

Case study: *asylum seeking and refugee children*

Asylum seeking and refugee children face particular barriers to ensuring that their rights are recognised and protected. These barriers arise from the fact that they often suffer trauma, having fled persecution, torture or other form of abuse, and that they face linguistic and cultural barriers in their new country.

These barriers can be even more challenging for separated children, who arrive in the UK alone, separated from their parents or any other caregiver, and who do not have a responsible adult to help them navigate the complex legal processes that are involved in seeking protection and support.

The key provisions of the UNCRC require States to guarantee equal treatment to asylum seeking and refugee children, as compared to native children, in the provision of services, and to ensure that State agencies act in their best interests. Article 22 of the UNCRC specifically addresses the obligation of State parties to ensure that these children receive the same standard of care and support as would be made available to native children in the same circumstances.

In Scotland, the process of securing the rights of asylum seeking and refugee children still faces practical challenges – for example, when local services are not familiar with the particular needs or circumstances of separated children – but are supported by the good practice in the form of close and effective multi-agency working, following “best interests” principles, and specialist independent advocacy and legal representation services, in the form of the Scottish Guardianship Service (SGS) and the Legal Services Agency, who support these particularly vulnerable children to understand and realise their rights to protection and support.

Maryam was a 13 year old girl who had been orphaned and was living as a street child in a west African country. She had suffered rape and beatings, by soldiers and police in her country. She met a man who offered to look after her, and promised that she could live in his house in safety and go to school like other children.

The man brought her to Manchester, where he locked her in a house with two other girls, and told her that he expected Maryam to become a prostitute, in exchange for which he would not send her back to Africa.

Maryam managed to escape this house, and made her way to Glasgow where, by chance, she was reunited with her long-lost older brother who had lived there for some years. Maryam's brother had a large family of his own, but was willing to look after her. He did not know, however, how to get help for Maryam, who was thin, frail, tearful and frightened. She also struggled to adapt to living with a family, after so many years of fending for herself on the streets.

Maryam had no official identification documents, and did not have the right to live in the UK. Her brother could not help her to access NHS services for her physical or mental health needs, or enroll her in school.

Maryam's brother took her to see a specialist lawyer, who made an immediate referral to the child protection team of the local authority with respect to concerns that Maryam had been trafficked to the UK. The lawyer also made a referral to the Scottish Guardianship Service, for independent advocacy and support as a potentially trafficked child in Scotland.

A social worker met with Maryam and her brother to assess Maryam's immediate needs, including her safety in his care. A Vulnerable Young Person's case conference was convened, attended by her social worker, her guardian, the police and a representative from the Home Office, which identified a range of issues that required to be resolved.

Maryam's guardian took her to a specialist clinic for sexual health checks and counseling, and took her along to a participation group to meet other children newly arrived in Scotland. Maryam's social worker referred her to the National Referral Mechanism (NRM) as a potential child victim of trafficking and continuously liaised with the police and the Home Office about her safety and immigration status. Maryam's lawyer gave her advice on her immigration position, including her right to claim asylum, and about the process of identification as a child victim of trafficking. Her lawyer also wrote letters to the local GP and school about their responsibilities under the law to ensure that Maryam is able to access health care and education.

Maryam was later conclusively identified as a child victim of trafficking and granted refugee status. She is receiving regular counseling and doing well in full-time education. She continues to live with her brother, who receives extra financial assistance so that he can continue to support her.

As illustrated in the above case study, asylum seeking and trafficked children are able to access international humanitarian protection, and the support they require to safeguard and promote their welfare in Scotland, but key to this process is a culture of close multi-agency working and the establishment of specialist independent advocacy and legal representation services, which have both been nationally and internationally recognised as models of best practice in their fields, and crucial to ensuring the rights of this particular group of children.