

THE KEY ISSU

Newcomer children in NI face considerable challenges. Families who have moved can be vulnerable to exploitation and abuse, can find it difficult to feel that they have barriers. Families who have moved due to fear of persecution can face severe trauma in their country of origin or en route to NI (trafficked or otherwise), and asylum processes. Child victims of trafficking will also be subject to difficult processes.

As the UN Committee on the Rights of the Child pointed out in General Comment 6 (2005), the State's obligations under the UNCRC apply to children within their borders and also include those children who come under the State's jurisdiction while attempting to enter the country's territory:

*"The enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a State party and must therefore, if not explicitly stated otherwise in the Convention, also be available to all children - including asylum-seeking, refugee and migrant children - irrespective of their nationality, immigration status or statelessness."*³

Immigration context

Despite international children's rights obligations, the UK Government has been criticised for giving the needs of the immigration system primacy over the rights and best interests of children and young people.⁴ The Government previously held a reservation to article 22 of the UNCRC, the effect of which excluded children who came under immigration procedures from UNCRC protection.

In September 2008, the UK Government announced its decision to lift this long-standing reservation as part of its apparent shift towards recognising immigration authorities' responsibilities towards the particular vulnerabilities of children.

The UK Border Agency (UKBA) is the body which deals with applications for permission to enter or stay in the UK, including asylum applications. It is part of the Home Office.

Much of what is known about the circumstances and experiences of asylum-seeking children and families in NI is anecdotal. Concerns have been raised about the general treatment of young asylum-seekers and the implications of detaining children engaged in the immigration system in GB. Criticism has also been voiced in relation to circumstances surrounding the transportation of asylum-seekers and others from NI to immigration removal centres in GB.⁵

There is also concern that the numbers of young people trafficked to NI have increased. However, there is little hard data on each of these issues, or on the number of children affected.

Unaccompanied children are particularly vulnerable. If their asylum application fails, the Government will seek to identify appropriate facilities in the country where they came from so that they can be returned. Failing that, they are given discretionary leave to stay in the UK for 3 years or until they reach 17.5 years of age (whichever is shortest). They may not be allowed to stay after this.

A significant, and welcome development has been the introduction of a duty for ensuring that the functions of UKBA are carried out 'having regard