum process. The child thus loses the benefit of at least discretionary leave as a child up to the age of 17.5 and a right to extend that leave and to raise asylum grounds again. This is likely to pertain more to children coming to the UK under Dubs rather than Dublin because in the Dublin context, there will more likely than not be an aspect of Article 8 family life that necessarily will fall to be factored into decision-making.

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In terms of support: for those who come to the UK under Dubs, they may be subject to the National Transfer Scheme. There have been delays and difficulties in the NTS and in the enactment of transfer from host authority to receiving authority which is currently being litigated. Certain young people have also been subject to an age assessment on arrival in the UK even though they will more likely than not have already been vetted for transfer. This causes further delays in the progression of care planning as well as in achieving a durable solution for the children concerned.

For Dublin reunion cases, the family living arrangements have not all worked and we have had experiences of family living arrangements breaking down and children becoming looked after by local authorities. A key part of the problem is the lack of / very limited planning involved before the child is transferred to the UK under the Dublin regulations. We have yet to see any thorough needs assessment being completed in advance (or at least commenced in advance) including consideration of the sustainability of the family arrangements. This has caused problems particularly in cases of reunion where the family member in the UK is himself a care leaver or a young adult. Or they are family members who have no parenting experience (being unmarried and without children). The sustainability and viability of proposed family living arrangements are not considered at all or sufficiently. Little if any information is also given to family members in the UK who are receiving the child into their care, and in particular little information is given about the housing situation and finances. Relatives and the child find themselves in overcrowded and inadequate housing, with insufficient financial support (particularly in circumstances where the relatives are themselves on benefits or affected by the housing benefits cap or on tight budgets.)

Prompt support to access education has also been problematic in certain urban areas for Dublin reunion cases in the absence of support and input from social services in the cases we have seen.

Is there any difference between the level of support and assistance provided to children who have been relocated under Dubs or Dublin to those who have made their way independently to the UK ?

In theory, it is the same duties that are owed to children who are separated and arrive in the UK whatever the means by which they have arrived. In practice, in Dublin reunion cases, it appears that there has been quite consistent failures on the part of local authorities of the relevant area assessing the needs and viability of the family living arrangements and providing early intervention support. The Children's Society

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3. Pull Factor

Is there any evidence that the UK's admission of children under Section 67 of the Immigration Act 2016 (commonly known as the 'Dubs amendment') is serving as a so called 'pull factor' to encourage traffickers?

No. In our case experience children are brought here when their parents have paid for them to be taken to this destination or when a child is aware that there is a family friend or relative here who can assist them. This has happened for many years before the Dubs amendment. There are a variety of reasons why children seek asylum or other forms of international protection in the UK. The Dubs amendment was a humane and defined response to the refugee crisis in Europe. In our work with separated children, it has not been our experience that the Dubs amendment had any pulling power. The children who benefited from Dubs were children already in Europe, not those leaving to come because of Dubs. There is no evidence of the latter.

Are there specific patterns of exploitation of separated children in Europe? Has anything changed since the introduction of the Dubs amendment?

There are specific patterns of exploitation of separated children in Europe particularly in front-line States where there are limited facilities, children are not properly identified, placed in family settings but are left to fend for themselves. There are numerous cases known to us through our case work where young children in front-line states are living in abandoned buildings, forced into sex work or demanding factory or catering work or caught up in drug dealing or petty theft. There is also known exploitation of young people housed in migrant centres. Traffickers know these centres and gain access to the centres or wait outside to find victims. Young people are often encouraged to trust the trafficker who promises to find their relative or get them to a safer country or find them employment. We strongly support family care arrangements for these children/ young people because they are vulnerable to exploitation when placed with other separated children and without close adult protective oversight. We are not of the view that the Dubs amendment precipitated trafficking.

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On behalf of Garden Court Chambers

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