



# Responding to Unaccompanied Minors in Scotland: Policy and Local Authority Perspectives

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Note –UASC, unaccompanied asylum seeking children, is used throughout this report. We recognise its contested nature, but have used this as the recognised legal term for separated and unaccompanied children seeking asylum.

## SUMMARY

Following the provisions of the 2016 Immigration Act to permit the transfer of unaccompanied children the Scottish Government, COSLA, and local authorities have entered into negotiations with the Home Office to facilitate the arrival of children and young people to Scotland. The present research sought to explore the capacity, experience and understanding of local authorities to provide a support system that can best ensure the wellbeing of children, as it has been suggested that outside of the large urban authorities there is limited experience of working with separated children.

The study planned to conduct a survey across all 32 Scottish local authorities; undertake a qualitative analysis of key policy and guidance and to conduct focus group interviews with professionals in the field to explore in depth the findings of the first two stages. Due to access and engagement issues it was not possible to do focus group interviews. The findings of the report are based on the return of 14 questionnaires (44% of local authorities in Scotland) and a policy analysis of four key documents. As such the findings can be described as indicative, further work is required to explore further a number of the key issues identified.

The Bacchian policy analysis indicated that some of the key guidance documents for local authorities and professionals are reluctant to engage with the more complex issues relating to children on the move, especially any reflection on the societal and geo-political reasons why children migrate in the first instance. Coupled with this there is also indication of language in documents that problematises routes of arrival that are not considered 'legal' and 'safe' thereby creating deserving and undeserving arrivals. Within the context of the documents there is concern that children are either characterised as either children or asylum seekers, when in fact they are both. While the guidance is useful for process and procedure, overall, the broader contextual analysis of children's decisions to move is largely omitted, such that any ethical or sociological understanding of needs and responses is minimised.

Local authorities are reporting higher numbers of unaccompanied children coming in to care with the number of local authorities who have over 10 in their care increasing; while official statistics are rarely published for the number of unaccompanied asylum seeking children in Scotland, it is estimated that at present local authorities are looking after approximately 140 separated children. For those local authorities that have larger numbers of children, there is greater familiarity with the processes and procedures, both in relation to immigration and welfare issues and legislation. Across all authorities there is some inconsistency in guidance consulted, with little indication of specific guidance in relation to unaccompanied children in use universally. Age assessments were the most common assessment undertaken by local authorities, although only three local authorities indicated they had consulted age assessment guidance. There was clear recognition of the needs presented by children and local authorities indicated they drew on the expertise of a number of partner agencies to support children and young people.

While the present findings are limited by the number of local authorities responding, they indicate that understanding and responses to key issues and policy guidance varies substantially across local authorities in Scotland. These findings indicate children and young people may well receive different levels of service in different areas, with implications for both short and long term outcomes. While there is evidence of good work across the country, key questions remain about consistency and further, more in depth analysis of practice is required.

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*“Apart from the language barrier... we treat UASC in the same way as we would any young person who arrives within our local authority”*

*Local Authority Respondent*

## CONTEXT

The UNHCR (2017) estimates there are 68.5 million forcibly displaced people worldwide; 25.4 million who are refugees and 3.1 million asylum seekers (the majority of people are internally displaced), with the developing regions of the world hosting 85% of refugees. In terms of the support and protection of displaced people the 1951 Refugee Convention is the key legal document that forms the basis for work with refugees and asylum seekers; a convention ratified by 145 State parties. The Convention defines the term 'refugee' and outlines the rights of the individuals as well as the legal obligations of States to protect them (UNHCR 2018).

Globally, the number of unaccompanied or separated children seeking asylum on an individual basis has increased significantly over recent years, reaching the highest levels since UNHCR started systematically collecting such data in 2006 (UNCHR 2016a). 51% of refugees are children, moving alone without the protection and support of their families and in 2015, about 98,400 new individual asylum applications were submitted by unaccompanied or separated children, with 78 countries reporting at least one such individual application. This represents nearly 5% of all asylum applications (UNCHR 2016).

The growing number of unaccompanied and separated children moving to Europe has been a growing concern to UK and other European countries for a number of years (Mougne 2010). This movement of people is one of the largest the continent has seen, in which a continuing feature has been the growing number of unaccompanied children among those arriving. However, comparatively few children actually make it to richer nations (Kohli 2014), including Scotland.

A report on the situation of the lone foreign children or unaccompanied minors who live in camps along the coast of the English channel, highlighted multiple sources of possible traumatisation prior and during to the journey to Europe, including but not limited to the experience of violence and conflict, trafficking, sexual and physical abuse, sexual exploitation, forced participation in illegal economic activities or the experience of inhumane and degrading living conditions (Unicef 2016). Precarious living conditions and failure to have access to schooling or regular occupational activities directly impact on the psychological health and mental frailties of children who may have already been traumatised before and during their journey. This resonates with the extant literature, which highlights the vulnerabilities of unaccompanied asylum seeking minors and the numerous challenges they face as they adjust regarding resettlement and living in a new country (Ní Raghallaigh and Gilligan 2010; Hopkins and Hill 2008; Kohli 2006)

## Asylum in the UK

The number of asylum applications to the UK peaked in 2002 at 84,132, reduced to a twenty-year low point of 17,916 in 2010, before rising to 30,747 in 2016 (Hawkins 2018). In the context of Europe the UK receives relatively few asylum seekers, just under a fifth of that received by Germany.

Country of application	Total applications
Germany	179,000
Italy	121,400
France	102,900
Greece	50,000
United Kingdom (Home Office data)	33,600
Spain	33,300

*Table 1: Top EU countries receiving asylum applications, year ending March 2018 (Home Office 2018)*

Despite the relatively low numbers compared to the rest of Europe, and globally, the subject of immigration regularly receives political and media attention - perhaps currently exacerbated by ongoing Brexit debates (see Goodwin and Milazzo, 2017; Marshall 2018). Irrespective of the furore that surrounds immigration, the UK has obligations under the 1951 Refugee Convention to support and protect asylum seekers and refugees – this is a legislative function that is reserved to the Westminster Parliament following devolution and the establishment of the Scottish Government.

Scotland has no legislative control over immigration, although the Scottish Government and COSLA work closely with the Home Office regarding migration issues in Scotland. COSLA's Migration, Population and Diversity team, through the Strategic Migration Partnership, has responsibility for policy issues relating to migration to Scotland, including asylum seekers and refugees. In 2017, the number of non-British nationals living in Scotland rose by 12% to 378,000, (National Records of Scotland 2018), the majority being EU nationals. Overall, 7% of the resident population of Scotland have non-British nationality.

## Unaccompanied asylum-seeking children

An unaccompanied asylum-seeking child (UASC) is a person under 18 years old, or in the absence of documentary evidence establishing age, appears to be under 18, with no relatives or guardian in the UK and who is applying for asylum in his or her own right (Home Office 2018). There were 2,307 asylum applications in the UK from UASC in the year ending March 2018, a 25% decrease compared to the previous year, falling after two consecutively high years. The largest numbers of asylum applications from UASC were from Sudanese and Eritrean nationals, together accounting for over 30% of all UASC applications. This was followed by Vietnamese nationals (11%) and Iraqi nationals (11%). Of the 2,218 initial decisions relating to UASC made in the year ending March 2018, 1,245 (56%) were grants of asylum or another form of protection. An additional 374 (17%) were UASC granted leave (granted to UASCs refused asylum, but eligible for temporary leave). A further 27% of UASC applicants were refused (Home Office 2018).

In 2015 and 2016, the number of separated children claiming asylum in the UK was approximately 4% of the total claims in the EU (Eurostat 2018).

Year	Total applications	Age disputes raised
2010	1,515	530
2011	1,248	370
2012	1,125	337
2013	1,265	323
2014	1,945	318
2015	3,253	789
2016	3,290	928
2017	2,206	712

*Table 2: UASC asylum claims in the UK – (Home Office 2018)*

## Scotland and Asylum Seekers

The Home Office rarely publish aggregated statistics for regions and consequently exact figures for Scotland are not known. The majority of asylum seekers arriving in Scotland have settled in Glasgow as, since 2000, the city has been the only dispersal local authority area in Scotland. Approximately 4,000 individuals are receiving accommodation and support in



Glasgow. More recently the Syrian Vulnerable Persons Resettlement Scheme (SVPRS) has seen over 2000 Syrian refugees come to Scotland ([www.migrationscotland.org.uk](http://www.migrationscotland.org.uk)). Where this has been evaluated, in general the resettlement programme has been viewed as a success (Mulvey et al 2018).

In the context of continuing arrivals to Scotland, the second New Scots Refugee Integration Strategy was published early 2018 (Scottish Government 2018) with a vision for Scotland being a welcoming place where refugees and asylum seekers are able to rebuild their lives.

The strategy aims to ensure that Scotland:

- Is a place of safety for everyone, where people are able to live free from persecution as valued members of communities.
- Enables everyone to pursue their ambitions through education, employment, culture and leisure activities.
- Has strong, inclusive and resilient communities, where everyone is able to access the support and services they need and is able to exercise their rights.
- Is a country that values diversity, where people are able to use and share their culture, skills and experiences, as they build strong relationships and connections.

### Scotland and UASC

The strategy recognises that children and young people may require additional support to access the services they need and opportunities to participate in society. While exact figures for UASC in Scotland are unclear, it is estimated that at least five unaccompanied children under the age of 18 arrive independently in Scotland and claim asylum each month (Scottish Government 2018; Edinburgh Peace and Justice Centre 2016). Despite immigration being a reserved matter for Westminster, the support and protection of children and young people arriving in Scotland comes under the remit of the Scottish Government and child care law and policy.

Local authorities are responsible for the welfare and accommodation of all unaccompanied children through their obligations under the Children (Scotland) Act 1995, UK immigration legislation and, in relation to children at risk of trafficking, the new Human Trafficking and Exploitation (Scotland) Act 2015. However, the knowledge and experience of local authorities outwith the larger urban areas (especially Glasgow and Edinburgh) to provide appropriate and safe support for UASCs has been questioned (Edinburgh Peace and Justice Centre 2016).

Since 2010 the Scottish Guardianship Service (Crawley and Kohli 2013) have also provided support to UASC in Scotland.

While total numbers of UASC arriving in Scotland are not clear, referrals to the Scottish Guardianship Service over the last eight years provide some indication of numbers. From 2010 to date, 410 UASC have been referred to the service.<sup>1</sup> Nearly 64% of these have been looked after by Glasgow City Council, over six times more than any other local authority area in Scotland. Twenty-five local authority areas have referred to the service. Figures provided by COSLA for a recent workshop on separated children in Scotland indicate there are approximately 140 UASC being accommodated across Scotland, with a further 125 over 18 year old care leavers who were previously unaccompanied children.

While there is limited research in Scotland in relation to UASC (see Hopkins and Hill 2006; 2008; 2010; Rigby 2009; Rigby et al 2012) there is no evidence that the needs, strengths, and experiences of the children arriving differ to any great extent from children arriving in the rest of the UK. While asylum seeking children have a range of needs similar to all children in respect of health, education and safety (Hopkins and Hill 2010; Abunimah and Blower 2010), there is recognition they may have also experienced traumatic pre-move events and have additional needs in relation to their asylum seeking situation around settling in a new country and being alone with no family support or legal support regarding immigration issues (Hopkins and Hill 2008; Thomas and Devaney 2011; Kohli 2011).

Recent legislative developments in the UK, mainly the Immigration Act 2016, and broader geopolitical events, have resulted in changing policy imperatives in respect of UASC. Section 67 of the Immigration Act 2016 ('the Dubs Amendment') requires the Government to make arrangements 'as soon as possible' to relocate and support unaccompanied refugee children from Europe. Section 69 of the Immigration Act gave provision for unaccompanied children to transfer to another local authority in England; this was extended to Scotland in early 2018. Prior to these developments children arriving in Scotland were generally 'spontaneous' arrivals, making their own way, often aided by smugglers and traffickers (see Hopkins and Hill 2008; Rigby 2009). Following these legislative and policy developments the Scottish Government, COSLA, and local authorities have entered into negotiations with the Home Office to facilitate the arrival of children and young people to Scotland. The present research was commissioned to explore the readiness of Scotland to work with children as they arrive.

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<sup>1</sup> Figures provided by the Scottish Guardianship Service August 2018

## THE CURRENT PROJECT

### Research Aims

“The realities of working with asylum seekers and refugees will vary from country to country and from time to time” (Dowling and Sextone 2010; 122). At this time in Scotland, as the new immigration legislation permits the arrival of increased numbers of UASC the research aimed to examine the experience of local authorities across Scotland in working with this group of children. It sought to explore the capacity and ability of the authorities to provide a support system that can best ensure the wellbeing of children (Boyden and Hart 2007). To explore these aims key questions were considered:

- What is the present experience of working with unaccompanied asylum-seeking children in Scotland?
- What structures are there in place to support unaccompanied asylum-seeking children upon arrival to Scotland?
- What policy/guidance guides and informs local authorities’ work?
- How are unaccompanied minors framed within key governmental policy documents and guidelines issued to local authorities?
- What is the knowledge and understanding of representatives of professionals within local authorities (and the Guardianship Service) in terms of the needs of unaccompanied asylum seeking children upon arrival to Scotland?
- What are professionals’ perceived barriers/facilitators to effective responses to the needs of unaccompanied asylum seeking children?
- How do professionals view and frame unaccompanied asylum seeking children?

In order to explore these questions, the study planned to conduct a survey across all 32 Scottish local authorities (Stage 1); undertake a qualitative analysis of key policy and guidance that had been identified by participants in Stage 1 and to conduct focus group interviews with professionals in the field to explore in depth the findings of the first two stages (Stage 3).

## Stage 1: Survey - Gaining an overview of experiences

Questions explored in this stage:

- What is the present experience of working with unaccompanied asylum-seeking children in Scotland?
- What structures are there in place to support unaccompanied asylum-seeking children upon arrival to Scotland?
- What policy/guidance guides and informs local authorities' work?
- What is the knowledge and understanding of representatives of professionals within Local authorities and the Guardianship Service in terms of the needs of unaccompanied asylum seeking children upon arrival to Scotland?
- What are professionals' perceived barriers/facilitators to effective responses to the needs of unaccompanied asylum seeking children?

To map out resources used to support UASCs in the Scottish context, and the overall experience of local authorities in working with migrant children, a questionnaire was developed and distributed by email to all 32 Scottish Local Authorities (see appendix A) along with an information sheet that outlined the aims of the research. Questions sought to gauge the number of UASCs over the past 5 years in each local authority area and determine what legislation local authorities refer to when dealing with UASC, both when they first present and a few months later. We also aimed to uncover what other forms of support are available to UASCs and local authorities through connections with other services and organisations. Finally, we wished to gain an insight in to the key issues facing local authorities as they attempt to meet the needs of UASC who are already in Scotland, as well as potential future arrivals - either planned or unplanned. Open and closed questions were used in order to ensure that we had data that could be tabulated, but also to allow local authorities to elaborate on responses and provide more qualitative insights (Singer and Couper 2017). The questionnaire was distributed electronically to every local authority via COSLA and the migration partnership, and through Social Work Scotland. Fourteen questionnaires were returned. While a 44% response rate is more than expected for an electronic or web-based survey (see Manfreda et al 2008; Couper 2000; Vehovar et al 2002) the research team were hoping for substantially more than half given the high media profile and political debate surrounding the issues in Scotland and the UK, and the work being undertaken by COSLA and partners around the 2016 Immigration Act.

The research team encountered a number of challenges, not only with this initial phase, but throughout the research project, in engaging with local authorities. Recruiting participants for

research 'is often the most challenging and resource intensive aspect of a study' (Archibald and Munce 2015: 34). Given the evident uncertainty regarding a number of different procedures and processes concerning UASC (see LSA 2014), and as emerged from the responses we do have, it is acknowledged some local authorities may have been reluctant to engage. The complexities regarding UASC are not confined to local authority experiences and in fact anxiety and uncertainty are likely to permeate a number of different services and organisations who deal with this group. Kohli (2007) points out that social workers, for example, are aware that their skills are limited and Wright (2014) highlights this can often place them and other practitioners in difficult positions as they seek to navigate tensions between immigration law, the rights of the child, mental health issues, and safeguarding (see Chase 2010). Taking these issues into account there are perhaps a number of reasons why some local authorities did not engage with the study.

### Stage 2: How are unaccompanied minors framed within key governmental policy documents and guidelines?

Given the statutory nature of the work with UASC, and the responsibility of the local authorities and key partner agencies to deliver, the research sought to explore understanding of how UASC are framed within key policy documents and comment on how this may influence responses and the knowledge base. To answer this question, the research team conducted a discourse analysis of key policy documents and guidelines issued in relation to unaccompanied minors. Initially, the team was planning to focus on those policy documents and guidelines that participants in Stage 1 of the study had identified as most pertinent in guiding their work in Scotland. However, the analysis of the questionnaires highlighted such heterogeneity regarding what local authorities considered as key guidance that no strong commonalities were found.

The decision was taken to focus on four policy and guidance documents: one UK wide and three Scottish. The 'UK Safeguarding Strategy: Unaccompanied asylum seeking and refugee children' (Home Office, 2017) was mentioned by some of the respondents and does not yet have a Scottish equivalent. The most commonly mentioned guidance for Scotland by respondents was *Supporting Young People Leaving Care in Scotland* (Scottish Executive 2004), although this does not relate specifically to UASC. *The Age Assessment Practice for Scotland* (Scottish Government 2018) was included in the analysis as age assessments were the most regular assessment highlighted by respondents. Finally, the *New Scots Refugee Integration Strategy 2018 – 2022* (Scottish Government, 2018) was also included in this analysis, although it should be noted this was published after the data collection stage of the

study was completed; however, the research team felt that its relevance to the study was such that it should be included.

The method of analysis employed is Bacchi's (2009) 'What's the problem represented to be - 'WPR'. As an analytic approach, the 'WPR' involves critical interrogation of public policies and starts from the premise that "what one proposes to do about something reveals what one thinks is problematic (thus needs to change). Following this thinking, policies and policy proposals contain implicit representations of what is considered to be the 'problem' ('problem representations')" (Bacchi 2012: 22). The aim is to identify the ways in which issues are represented within policy documents and to critically examine such representations along with the impact they have on how these issues are framed and, ultimately, responded to.

In order to achieve this the approach utilises a set of six questions:

1. What's the 'problem' (for example, of 'problem gamblers', 'drug use/abuse', 'gender inequality', 'domestic violence', 'global warming', 'sexual harassment', etc.) represented to be in a specific policy or policy proposal?
2. What presuppositions or assumptions underpin this representation of the 'problem'?
3. How has this representation of the 'problem' come about?
4. What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently?
5. What effects are produced by this representation of the 'problem'?
6. How/where has this representation of the 'problem' been produced, disseminated and defended? How has it been (or could it be) questioned, disrupted and replaced?

(Bacchi 2012, p. 21)

### Stage 3: Challenges and Changes: Focus Groups to Email Responses

Originally, answers from the questionnaires were used to develop focus group guides (see appendix B) to be used in the final stage of research. It was intended that focus groups would offer the space to gather opinions and attitudes on specific topics through group interaction as well as the opportunity to reflect on findings from the questionnaires in greater depth. It was also anticipated that this space could be beneficial for local authorities to recognise similarities and differences in practice and experiences when dealing with UASC.

Ultimately, such an approach was not possible as attempts to recruit sufficient local authorities were not successful and it soon became clear that conducting a series of focus groups covering all of Scotland was not feasible. It is also recognised that focus groups in general are

difficult to organise for various reasons, usually centred around cost, time, and limited geographical access to research participants (see Denzin and Lincoln 2005).

Subsequently, a shift in design was required in order to accommodate local authorities (see Denzin and Lincoln 2005). The research team resubmitted a new ethics application requesting an amendment to the research design which would allow the use of email responses. Given that researchers are able to send the interview questions to all potential participants at once, synchronicity between researchers and participants is less of an issue with more web-based forms of data collection. Adopting an approach that is online rather than face-to-face - although not the research team's preferred method after experiences in the initial phase of research - can often elicit a greater number of responses because it not only works with the respondent's time commitments, but it overcomes the issues of access for those who are geographically more difficult to reach (Meho 2006). Drawing on Meho's (2006) and Dillman's (2000) guidance with regards to email interviews, the team's previously developed focus group materials were adapted to suit this new web-based method and distributed to all Scottish Local Authorities . Although it was considered that email recruitment may prove more successful than focus groups, there were too few responses to proceed.

## **FINDINGS**

The section below presents the findings of the study. We will begin by discussing the ways in which unaccompanied asylum seeking children are discussed in UK and Scottish policy documents. We will then move on to discuss the picture that emerged from the responses of Scottish Local Authorities.

### **Safeguarding Strategy: Unaccompanied Asylum Seeking and Refugee Children (Home Office, 2017)**

This strategy details steps to be taken by the UK Government to safeguard and promote the welfare of UASC, recognising the increasing numbers and specific needs of unaccompanied children. Analysis of its content reveals the use of certain terms that may seem to frame asylum seekers and immigration in certain ways. Throughout the strategy, terms such as "clandestine" and "dangerous" routes of arrival, as opposed to "legal" and "safe" routes, are used. This produces a dichotomy between what is regarded as 'problematic' and what is regarded as less-problematic, the 'legal' route. Immediately the problem of attribution is accentuated for those arriving 'clandestinely', which perhaps implies there is a 'right' and a

'wrong' way to arrive to the UK. This distinction is overt throughout the document, and it is important to consider how this binary shapes how UASC are thought of, and subsequently how services intervene. By using this binary the document can be seen as further evidence of the often cited 'deserving - undeserving' dichotomy (see Sales 2002; Sales and Hek 2004). Linked to the recent developments in Scotland, the focus on the 'new' arrivals under the new immigration legislation may be seen as being in stark contrast to limited developments for those arriving 'clandestinely' over the preceding 10 years or more.

By focusing on the 'problematic' ways of travel the document minimises the circumstances that led children to travel and effectively silences the complex political, social, and economic processes that influences children to want to leave their countries. This is an important consideration when it comes to local authority responses to children when assessments often commence on arrival, rather than a full chronological history (Rigby and Whyte 2013). When local authorities respond that the service they provide is largely similar to other children and young people (see below), this may be furthering the binary discourse and minimising the complexities of children's lives prior to arrival and during their journey. Are local authorities influenced by the representation in the policy guidance?

### **New Scots Refugee Integration Strategy 2018 – 2022 (Scottish Government 2018)**

The 'New Scots Refugee Integration Strategy 2018 – 2022' (Scottish Government 2018) follows the conceptual framework for integration of Ager and Strang (2008) and sets out to achieve four overarching outcomes; community integration; awareness of rights, entitlements, and responsibilities; easy access to services; and policies informed by lived experience. These outcomes are to be realised through actions across seven themes; needs of Asylum Seekers; employability and welfare rights; housing; education; language; health and wellbeing; communities, culture and social connections.

Most relevant to the present study, by applying Bacchi's questions, it emerged that the document tones down the importance of children's integration and provides a contested concept of refugees' integration which is inextricably linked to immigration policy. There is also a contested concept of 'wellbeing' which is particularly relevant for children in relation to GIRFEC – the Scottish policy initiative regarding children's wellbeing (Tisdall 2015; Scottish Government 2018). Whilst "wellbeing" is not defined in the New Scots Strategy, it is used multiple times within the policy document, mainly paired with terms such as 'health', 'mental health' and 'safety'. The term wellbeing is basically used as a passkey that fits different categories of actions, the enhancing of which is at the same time a matter of community safety,



a matter of health literacy and valid access to health services, a matter of contributing to the cultural life of a community, and more. A key question also remains – is it a culturally laden term?

Perhaps the most obvious limitation of the strategy relates to the limited representation given to children, even though unaccompanied children are mentioned in relation to the need to help them access services, language issues and to their traumatic experiences. It does not fully consider the lives of children seeking asylum, a complex area of concern that requires its own thorough analysis - perhaps a reason why the document was not referred to in responses. This omission also highlights the often cited concern that children are seen as either children or asylum seekers, when in fact they are both, with their own stories and reasons for moving. In the UK context, the UASC have their own Safeguarding Strategy, and maybe this should also be the case in the Scottish Integration Strategy, rather than fitting children in a generic document.

With this exception, the document acknowledges the hierarchy of oppression when addressing social inequalities. In doing so, it addresses the need for person-centred policies, which unveil the extent to which various sub-populations of refugees and asylum seekers, such as males and females, might differ. However, within this discussion Scottish culture is represented as performing a progressing and civilising mission, pivotal for refugees' evolution and successful integration, which rests upon a 'West and the Rest' constellation of power and knowledge (Hall 1992). A similar questions again arises regarding how refugees are actually framed and how this influences responses – a key issue when considering local authority responses.

### The contested concept of refugees' integration

Refugees' integration can often be used in a 'conceptually stretching' way and can this be a contested notion (Kostakopoulou 2010, Mulvey 2015, Threadgold and Court 2005). Exploring the silences of this concept, what may be left unsaid is that despite the cultural inclusion being stated and repeated, the overarching themes of the Strategy aim to make refugees and asylum seekers less different to their host culture. This is an interesting consideration especially when contextualised within a respondent's view that "we treat UASC in the same way as we would any young person who arrives within our local authority". While seeking to treat UASC no differently and thus universalising their experiences, the particularities of those experiences may be minimised or erased.

Interestingly, when looking at the New Scots Strategy and the UK UASC Strategy it can be seen how they have completely different jurisdictions. The New Scots Strategy jurisdictions are quite limited when compared to the UASC Strategy. The Scottish Government does not decide the number of the refugees to take in, nor the outcome of the asylum seekers' applications, but only the integration of those who find themselves in Scotland. In one way or another, it is a 'secondary' refugee policy, and again perhaps a reason why none of the respondents referred to it.

### Age Assessment Practice for Scotland (Scottish Government 2018)

While age assessment was identified as the most common assessment undertaken by local authorities (some with the caveat *if required*), little or no reference was made to either of the Scottish age assessment guidance (Dyball et al 2012; Scottish Government 2018) by respondents. This is unfortunate as the most recent guidance is very detailed and engages a great number of ethical considerations, highlighting some of the moral issues around refugees highlighted above. While the guidance is clear that age assessment is a contested and disputed process, in tandem with other documents analysed, the politicised nature of the age assessment process within a contested asylum system is given little prominence in the document. It is perhaps this contested nature that results in the limited mention it received in relation to guidance consulted.

What is useful in the context of some of the local authority responses is that the present guidance tightly adheres to the principles of a trauma-informed approach and uses literature to support its guidelines citing relevant research on the topic. It also dictates that professionals, when undertaking an assessment, make no assumption that the individual is an adult or a child. Conversely, what it does not clearly state is that the assessment is a sophisticated exercise of assumption by itself, albeit a holistic assumption, best led by social workers because of their unique blend of knowledge, skills and experience (p6-7). This, despite a statement by the International Federation of Social Workers, stating that social workers have no special training or competence to do age determination (IFSW 2017).

The guidance repeats many times that there is no definite test and it is unlikely that an age assessment is concluded with absolute certainty. While an inadequate and flawed process, the age assessment is not explicitly presented as problematic. The fragility of the 'accuracy' of the assessment is presented as something possible to overcome through following a careful process by professionals. In a sensitive and contested area like this which deals with young people's precarious lives, positivist notions and terms such as evidence, robustness,

assessments, and evaluation are introduced, when in fact few of these exist for the young person. Overall, the document underplays the fact that assessments can have devastating effects on young people's lives; varying from being denied access to services and support to the risk of deportation.

### Categorisation of UASC

Age assessment can be seen as establishing itself as yet another technology of segregation; of selective and exclusionary policies. How are asylum-seeking children and young people represented based on the aforementioned categorisation? Passing an age assessment (assessed as a being a child) can be seen as validating those who 'pass' while framing the ones who does not pass as a fraud. In effect, many binaries emerge in a careful analysis of the document, the deserving and the non-deserving young people; the validated and the fraud, bogus claimants (Kvittingen 2010); the innocent children and the offenders of immigration law.

What is not clearly admitted -albeit 'whispered'- is that it will influence immigration status, even resulting in deportation: "Whilst the asylum process is completely separate from the assessment of age, the Home Office may use the age assessment outcome to inform their own decision making" (Scottish Government 2018: 15). In addition, and despite the clearly articulated trauma-informed approach of the guidance, the trauma for those who will not be granted the under-18 status is not explicitly recognised.

An overarching critique of the age assessment process, and the guidance, is that no matter how sensitively professionals approach the task, what remains silenced is the culture of disbelief fostered by the assessment process itself. Untrustworthiness and mistrust towards young asylum seekers is allegedly mitigated by the guidelines for supervision and personal reflections in the regulation document. Arguably, this is not enough, simply because the very existence of both this document and the age assessment process is grounded in and feeds into this culture of disbelief towards young people.

Perhaps most relevant for the nature of the present study is that the importance given to age assessments, as the most common assessment undertaken by local authorities, diverts attention away from the overall vulnerability of asylum-seekers.<sup>2</sup> Instead there is a focus on

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<sup>2</sup> Information provided by the Scottish Guardianship Service indicates that 33% of all children and young people they have worked with have had an age assessment undertaken.

assessing eligibility for services by their status as children, rather than need. While the guidance document states that assessments should not be routine, the fact (as discussed below) they are the most common assessment referred to, over and above a children's needs assessment, perhaps indicates a skewing of the assessment processes and othering of UASC.

### Supporting Young People Leaving Care in Scotland (Scottish Executive 2004)

This document from the Scottish Executive is a regulatory and guidance document dating back to 2004 and it is notable there is a complete absence of UASC within it. While a different background for the young people is articulated in terms of giving special consideration to the young person's religion, racial origin, and cultural and linguistic background, it is not in the context of UASC. The respondents, however, have included the document in their guidance list, presumably as it guides all aspects of throughcare and aftercare, and if local authorities do attempt to treat UASC in the same way as other children its inclusion is justified.

While the guidance presents a continuum of support, which mostly rests on the grounds of responsibility on behalf of the local authorities and their role as corporate parents, in the context of the age assessment process for UASC there may even be an additional assessment before becoming eligible under this guidance. There have also been previous concerns that assessing entitlement to services under s22 of the Children Scotland Act 1995, has been an issue (LSA 2014), although for the present study no respondents referred to this section of the legislation.

### Experience of working with unaccompanied asylum-seeking children in Scotland

Local authorities are reporting higher numbers of UASC coming in to care although, as indicated, the absence of official published statistics for Scotland makes definitive comment on numbers problematic. As figure 1 reveals, the number of local authorities who have over 10 UASC in their care is increasing. Given the new legislation regarding national transfer this number is likely to rise.

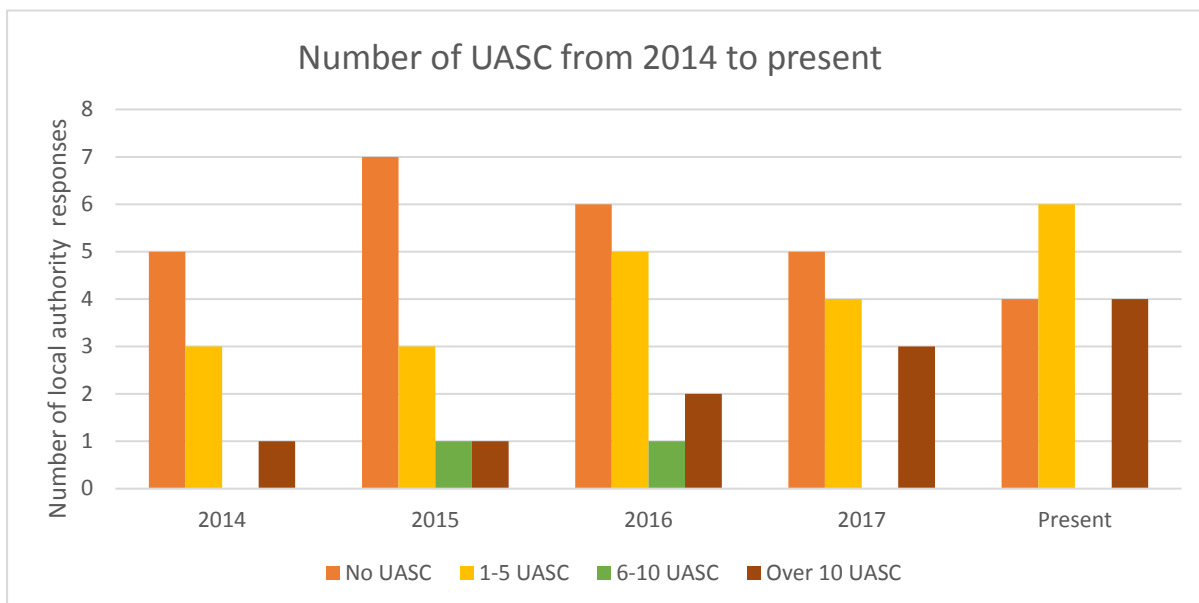


Figure 1: Number of UASC in the care of local authorities from 2014 to 2018.

Respondents indicated that UASC came to the attention of local authorities through a small number of avenues; largely via Police, but also through ports, the Dungavel Immigration Removal Centre, the Red Cross and the Scottish Refugee Council. It is also known through previous research that most UASC are identified in the larger urban areas (Rigby 2009; Hopkins and Hill 2008). Respondents highlighted there were issues in terms of rurality, indicating that urban areas had more experience with UASC, and they also had better and more established networks with other organisations.

The experience of local authorities working with UASC appears to be one of uncertainty, which was revealed by each of the respondents. This is particularly the case for those authorities that identified themselves as smaller or more rural. For those that have larger numbers of UASC, there is greater familiarity with the processes and procedures, both in relation to immigration and welfare issues and legislation. Notably, all of the responses expressed a desire for more clarity across all aspects of a child's care, with requests for material such as flow charts to explain and highlight the different requirements and stages of not only the legal process, but of assessments and other duties of care. While local authorities believe such charts would be of benefit, they also recognise that the situation or requirements for each child may vary.

## Policy, guidance and legislation

While local authorities highlighted the Children and Young People Act (2014) and the Children (Scotland) Act 1995, and just under half referred to the various Immigration Acts guiding their practice, there was little indication of specific guidance in relation to UASC that was in use universally. Local authorities tended to focus on guidance for all looked-after children, and combined this with their experiences of UASC, and the knowledge they gain from other organisations and networks. A number also identified they receive some guidance from the Home Office but did not specify details. While some respondents considered guidance they consulted as appropriate, there was also a consistent feeling that there needs to be more specific guidance at national and local levels; half of local authorities did not believe that they had been provided with appropriate and sufficient information for working specifically with UASC. This resonates with the debate at a recent knowledge exchange workshop in Glasgow where participants expressed concern that - in the Scottish context specifically - there was limited guidance and protocols available (SUII 2018). This absence of specific guidance emerged in both the participant's accounts and the Bacchian policy analysis". Going forward, local authorities do not necessarily want further legislation, but do express a desire for more clarity of the process for UASC, especially that which is specific to the Scottish context.

## Assessment and need

In order to determine the needs of UASC, the data has revealed that the experience of authorities tends to be characterised by a number of different assessments and plans. Crucially, not all of these were mentioned by all of the authorities, and often they were not specific, hence reference to generic 'risk assessment'.



Figure 1: Assessments used by local authorities

Age assessments were the most common assessment undertaken, with 10 out of the 14 highlighting them as central to their work with UASC, with some introducing the caveat *'if required'*. As it noted above, age assessments are not required as routine, as indicated by the most recent guidance (Scottish Government 2018). Although the most used assessment, responses to other questions reveal they also appear to be the least understood; only three local authorities indicated they had consulted age assessment guidance.

Alongside age assessments, other assessments mentioned related to determining needs for housing, welfare, health and wellbeing, as part of GIRFEC and the integrated framework for assessment. While specific risk and other assessments were mentioned- e.g. education assessments; assessments regarding child exploitation - they were referred to as generic rather than specific named assessments. While each local authority was able to indicate the broad assessments they undertake, the inconsistency of responses suggests that across Scotland local authorities may at times struggle to navigate their way through the complex processes and obligations.

In many respects local authority responses to understanding needs replicate the findings of previous research in relation to the needs of UASC arriving in Scotland, and elsewhere (Hopkins and Hill 2008; Rigby et al 2012). The most commonly reported needs according to local authorities are language issues; accommodation; mental health; cultural issues; feeling of isolation and social exclusion; health and medical issues and the need for specific immigration and legal advice, although it is a little unclear how local authorities arrived at these conclusions given the variation in assessments.

While good child welfare and safeguarding assessments are paramount to effective practice, with children treated as children first and foremost (Rigby and Ishola 2016), the focus on age assessments as the gatekeeper to status and services in this context may be viewed as problematic. Additionally local authorities indicated that as UASC often arrive without paperwork they must navigate a number of unknowns – level of educational attainment, if any; care history, if any, and the children's biological and social histories. When combined with the lack of knowledge that UASC have about Scotland and what is happening to them (Crawley and Kohli 2013), the importance of a full understanding of a child's history becomes more important (Rigby and Whyte 2013).

## Support for unaccompanied asylum-seeking children upon arrival in Scotland

Local authorities highlighted a number of different structures of support available for children. 43% of respondents highlighted that children are met with a support team that remains the same throughout their asylum process and/or have an allocated social worker - social work was the lead agency mentioned by all 14 local authorities. In addition, experienced staff in residential units and support from other local authorities, interest groups, and meetings with COSLA, were also referenced as features of the support network available.

Only two of the local authorities mentioned interpreters as part of the structures of support for UASC, although nine identified they had contracts with translation and interpreting services. 22% of local authorities pointed out that there is often difficulty with certain languages and that more attention should be placed on access to language services. Language Line, for example, is in use by four areas, and one other local authority suggested it would be a welcome addition to their service. Google translate and links with other native speakers, as well as speakers of foreign languages in the local migration team, were also ways that local authorities sought to overcome language barriers.

In terms of 'familial' support, two local authorities pointed to foster carers, and one local authority identified Scottish Guardianship Service as part of the network of support available. Although one local authority referred to Guardianship in relation to support structures more generally, they were cited as being central to gaining access to legal representation for children across the majority of local authorities. Data provided by the Scottish Guardianship Service indicates that they presently work with 25 local authorities across Scotland; it is not known how many local authorities work with UASC and do not refer to the service.

When asked about arrangements for legal representation, it was suggested there needs to be an increase in specialist legal representation. Links to what does exist tend to emerge when social workers interact with the Scottish Guardianship Service. Local authorities also approach other organisations for specialist legal advice.

More generally, 36% of respondents stated they either did not have any specific support for UASC, or that the support which is currently in place is the same for other looked after children. Financial constraints and limited accommodation were cited as reasons for this absence of specialist support. The question of specialist support for UASC is a complex one; while there are clearly identified additional needs (legal, language) there is also recognition that many needs are similar to all children (education, safety, health) (Rigby et al 2012; Hopkins and Hill



2008). The issue of specialist support requires further exploration as specialist 'teams' is different to services who have a particular expertise working with local authorities.

Local authorities' experiences of working with UASC brought them in to contact with a number of other agencies including government bodies, health organisations, immigration services (legal and statutory) and interpreting services. Contact with other bodies was cited as being of value, and for those authorities with fewer networks, this level of support was highlighted as crucial. Although authorities often draw on support and information from their networks – usually in recognition of the need for specialist knowledges – they also approached other local authorities that were more experienced for guidance.



*Figure 2: Most frequently mentioned organisations that Scottish local authorities routinely engage with*

## DISCUSSION

The COSLA migration partnership has been working with local authorities to develop and support service provision for migrant populations arriving in Scotland, including UASC. Despite these developments the experience of most local authorities in Scotland of working with UASC has been described as limited (Edinburgh Care and Justice Centre 2016). The research aimed to locate Scottish local authority experience of working with this group of children at a time when new arrivals are expected under the Immigration Act 2016.

While the present findings are perhaps limited by the number of local authorities responding, and can only be indicative because of the response rate, they indicate that understanding and responses to key issues and policy guidance varies substantially across local authorities in Scotland. While outcomes for children and young people was not a focus of this study, it is likely that with the difference in experience and understanding across the country, children and young people will receive different levels of service in different areas, with implications for both short and long term outcomes. While there is evidence of good work across Scotland and the UK (SUII 2017; Crawley and Kohli 2013; Kohli and Mitchell 2007; Rigby et al 2012) there remain questions about consistency and application in all areas. What this research cannot comment on is the individual response of practitioners who may be working in the humanitarian ways indicated by Kohli and Mitchell (2007). This is a potential area of future research in Scotland.

While local authorities are requesting improved guidance, flowcharts and legal obligations in the Scottish context, the Bacchian analysis of existing policy and guidance suggests there also needs to be a focus on the political and social context of children's decisions to move, the humanitarian aspect of these judgements. Knowledge and understanding of the experiences of UASCs in their country of origin and on their journeys are important when supporting children in Scotland (Hopkins & Hill 2008), and a comprehensive assessment requires all phases of a child's story and narrative to be explored if appropriate support and re/integration is to have positive outcomes (Rigby and Whyte 2013).

There is little doubt that overall, the experiences and understanding of the process that local authorities across Scotland have, varies considerably based on geographical location, number of UASC presently or historically in their care, and also connections to other support organisations and services. Such varied and inconsistent experience and understanding may have implications for the provision of services to children already here, and if, and when, children arrive under the new provisions of the Immigration Act. In order to manage some of

the issues and address the absence of specific guidance, local authorities suggested a number of areas for improvement:

- Increased familiarity with legislation and asylum processes and training in how to deal with the complexities of the legal system
- National age assessment training (existing training is considered 'brief and inadequate')
- More resources and guidance on the allocation of funding
- Help with human rights assessments
- More contact with voluntary organisations
- Revisiting anti-discriminatory practice
- How to deal with trauma
- Cultural awareness and understanding
- More training for health staff for identifying and addressing needs
- More training on dealing with UASC presenting needs
- Increased awareness and understanding of the specific needs of UASC
- Establishment of a national accredited training course in working with UASC
- Higher quality housing
- Specific ESOL training for UASC (as opposed to combining adult and child learning)
- Dedicated members of staff
- Clarity on the process for UASC (e.g. in the form of a flow chart)

Many of these issues are linked to the shared need for consistency in understanding, started perhaps by the publication of Scottish specific guidance, and guidance that sets the context for children's lives, rather than providing a flow chart and legal obligations.

While these recommendations for improvements emanate from local authorities, the additional Bacchian analysis of some of the key policy documents further challenges professionals and local authorities to look beyond written guidance and policy. There is no doubt local authorities are attempting to navigate the complex challenges of working with UASC, and working with the uncertainty of 'future' for the young people in Scotland. This is in tandem with the problems facing children and young people of navigating difficult welfare and immigration systems. As local authorities and professionals attempt to make sense of the uncertainty for the young people, and themselves, perhaps what is required is more reflective practice, to begin making sense of the uncertainties and to work competently and ethically amongst the chaos of children's lives (Ghaye, 2000). What this means in practice may not be immediately obvious, although the humanitarian approach (Kohli and Mitchell 2007) is a credible starting point,

ensuring that social work, the key agency mentioned by local authority respondents, does not blur the lines between social work and immigration (Humphries 2004).

One of the key dilemmas facing local authorities is the status of UASC as children and asylum seekers, and where the priorities are in relation to these identities. While nearly all local authorities refer to Scottish legislation and policy as key guidance, reference to status as unaccompanied migrant children policy and legislation is less evident. While there has been a focus on UASC as children, rather than migrants (Rigby and Whyte 2013), it is also acknowledged that their separated status presents additional risk and needs (Kohli 2014; Hopkins and Hill 2008). Care is needed to ensure there is no binary distinction and to ensure all potential risk and needs are addressed. The emphasis on the age assessment process as the most common assessment is concerning as this immediately 'problematizes' children and downplays the other assessments that are 'usual' for all looked after children, not to mention immigration and legal related needs.

## CONCLUSION

This research reveals that, for Scottish local authorities, there continues to be a lack of guidance for working with UASC and, despite evidence of good practice, potentially little consistency in responses across Scotland. The data gathered from those local authorities that did respond indicates there is little commonality in the guidance or legislation being consulted when working with UASC in Scotland. With some of the larger, urban, local authorities taking an increased number of children, and a potential increase or even first time arrivals for more rural local authorities, the process must be clarified, from initial contact to throughcare and aftercare. While local authorities are not seeking further legislation, they are looking for more specific guidance at the local and national level in order to provide sufficient and specific information for those working with UASC. Not only would Scotland specific guidance improve the consistency of support and treatment of UASC, but it would do so with an emphasis on the need to understand the particularities of the experiences of UASC and their needs in a Scottish context. This involves working with UASC in a way that is not only informed by policy and guidance, but that seeks to ensure the establishment of organisational moral and ethical practice, in addition to professional humanitarian practice.

One area where more discussion and clarity is required relates to age assessments. It appears that age assessments are the most common form of assessment undertaken by local authorities, and they have become the 'gatekeepers' to a child's status and the services they are eligible for. Despite guidance highlighting that age assessment is both a contested and

disputed process the underpinning assumptions of the process perhaps perpetuate the distancing, alienation or 'othering' of UASC upon initial contact.

It is this 'unknown' – the particularities and nuances of the experiences of UASC – that draw attention to a number of dichotomies that emerged from the Bacchian analysis. The notions of 'legal' or 'illegal', 'dangerous' or 'safe', and in the case of age assessments 'adult' or 'child', 'bogus' or 'genuine' permeate guidance. This may suggest that in many cases local authorities are reliant on guidance and policies that minimise and downplay the complexities of children's lives and experience. Shrouded in a veil of mystery and dichotomous relationships, current guidance probably does little to guide local authorities, nor practitioners, to effectively support UASC and could potentially undermine the humanitarian and ethical approaches of professionals. It is the individual, professional responses to children that may usefully form the basis of any future research in Scotland to begin to illuminate the tensions between guidance and policy initiatives and the ethical and humanitarian practice that is required and at times evident.

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