

ILPA Submission to All-Party Parliamentary Groups on Runaway and Missing Children and Adults and for Looked After Children and Care Leavers' inquiry into children who go missing or run away from care

The Immigration Law Practitioners' Association (ILPA) is a professional association, the majority of whose members are barristers, solicitors and advocates practising in immigration, asylum and nationality law. Academics and non-Government organisations are also members. Established over 25 years ago, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law. ILPA is represented on numerous Government consultative and advisory groups, including the National Asylum Stakeholder Forum children's subgroup. ILPA is a member of the Refugee Children's Consortium, and is represented on the Children's Commissioner's advisory board on immigration and asylum.

ILPA's experience and expertise relates to children subject to immigration control and exercising European free movement rights. Such children include child victims of trafficking, separated (unaccompanied) children seeking asylum and children abandoned in the UK. In this submission, we highlight discrete issues which contribute to the risk that such children may go missing or run away from care. We are constrained to concentrate on particular concerns by reason of pressures of time. However, we highlight herein previous submissions, responses and other work which may be of interest to this inquiry.

1) General observations

In ILPA members' experience three critical issues affecting the risk that a child may go missing or run away from care relate to:

- the trust and confidence of the child in professionals and others, individuals and agencies, who have responsibilities relating to the child's safety, welfare and immigration status;
- the focus of those professionals and others upon the child's safety and welfare, including recognition of the primacy of the child's best interests; and
- the recognition of, and respect for, each others' duties and roles shown by those professionals and others.

The risk that a child may go missing or run away from care is increased when:

- the child has no confidence in those responsible for his or her care and well-being;
- the child has no confidence in his or her safety, in the present and/or near future; or agencies are diverted from their duties in respect of the child's safety and welfare by concerns relating to immigration control; and
- individuals or agencies undermine the work of others with responsibilities for the child's safety and welfare.

Below, we respond to some of questions 10 to 14. Because many children subject to immigration control in local authority care have not been, and do not claim to have been, trafficked, our responses to those questions range more broadly than “trafficked children who go missing from care” as per the heading of this group of questions. There is a risk that a child subject to immigration control who goes missing from care, whether or not he or she has been trafficked in the past, is at risk of human trafficking, but this is far from the only risk such children face.

Access to legal advice and representation is a vital part of providing a child with confidence in those responsible for his or her care and more generally in ensuring his or her safety. This is a matter of pressing concern, given the Legal Aid, Sentencing and Punishment of Offenders Bill currently before parliament which will take away legal aid from many of the children who are the subject of this inquiry.

2) Selected questions:

10. Please give your assessment of how well your local authority complies with the Children Act duties to safeguard and protect trafficked/exploited children? Does your local authority provide an effective standard of care and suitable accommodation for all trafficked or exploited children? How do they ensure the child’s best interests are at the centre of their decision-making?

Our response looks at problems that occur across a range of local authorities.

It is not possible to view local authorities’ duty under section 11 of the Children Act 2004 in isolation from the commensurate duty upon the UK Border Agency under section 55 of the Borders, Citizenship and Immigration Act 2009. Between them, local authorities and the UK Border Agency do poorly in meeting this shared duty. Often, the relationship between local authorities and the UK Border Agency, frequently led by the Agency, does not make the child’s best interests (or his or her safety or welfare) the centre of the decision-making and activity. Instead, immigration control still sits at the centre, and the child’s best interests are often relegated to an attendant or peripheral role, or are forgotten (see Box 1).

Box 1 – the relegation of a child’s best interests

ILPA has seen cases in which UK Border Agency caseworkers have made or initiated unsafe enquiries in a child’s home country for the purposes of family tracing, and where such tracing is less for the promotion of the child’s best interests than in preparation for an eventual return. We examined this matter in depth in our submission to the Joint Committee on Human Rights’ inquiry into children’s rights, where we cited a particularly egregious example of unsafe enquiries on the basis of which the UK Border Agency asserted that adequate reception arrangements were in place for the child’s return in circumstances where there was a substantial risk, as identified by the social worker in that case and as highlighted to specialist officials, that the child had been trafficked and hence any return might simply have delivered the child up to those traffickers. More information is provided at Annex A to this submission.

Another example is the practice whereby notice of removal to a third country was

withheld by the UK Border Agency (and by social workers in some cases) from separated children seeking asylum and their legal representatives. This ceased following the successful challenge in *R (M & T) v Secretary of State for the Home Department* [2010] EWHC 435 (Admin), although that it had ceased, as a matter of policy rather than simply in practice, was not known until this was revealed in the course of proceedings in *R (Medical Justice) v Secretary of State for the Home Department* [2010] EWHC 1925 (Admin). In these cases, the child's best interests were relegated, in an unlawful manner, on the assertion that it was better for the child not to know about the removal to ensure he or she did not go missing. Not only did this prejudice the child's best interests by effectively blocking access to the court to challenge an unlawful removal, it also potentially increased the risk of the child absconding at any time for fear of being suddenly detained and removed without notice, even where that fear was unfounded. These are "third country" cases but the same scenario can be envisaged if progress is made with plans to remove separated children, whose claims for asylum are unsuccessful, to their country of origin. A short note on the case of M & T is provided as Annex B to this submission.

Other examples, discussed below, include where information recorded by social workers in their role in providing local authority care, is sought and, if provided, used by the UK Border Agency in considering and rejecting a child's asylum claim; and the recently announced trial of use of dental x-rays in age disputed cases.

It is essential that the UK Border Agency understand and respect the key role of local authorities and social workers in promoting the child's safety and welfare and, in particular, acknowledges that local authorities and social workers can only do their job where a child has trust and confidence in his or her social worker. Social workers should not be invited by the UK Border Agency to perform roles for which they do not have the expertise, to which they are ill-suited, and which may undermine the relationship between them and a child (see Box 2).

Box 2 – social workers performing inappropriate roles

ILPA is aware of instances where a social worker sends the UK Border Agency a letter setting out concerns about a child, which include assertions about the child's history and what has happened to them in their home country. Such representations about the child's history may be peripheral to the social workers intentions in highlighting a particular vulnerability of the child, but we have seen cases in which the UK Border Agency has relied upon asserted discrepancies between the account the child has given to the Agency and that given to the social worker (see also Box 3). In such cases the social worker strays into the role of legal representative (and note footnote 4 in relation to this), whether or not at the invitation of the UK Border Agency.

The UK Border Agency uses a pro-forma to be completed by social workers to try to elicit information prior to the 'screening' interview at which the claim for asylum and basic details about the child are recorded. This is an example of where social workers are being asked to stray into the role of legal representative. In debates on the Legal Aid, Sentencing and Punishment of Offenders Bill, Ministers have made

explicit suggestions that social workers should be invited to take on such a role.¹ ILPA does not consider that social workers are in a position to do this, and also considers that there would be likely to be conflicts of interest should they attempt to do so.

Social workers should not be asked by the UK Border Agency, as they are at the moment, to share information without the informed consent of the child, sought via the child's legal representative, to ensure consent is informed and freely given (see Box 3).

Box 3 – information shared by social workers

Information that has been requested by UK Border Agency caseworkers and provided by social workers includes written material and records relating to a local authority age assessment. Not all local authorities agree to provide this information to the UK Border Agency. Research for *When is a child not a child?* (see further below) found that many children do not realise that they are undergoing an age assessment, let alone realise that the information they provide will be shared with the UK Border Agency. They have not given informed, or in some cases any, consent to this.

Information may include information about the child's history, such as his or her schooling or journey to the UK, which may differ or appear to differ with what the child has said to the UK Border Agency in his or her asylum claim. The reasons for these differences may range from the child having told social workers and the UK Border Agency two different and contradictory things, whether to mislead, or because of innocent error, to the information having been taken only partially, or having been misunderstood or wrongly recorded.

The UK Border Agency relies on such discrepancies and omissions, both in questioning children as to the truth of their accounts at asylum interviews and in cross-examination at asylum appeals and in refusing their asylum claims.

A child who discovers that his or her asylum claim has been rejected on the basis of information shared by his or her social worker with the UK Border Agency, where he or she did not know/understand that the information was to be shared and did not understand how the information was to be used, is unlikely to trust that social worker. Even where there may have been an attempt at seeking the child's consent, such as by having the child sign a standard form, it is likely that such consent will not be freely given, because the child may feel that he or she has no choice but to consent, and may not be fully informed. Comments of children and young people

¹ See e.g. *Hansard* HC, Report, 31 Oct 2011 : Column 289 (per Jonathan Djanogly); *Hansard* HL, Report, 12 Mar 2012 : Columns 73 (per Lord Newton of Braintree), 122-123 (per Baroness Lister of Burtersett) and 129 (per Lord Wallace of Tankerness).

recorded by Refugee Youth in the 2009 publication *Becoming a Londoner*² reflect how a child may feel in such situations:

“Social Workers all do it their own way – there are no rules”

“Many times I found that my Social Worker was not passing on information to me about my rights and entitlements”

Recently, the UK Border Agency produced a pro-forma to be used by social workers to gather information for the UK Border Agency prior to screening.³ This is an example of misunderstanding or failing adequately to respect the role of the social worker and the social worker’s relationship with the child. The information sought by the pro-forma includes details of the child’s nationality, ethnicity, religion (which are relevant questions to many asylum claims and may be the subject of dispute); details of the child’s family members and schooling (matters which may sometime be peripheral, but are relied upon by the UK Border Agency in asserting discrepancies or omissions against the child).

There is an alternative: the UK Border Agency could provide the means for children’s legal representatives to submit the information. The problems with the current approach are compounded by social workers not being experts in asylum law and procedure and, unless they are registered within the scheme of the Immigration Services Commissioner, not being permitted as a matter of law to advise the child on an asylum claim, including as to the consequences of answering questions and how the claim may be dealt with.⁴

The child’s perception of social workers is not only informed by their experience of their own social worker, but by that of other children with whom they associate.

11. Are there any differences in local authority care and accommodation provision for children under immigration control (UASC) [sic] compared to services provided to other looked after children?

Yes.

The key difference is the role of the UK Border Agency and the influence that Agency has with local authorities, in part as a result of the financial support provided by it to local authorities to assist them in supporting separated children seeking asylum. Very often it appears that separated children are in receipt of a standard package of services, rather than one tailored to their needs.

² *Becoming a Londoner: Our Creative Campaign*, The Barbara Melunsky Refugee Youth Agency Ltd (known as Refugee Youth), 2009.

³ Screening is the point at which the UK Border Agency receives and registers an asylum claim, and at which an array of personal biodata and general information, including details of an asylum-seeker’s journey and entry to the UK, are taken. Save for those who claim at a port of entry, or who are detained by the police or immigration authorities, screening usually takes place at the Agency’s Asylum Screening Unit in Croydon.

⁴ Part V of the Immigration and Asylum Act 1999 establishes the regulatory scheme run by the Immigration Services Commission; and makes it a criminal offence for a person to provide immigration advice or services in the course of a business whether or not for profit, other than a person within the scheme (or in a designated professional body – e.g. solicitors and barristers).

A further difference is the effect of age disputes, although these can have the effect of excluding a child from local authority care altogether rather than determining the quality of that care. This is relevant to this inquiry as it may increase the chance of a child going missing. The frequency with which age is disputed is cause for alarm. The dispute itself may undermine relationships of trust and confidence, while an erroneous conclusion that a child is an adult may dramatically reduce the support and care available to them.

The impact of age disputes was considered in detail in *When is a Child not a Child? Asylum, age disputes and the process of age assessment* (Heaven Crawley for ILPA 2007).⁵ As ILPA submitted to the Joint Committee on Human Rights' inquiry on children's rights in February 2009:

"Age assessment is not an exact science. ILPA members continue to see cases where all the evidence is compatible with a child's being a child, as they say that they are but evidence other than the testimony of the child is also compatible with their being over 18. These are treated as age disputes. They should not be. The process of dispute and its contentious resolution is harmful to children. The first and most essential step is confine age disputes to a minimum number of cases, not have it as the first thing on the agenda when a child presents to immigration control. All too often the dispute appears to arise as a result of UK Border Agency officials mere assessment of a child's physical appearance. These officials are not qualified to arrive at such decisions. There is also grave concern at local authority practice in this area."

ILPA's submission to the Joint Committee touches on a range of concerns that may be of interest or provide useful background to the current enquiry. The submission is available at: <http://www.ilpa.org.uk/data/resources/I3073/09.02.566.pdf>

On 29 March 2012, the UK Border Agency announced a trial of the use of dental x-rays for age assessment, affecting those claiming to be children but age assessed as adults by the London Borough of Croydon. Correspondence between ILPA and the Agency, as well as the protest of the four children's commissioners, can be read at <http://www.ilpa.org.uk/resources.php/I4476/letter-from-zilla-bowell-ukba-on-plans-to-reintroduce-use-of-x-rays-for-age-assessment>.

Subsequent to that correspondence, ILPA met with officials of the UK Border Agency following the announcement of the trial to voice our protest and to ask for it to be halted. In the meeting, we identified the risk that the possibility of a dental x-ray assessment could lead to social workers conducting age assessments rejecting a person's claim to be a child on the ground that if that rejection were incorrect this could be challenged by opting for dental x-ray assessment. It was apparent to us at the meeting that this risk had not been considered by those at the meeting before the commencement of the trial. This trial, for this reason and many others, including that dental x-rays cannot provide conclusive proof of a person's age, that there are no means to securing informed consent for this purpose, that there is no therapeutic benefit to the exposure to radiation by these x-rays, and as to the ethics and

⁵ This remains available in the publications section of ILPA's website at: <http://www.ilpa.org.uk/pages/publications.html>

lawfulness of the trial⁶, is another example of the failure by both a local authority and the UK Border Agency properly to understand and apply their respective duties to safeguard and promote children's welfare.

Related to age disputes is the detention of children. Children wrongly treated as adults are liable to be detained. ILPA is aware of cases where persons later determined to be children have been detained for several days or weeks. Recently, we have been alerted to a case where a child, whose age had been disputed, appears to have been detained for in excess of two months. Where a child is unlawfully detained in this way, he or she is much more vulnerable to losing confidence in 'the system' at a later stage, and hence of running away or going missing.

12. The Government's 2011 Human Trafficking Strategy commits to tackling the issue of trafficked children who go missing from care. What can local authorities and voluntary organisations do to better safeguard trafficked or exploited children and ensure they do not go missing from care?

We refer to our answer to question 10, where we have set out what should be expected of local authorities in their relationship with the UK Border Agency.

14. How would providing a guardian for separated migrant children as set out in International Legislation help protect trafficked or exploited children going missing from care?

A critical element of the need for a guardian relates to securing the child legal advice and representation, as discussed in section 3 below. Further information is provided in ILPA's briefing on an amendment to the Protection of Freedom Bill in February 2012, which is available at:

<http://www.ilpa.org.uk/data/resources/14157/12.02.03-Protection-of-Freedoms-Trafficked-children-ILPA-briefing.pdf>

As set out therein, a guardian may be able to give instructions to legal representatives where a child's ability to do so is compromised by fear of the trafficker. The guardian sits outside the risk of conflicts of interest arising from the financial and decision-making relationships social services have with the UK Border Agency. Local authorities caring for children do not play the role of the child's guardian in the family courts or any other proceedings and no cogent reasons have been suggested as to why children under immigration control should be subject to different treatment. As set out therein, we can identify no other jurisdiction in which a child is expected to grapple with complex legal proceedings without support similar to that which a guardian can provide. The very pressures of the responsibilities that are placed upon these children may be reasons for them to run away.

We refer you also to our letter of April 2008 to the Lord Adonis, then a Parliamentary Under-Secretary of State, about guardians, available at:

<http://www.ilpa.org.uk/data/resources/13097/08.04.590.pdf>

⁶ See <http://www.ilpa.org.uk/resources.php/14476/letter-from-zilla-bowell-ukba-on-plans-to-reintroduce-use-of-x-rays-for-age-assessment>.

3) Access to effective legal advice and representation:

Children in care, subject to immigration control, often have ongoing immigration or immigration-related problems in need of resolution. These can include:

- the asylum claim of a separated child;
- an application for extension of discretionary leave by a separated child granted such leave only for three years, or until he or she reaches 17½ years if this is the shorter period;
- an application to regularise the stay of a child abandoned in the UK who may have had leave on arrival e.g. with his or her parent, who has subsequently left; or
- an application to regularise the stay of a child victim of trafficking, which may or may not be by way of an asylum claim.

Refusals of such applications may lead to appeal proceedings, save where discretionary leave is granted to a child for a period of 12 months or less. Children may also be subject to removal, whether to their country of origin or to a third country, which proceedings may be the subject of judicial review.

Immigration proceedings and immigration law are complex.⁷ The quality of legal advice and representation available to a child will be critical factors, not simply as to whether his or her immigration claims are properly resolved in a timely manner but also whether he or she understands and has confidence in the immigration process. A good immigration lawyer may also be important to the child in ensuring that those individuals and agencies, who have specific statutory duties in respect of his or her safety and welfare, comply with their statutory duties.

The provisions of the Legal Aid, Sentencing and Punishment of Offenders Bill generally exclude legal aid for non-asylum immigration matters, regardless of whether the matter involves a child or an adult. This will mean that many children subject to immigration control and in local authority care will be excluded from legal aid for immigration proceedings – if (or once) they are not (or no longer) pursuing an asylum claim or appeal.

In addition to immigration being out of scope of legal aid, it is not intended that funding be available in ‘exceptional cases’ in the immigration category. The Government’s intention is that exceptional funding only be available in cases where not to provide funding would breach the UK’s obligations under Article 6 of the European Convention on Human Rights (right to a fair trial). It is a matter of settled law that immigration cases do not fall within Article 6.⁸ Ministers have confirmed that it is their intention that asylum cases will not qualify for exceptional funding:

The position in the Bill is that exceptional funding should be granted only where it is required by law; that is that denying legal aid would risk a breach of an individual's rights under EU [European Union] law or the ECHR [European Convention on

⁷ As was recently discussed by peers at Lords’ Report of the Legal Aid, Sentencing and Punishment of Offenders Bill, see *Hansard* HL, 12 Mar 2012 : Column (re Amendment 74); 12 Mar 2012 : Column (re Amendments 93, 93A & 94).

⁸ *Maaouia v France*, European Court of Human Rights, Appl. no. 39652/98, judgment of 5 October 2000.

Human Rights]. *Case law has been consistent: that immigration cases do not... involve such a determination and, as such, exceptional funding would not be available.* (Hansard HL, 18 Jan 2012 : Column 668 per Lord Wallace of Tankerness)

Thus there will be no funding for immigration cases even where the case is particularly complex and the individual is not capable of dealing with the matter himself or herself. This exclusion from legal aid will have an especially punitive consequence in the area of immigration because of the unique regulation of immigration advice and services, which means that general advice and not-for-profit agencies are not free to provide such advice or services unless they have been accepted into the regulatory scheme.⁹ A consequence is likely to be increased costs to local authorities, whose duties may extend to securing and paying for legal advice and representation for such children, and not at legal aid rates but at higher private rates. This further financial burden upon local authorities may increase the pressure on local authorities to adopt more sceptical approaches in age assessments, a phenomenon well documented in *When is a Child not a Child? Asylum, age disputes and the process of age assessment* (see above).

The Government has to date failed to understand these concerns, or generally the situation of separated children seeking asylum. ILPA has written to the Lord Wallace of Tankerness and the Lord Chancellor concerning this, and this correspondence is appended to this submission.

If legal aid is withdrawn and children subject to immigration control in local authority care are not able to obtain good quality legal advice and representation for proceedings that do not, or no longer, concern an asylum claim, ILPA anticipates that this will significantly add to the risk that such children go missing from care.

4) Other ILPA material

In addition to the material to which we have referred in the main body of this submission, other information which may be of interest or assistance to the Committee includes:

- ILPA's February 2008 and March 2009 submissions to the Home Affairs Committee enquiry into trafficking, available at:
<http://www.ilpa.org.uk/data/resources/13107/08.02.600.pdf>
<http://www.ilpa.org.uk/data/resources/13071/09.03.564.pdf>
- ILPA's June 2010 response to UK Border Agency on first twelve months of operation of the National Referral Mechanism (in particular Q4a):
<http://www.ilpa.org.uk/data/resources/13030/10.06.523.pdf>
- ILPA's September 2009 response to the Ministry of Justice on the European Union Justice and Home Affairs Future Work Programme 2009-2014 (Stockholm Programme):
<http://www.ilpa.org.uk/data/resources/13053/09.09.546.pdf>

⁹ See footnote 3

- ILPA's July 2010 response to the Crown Prosecution Service on cases of human trafficking:
<http://www.ilpa.org.uk/data/resources/13010/10.10.504.pdf>
- Best practice guidance and other ILPA publications concerning working with children seeking asylum or subject to immigration control:
<http://www.ilpa.org.uk/pages/publications.html>

Immigration Law Practitioners' Association
23 April 2012

Annex A – case examples concerning unsafe tracing by the UK Border Agency

The following is an extract from ILPA's February 2009 submission to the Joint Committee on Human Rights' inquiry on children's rights:

24. It is difficult to overstate the shortcomings of the UK Border Agency's current approach to forced returns of unaccompanied children but an immigration judge's determination of May 2008 provides a glimpse of these¹⁰. The Home Office did not appeal the decision and recognised the child appellant as a refugee following the determination. In short form the child gave a telephone number stated by the child to be that of the parents in the home country. Local consular staff, at the behest of UK Border Agency officials, tried the number without her informed consent. The person who answered at first confirmed that the speaker was the parent, spoke of being frightened, and hung up. That was the only 'contact' with the supposed adequate reception arrangements. The immigration judge states:

'...it was [] clear that the Respondents were aware of some of the circumstances which [the social worker] was able to describe today but had not seen fit to appraise their Presenting Officer of the situation or to include it in the reasons for refusal letter or appraise the Tribunal.

...

I find it somewhat unfortunate that the different agencies involved do not appear to have had a full and frank exchange of information particularly as this may have led to this young and vulnerable child being returned to a potentially very dangerous situation.

...

I should first consider the claim made by the Respondents that adequate reception arrangements be made in...

...

The whole basis of the Respondents' conclusions in this matter are set out in an email from the British Consulate [...cited in full in the determination]

...

I do not find that this even begins to approach to any reasonable standard to say that adequate reception arrangements have been made for the Appellant. ... These emails of course need to be read in their entirety so that the true meaning is not distorted. However, heaving read these emails in their entirety it would appear that the emphasis is on the need to remove the Appellant rather than assessment of either her condition or the conditions to which she would be removed.

...

the Appellant does not have a nominated guardian.

...

Of even more concern to me is that the fact that the Respondents are very much aware that the Appellant may have been trafficked...[the social worker] was able to tell me that following her full asylum interview the Appellant had been

¹⁰ Cited with permission.

interviewed further by officers on behalf of the Respondent from a specialist unit...there had been liaison between the Home Office, social, services and the police in respect of this aspect of the Appellant's circumstances. What concerns me is that the Respondents have not referred to any of this in the reasons for refusal letter and it would also appear that the officers dealing with unaccompanied minor [gender] have also not been kept abreast of these developments.'

...[the social worker] went on to say that the keenness and persistence of the people trying to get hold of [the Appellant's] address led her to believe that the Appellant had been trafficked. That information was passed to the port authorities and to the Home Office crime agency and to the airport security...The Respondents have not provided any information about this.'

25. In the recent Court of Appeal case, *CL(Vietnam) [2008] EWCA Civ 1551*, Lord Justice Keene describes what the Home Office did in practice to establish that the country was safe for the child.

6. *There is a Home Office document headed "consideration" and dated 22 July 2002 which concludes by stating:*

"Despite the fact that Applicant is a minor it is considered that he can be returned to Vietnam as it has been established that there are adequate care provisions for children returned to Vietnam. See attached letter from the British Embassy in Hanoi."

....

8. *The British Embassy letter was one dated 4 July 2001. It stated:*

"The Law on Care, Protection and Education of Children of Vietnam states that all children, including orphans, shall be given appropriate care and education by the state. All children homes are run by the Ministry of Labour, Invalids and Social Affairs. Some receive additional financial assistance from foreign NGOs.

In principle, childcare ceases at the age of 18 but, in practice, continues until individuals have found a job. Vietnam is a secular society with no restriction on religious practices."

26. Lord Justice Sedley, giving the concurring judgment, stated:

31. *...the Home Office policy...of course designed in large part...to give effect to the United Kingdom's international obligations, here in particular the European Convention on Human Rights and the International Convention on the Rights of the Child*

32. *...I find it disturbing that a document as bland and jejune as the letter which Keene LJ has quoted was relied on by the Home Office when deciding something as important as the safe return of a child to another country. The letter is plainly a recital of a formal answer obtained from the Vietnamese authorities. The Immigration Judge recorded evidence from*

the Home Office's own in-country information which shows that the reality for tens of thousands of Vietnamese children was very different.

27. There could be no better illustration of the UN Committee on the Rights of the Child's comment, at paragraph 70 of its Conclusions:

c) there is no independent oversight mechanism, such a guardianship system, for an assessment of reception conditions for unaccompanied children who have to be returned;

Annex B – case example concerning children removed from the UK without notice

In the M & T case two unaccompanied minors from Eritrea had been taken without warning from their homes at 4am for removal that morning, in the case of T for removal at 7.30am and in the case of M at 9.30am or thereabouts. All these events occurred outside working hours. M managed to prevent her removal taking place. She suffered some physical injury when attempts were made to remove her. Her legal representative persuaded the UK Border Agency to cancel removal directions. T was not so fortunate. She was removed from the United Kingdom to Italy. She managed to get in touch with her UK solicitors, and, in the words of the précis contained in the judgment in *R (Medical Justice) v Secretary of State for the Home Department* [2010] EWHC 1925 (Admin) at paragraph 108:

“...explaining to them that whilst on the street in Bergamo, she had met a male stranger with whom she was living. She appeared to be in some distress although it was not suggested that she had been molested. It is disturbing that she was removed in circumstances in which it was impossible for her to contact her lawyers.”