

BIA consultation on UK implementation of Council Directive 2005/85/EC of 1 December 2005 laying down minimum standards on procedures in Member States for granting and withdrawing refugee status

ADCS response



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The Association of Directors of Children's Services is pleased to submit this consultation response. ADCS is the national leadership organisation in England for directors of children's services appointed under the provisions of the *Children Act 2004* and for other children's services professionals in leadership roles. The Association provides a national voice as a champion for children, with local and central government, and with the public.

This consultation response focuses on Article 17: Guarantees for unaccompanied minors. Paragraph numbers relate to paragraphs as numbered in Article 17.

Paragraphs 60, 61, 66, 67 and 74

The paragraphs refer varyingly to 'representatives', 'social workers', 'personal advisers', 'legal representative', 'responsible adult', 'parent', 'guardian' and 'other adult' who take responsibility for the UASC. Clarity and consistency is required in the use of the title to describe this role and person.

Paragraph 65

The Association welcomes the proposed provision in the *UK Borders Bill* for the Home Secretary to issue a code of practice to keep children safe from harm while they are in the UK. It is proposed that the provision will impose a duty on the BIA "to have regard to" the code when carrying out its functions. However, we believe that the duty should require the BIA to comply with the code, rather than simply having 'regard to it'.

Paragraph 68

The association welcomes the statement that the BIA is obligated to ensure that every UASC is able to access legal representation. We believe that this will help to ensure the availability and competence in children's legislation of legal advisers.

Paragraph 73

The Association is concerned that the BIA may refrain from appointing a representative for a UASC if they are 16 or over. The maturity and level of understanding of a UASC cannot be determined simply on chronological age.

Paragraphs 75 and 76

Clarity is required on the level of necessary knowledge of the special needs of children required by the person conducting the interview about a UASC's asylum claim. The procedures should be explicit about how the BIA will ensure the necessary knowledge or expertise of the interviewer and the

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quality assurance mechanisms that will be employed to ensure that “case owners” are appropriately trained. The Association is willing to work with the BIA to help ensure that the training is appropriate for the special needs of these children.

Paragraph 77

We note that a decision to refuse a claim for asylum from a UASC must not be based solely on the refusal to undergo a medical examination to determine age. However, we would ask that the procedures are explicit on any other consequences attendant on the refusal to undergo a medical examination to determine age. The Association remains of the view that a good social work assessment should take precedence. If medical evidence is to form part of the overall assessment of age, then it should be used with the support of the relevant medical authorities and professional bodies and after proper evaluation of the reliability of the conclusions provided together with guidance.

Paragraph 79

The Association has welcomed the BIA’s *Code of Practice for Keeping Children Safe from Harm*, however the Association remains of the view that it would be preferable if the BIA had agreed to sign up to Section 11 of the *Children Act 1989*.

Any queries regarding the Association of Directors of Children’s Services’ response to this consultation should be addressed in the first instance to:

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