**Joint Committee on Human Rights Inquiry into Children’s Rights
Coram Children’s Legal Centre’s response, 7 October 2016**

Coram Children’s Legal Centre (CCLC), part of the Coram group of charities, is an independent charity working in the United Kingdom and around the world to protect and promote the rights of children, through the provision of direct legal services; the publication of free legal information online and in guides; research and policy work; law reform; training; and international consultancy on child rights. Founded in 1981, CCLC has over 30 years’ experience in providing legal advice and representation to children, their parents and carers and professionals throughout the UK. The CCLC’s legal practice specialises in education, family and immigration law and CCLC operates several free advice phone lines including the Child Law Advice Line and the Migrant Children’s Project Advice Line. The Migrant Children’s Project at CCLC provides specialist advice and legal representation to migrant and refugee children and young people on issues such as access to support and services. As part of CCLC’s work to promote the implementation of children’s rights, CCLC has undertaken amicus curiae interventions in a number of significant cases, including in the European Court of Human Rights, the Supreme Court and the Court of Appeal, providing assistance to the court on matters of children’s rights and best interests.

CCLC welcome the UN Committee’s recommendations and the Joint Committee on Human Rights’ (‘JCHR’) decision to carry out detailed follow up work on the recommendations. Due to the request for short written submissions, we intend to only cover a small portion of the many human rights issues for children in the UK. In particular, we have focused on concerns and recommendations around legal advice and provision; the asylum and immigration system; and family reunion for separated children.

**Legal aid and provision of legal services**

In paragraph 30 of the concluding observations, the UN committee recommends that the UK government *“assess the impact and expedite the review of the reforms on legal aid in England, Wales and Scotland…in order to ensure that such reforms do not negatively affect children’s access to justice.”*

Following the Legal Aid Sentencing and Punishment of Offenders Act 2012 (‘LASPO’), immigration law was largely removed from the scope of legal aid. Removing whole areas of law from the scope of legal aid has meant that children, young people and families, who are unable to pay privately for legal services, are not able to use the justice system to secure their rights or access services to which they are entitled. Children are some of the most vulnerable in the system and the least likely to be able to access any of the limited alternative provision.

Although asylum advice and representation is still covered by legal aid – thereby ensuring that unaccompanied asylum seeking children are entitled to legal aid - the removal of advice and representation for immigration from the scope of legal aid means that those separated or unaccompanied children, as well as children who are living in a family unit, who either need to make an immigration application or further leave to remain application may have to pay for legal representation (or the local authority will if the child is looked after and accommodated).

The provision of high-quality legal aid advice remains London-focused with scant provision in other areas of the country. In December 2015, the Government reported on not-for-profit legal providers and found the majority of legal advice was within London.[[1]](#footnote-1) This matched the findings of the Justice Select Committee.[[2]](#footnote-2) It is crucial that all children throughout the UK are not prejudiced by lack of access to legal advice when needed and further, not offered equal support to obtain such advice depending on the area of the UK they reside in.

1. **With concerns around separated children in care, children in family units and those due to be transferred under the transfer scheme, CCLC recommends that the :**
* **Enact legislation to place a duty on local authorities to promote a looked after and accommodated child’s access to legal advice and representation;**
* **Carry out an assessment or review in relation to the impact of legal aid changes to the rights of children in the UK; and**
* **restore civil legal aid for children in immigration cases.**

**Asylum & Immigration System**

The asylum process remains incredibly complex and unaccompanied and separated children will struggle to negotiate the process without the required support, advice and representation. The Principles to Practice (P2P) project looked at how a child’s best interests were considered in the UK asylum system and one child who gave evidence stated that:

*“It’s like when you come here you are blind, then you get a stick to help you to go, because you don’t know the language, the words they don’t work, and you don’t know the way. By the time you find out, you are refused and all that, so it’s all mixed, and confusion and all that…”*[[3]](#footnote-3)

Unaccompanied children in the asylum process have to deal with various challenges and the JCHR has previously stated that there are many problems with the system, including:

* Too little emphasis on the needs of the child in the asylum process;
* A “culture of disbelief” when considering the age of the child;
* The lack of identification and support of many children trafficked into the UK;
* Inadequate consideration of children’s asylum claims, including their best interests;
* The lack of access to good quality legal advice and legal aid, particularly outside London; and
* The lack of guardians or consideration of guardians to support children.[[4]](#footnote-4)

The UN Committee recommends that statutory independent guardians are provided for all unaccompanied and separated children. Unlike in Scotland, there are no guardians or independent advocates in England for all separated and unaccompanied children. Evidence from the Scottish Guardianship Service and NIDOS guardianship service in the Netherlands shows that unaccompanied and separated migrant children (including confirmed and potential victims of trafficking) enabled those children to better access services, and provided someone to support them through a range of complex processes, including child welfare assessments, age assessments and asylum applications. The guardianship services not only informed children of these processes but improved the quality of the decisions, leading to more positive outcomes in the best interests of the child.[[5]](#footnote-5)

The UN Committee further recommends that age assessments are only carried out in cases of serious doubt through multidisciplinary and transparent. Age assessments in the UK continue to be a significant problem and cause significant delays in many children’s asylum claims and referrals as victims of trafficking. The UK government’s own guidance states that: *“Age assessments should only be carried out where there is significant reason to doubt that the claimant is a child. Age assessments should not be a routine part of a local authority’s assessment of unaccompanied or trafficked children.”*[[6]](#footnote-6) However, in practice this is very different, with recent statistics showing that in the second quarter of 2016, there were 216 age dispute cases out of 658 asylum applications, and this does not include children who are deemed by the Home Office to be significantly over 18 on the basis of the child’s appearance and/or demeanour alone.[[7]](#footnote-7) Despite the publication of non-statutory guidance by the Association[[8]](#footnote-8), there is too often lack of training and examples of bad practice. For further information on age disputes and the negative impact on children, please see CCLC’s 2014 report *“Happy Birthday?”*[[9]](#footnote-9)

There are further concerns in relation to the new national transfer scheme and proposed changes to leave granted to refugees. These are dealt with in more detail in the Refugee Children’s Consortium’s (‘RCC’) response to this enquiry and we do not propose to deal with this in any further detail here other than to state that CCLC agree with the proposals raised in the RCC’s response.

**CCLC recommends that the UK government:**

* **Consider introducing, or piloting, statutory independent guardians for all unaccompanied and separated children, as modelled in both Scotland and the Netherlands;**
* **Improve training and practice within the Home Office in relation to working with children in the asylum and immigration system, and implement a formal best interests determination; and**
* **Promote good practice in age assessments, including use of the ADCS guidance.**

**Family Reunion**

One other issue raised by the UN committee is a review of the UK’s asylum policy in relation to family reunion for unaccompanied and separated refugee children. A major barrier to integration for those children in the UK is lack of provision for children to be reunited with their family members. The rules on refugee family reunion in the immigration rules do not contain provisions for children to be reunited with their family. For a detailed examination of family reunion and problems for children, please see the ILPA briefing on the subject.

In summary, not allowing children to reunite with their parents, grandparents or siblings will continue the trauma and suffering of separation and loss. It is also extremely unfair that children do not have the same rights as parents; if a parent is granted asylum or humanitarian protection in the UK, their children can apply to join them. Delays in reunification of families can have a devastating impact; exposing the child or young person to trauma and mental health issues, and affecting their integration in the UK. It can further expose family members overseas to threats and debt bondage, and put them at risk of making the same dangerous journey the child had to make.[[10]](#footnote-10)

There has been a recent case where a child refugee has argued for family reunion on the basis of Article 8. It is sometimes argued, in particular by the Home Office, that family reunion for children would encourage parents to send their children on the perilous journey to the UK in the first place, with no evidence to show that this is actually the case. It is important for a child’s integration in the UK that family reunion be possible.

**CCLC recommends that the UK Government makes provision for unaccompanied children to be able to reunite with his or her family members in the UK.**

**For more information, please contact:**

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1. Ames, Dawes and Hitchcock, “Survey of Not-for-Profit Legal Advice Providers in England and Wales”, MOJ 2015 <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/485636/not-for-profit-la-providers-survey.pdf> [↑](#footnote-ref-1)
2. Justice Select Committee Eighth Report on the Impact of changes to civil legal aid under Part I of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, 4 March 2015 <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmjust/311/31108.htm> [↑](#footnote-ref-2)
3. Law Centres Network, Put yourself in our shoes, October 2015 <http://www.lawcentres.org.uk/policy/news/news/keep-children-s-best-interests-at-heart-of-asylum-system-new-report> [↑](#footnote-ref-3)
4. From the JCHR’s own findings on the Human Rights of unaccompanied migrant children and young people in the UK, May 2013, at <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/9.pdf> [↑](#footnote-ref-4)
5. Heaven Crawley & Ravi KS Kholi, ‘*She endures with me’ An evaluation of the Scottish Guardianship Service Pilot*, 26 April 2013 <http://www.aberlour.org.uk/influencing_change/publications/519_she_endures_with_me_an_evaluation_of_scottish_guardianship_service> & NIDOS – Towards a European Network of Guardianship Institutions, 2010 <http://www.europarl.europa.eu/document/activities/cont/201110/20111019ATT29750/20111019ATT29750EN.pdf> [↑](#footnote-ref-5)
6. Department for Education, Care of unaccompanied and trafficked children, July 2014 at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330787/Care_of_unaccompanied_and_trafficked_children.pdf> [↑](#footnote-ref-6)
7. Refugee Council, Asylum Statistics, August 2016 <http://www.refugeecouncil.org.uk/assets/0003/8736/Asylum_Statistics_August_2016.pdf> [↑](#footnote-ref-7)
8. <http://adcs.org.uk/assets/documentation/Age_Assessment_Guidance_2015_Final.pdf> [↑](#footnote-ref-8)
9. <http://www.childrenslegalcentre.com/userfiles/file/HappyBirthday_Final.pdf> [↑](#footnote-ref-9)
10. <http://www.ilpa.org.uk/resources.php/31782/ilpa-briefing-to-amendments-tabled-for-house-of-lords-committee-stage-of-the-immigration-bill-3-febr> [↑](#footnote-ref-10)