

Introduction

In 1999 the number of separated children referred to the East Coast Area Health Board was 98, and out of these 35 applications for asylum were made. By March 2003, the number of children referred was 2717. Nearly half, or 1,113 children, were reunited with family members already in Ireland. 1,316 separated children, under the care of the Health Boards, have made applications for asylum under the 1951 Geneva Convention on the Status of Refugees. Neither the Government nor non-statutory agencies anticipated this increase in the numbers of separated minors arriving in Ireland. Therefore administrative procedures and care services have had to be responsive to emergent needs rather than having developed through advance planning. While significant progress has been made in relation to developing procedures for children within the asylum determination process, structures within the Health Board, and interagency training and networking, there are significant gaps in terms of guardianship, accommodation and interim care, access to education and identification and implementation of durable solutions.

Since 1999, a number of Acts have made amendments to the Refugee Act 1996. These are the Immigration Act 1999, Illegal Immigrants (Trafficking) Act 2000 and the Immigration Act 2003

Irish legislation does not make reference to “separated children”, nor to “unaccompanied minors”. The relevant legal reference is Section 8 (5) of the 1996 Refugee Act (as amended)¹, which sets out the initial procedure for dealing with a “*child under the age of 18, who has arrived either at the frontiers of the State or has entered the State and who is not in anyone’s custody*”.

Update of statistics

Table 1: Separated children referred to the care of the East Coast Area Health Board

Year	1998	1999	2000	2001	2002	2003	<i>Cum total</i>
No. of referrals	--	98	520	1085	861	153**	2717
No. reunited with family	N/A	N/A	107	416	506*	84**	1113
No. placed in care of Health Board	--	98***	413***	558	355***	69***	1493
No. of tracing cases initiated	--	--	1	0	14	18	33****
No. not found to be a minor	Not available	Not available	Not available	15	Not available	Not available	Not available

Source: ECAHB and *Sanctuary March 2003 ** Sanctuary January 2003

*** Fig. Approximate and compiled Total no. of referrals - No. reunited with family

**** Irish Red Cross Tracing/Messaging Service.

Table 1 summarises the numbers of referrals to the East Coast Area Health Board for the period January 1998-March 2003. Of a cumulative total of 2,717 children, 1,113 or 41% were reunited with a parent or relative in Ireland. In total, 33 family tracing cases have been initiated by the Irish Red

¹ Amended by Section 11(1) of the Immigration Act 1999 and Section 9 of the Illegal Immigrants (Trafficking) Act 2000, came into force on 20th November 2000, hereafter the 1996 Refugee Act (as amended) It has recently been amended by Section 7 of the Immigration Act 2003.

Cross. Figures on the number of referrals found to be over 18 years were only available the year, 2001 when 15 individuals were deemed to be adults.

Table 2: Age breakdown of referrals to East Coast Area Health Board, Jan-Dec 2001

Age	17	16	15	14	10-13	6-9	U5
Total	314 29%	299 28%	122 11%	44 4%	106 10%	103 9%	97 9%

Source: ECHAB

Table 2 shows that, for the year 2001, over half, or 57% of referrals were aged 16 years or over, a quarter or 25% were aged 10-15 years, 9% were between 6 and 9 years, and 9% were five years old or younger.

Table 3: Applications for asylum received by the Office of the Refugee Applications Commissioner

YEAR	1998	1999	2000	2001	2002	2003 (Jan-31 Mar)
U 18	(>10)*	(>10)*	31	80	195	85
Over 18	(>10)*	35	261	406	75	9
Family Located	--	--	10	114	17	--
TOTAL	(>10)*	35	302	600	287	94
<i>Cum total</i>	<i>(>10*)</i>	<i>35</i>	<i>337</i>	<i>937</i>	<i>1224</i>	<i>1318</i>

Source: ORAC. The above statistics are calculated by date of application and as a result the numbers in the different categories may change as the applicant turns eighteen or is reunited with his/her family. 'Over 18' refers to applicants who were under 18 when they applied for asylum and have since turned 18. 'Family located' refers to applicants who were unaccompanied by a parent/guardian when they applied for asylum but have since been reunited with parent/guardian. The overall total per year may also change pending medical results.

* It is ORAC policy that statistics are not released where the figures for the number of applicants concerned is under 10, to protect the confidentiality of clients.

As can be seen from Table 3, as of March 31 2003, a total of 1318 unaccompanied minors had submitted applications for asylum in Ireland.² In total, 60% of asylum applicants (786 children) reached 18 years of age during the first stage of the asylum determination process. The procedure is that these applications are then processed as adults. 141 children (11%) had family located in Ireland, and their asylum application was then either considered as part of their parent's application, or, if deemed in the best interests of child, it could have been considered independently.

Applications of unaccompanied minors as a percentage of adult application were 0.5% in 1999, 2.7% in 2000, 5.8% in 2001 and 2.4% in 2002.³

Table 4: Unaccompanied minors: Office of the Refugee Applications Commissioner- Recommendations to grant/refuse asylum applications, or applications withdrawn.

Year	1998	1999	2000	2001	2002	2003 (to Mar 31)
Recommendations to grant	--	(>10)*	(>10)*	22	92	11
<i>Cumulative total</i>	<i>--</i>	<i>(>10)*</i>	<i>(>10)*</i>	<i>22</i>	<i>114</i>	<i>125</i>

² The figure of 2,717 separated children referred to the care of the Health Board in Table 1 refers to children who were identified as unaccompanied at arrival; 1,113 were reunited with family and were therefore no longer classified as unaccompanied. This accounts for the difference in the figures in Tables 1 and 2.

³ These figures are calculated on the basis of ORAC figures for the no. of applications for a declaration as a refugee as: pre-2000=7,724 applications; 2000=10,938 applications; 2001=10,325 applications; 2002=11,634 applications.

Recommendations to refuse	(>10)*	(>10)*	15	93	685	56
<i>Cumulative total</i>	(>10)*	(>10)*	15	108	793	849
Withdrawals	(>10)*	(>10)*	(>10)*	53	89	(>10)*
<i>Cumulative total</i>	(>10)*	(>10)*	(>10)*	60	142	142

* It is ORAC policy that statistics are not released where the figures for the number of applicants concerned is under 10 to protect the confidentiality of clients.

Of the total number of recorded decisions to date (974 applications granted or refused), 12.8% have been granted refugee status and 87.2% refused. Refusal means the applicants were not deemed to fall within the definition of a refugee. If an applicant is refused refugee status at the first instance, he or she has the right to appeal the decision to the Refugee Applications Tribunal (RAT).

In addition, 154 applications or 11% of the total number of applicants were deemed to withdraw from the asylum process through not attending the substantive interview.

Of the total number of 1318 applications therefore, 9% of applicants have been granted refugee status, 65% refused, 11% have withdrawn, and 15% are other (e.g. still in the process).

Table 5: Summary of status of First Instance and Appeals applications

STAGE	Applications	Pending	No show	Granted	Refused	Manifestly unfounded
First instance*	1213	156	160	110	609	9
Appeals**	639	274	N/A	38 (ORAC decision set aside)	297 (ORAC decision affirmed)	

Source: * ORAC. The slight difference in the figures presented here and in Tables 3 and 4 relates to a slightly different no. of months represented. The 'No show' figure here corresponds to the 'withdrawn' category in Table 4, and is a total figure and includes the figures for those years where less than 10 applicants withdrew from the process by not attending a first interview.

** RAT Appeals received from unaccompanied minors by year of appeal from 1 January 2001 to 30th April 2003

Table 5 examines unaccompanied minors applications in relation to stages in the asylum process. It demonstrates that 274 minors had appeals pending as of April 2003. For those who are not recognised as refugees at appeal stage, individuals then have the option to make representations directly to the Minister for Justice, Equality and Law Reform, under Section 3 of the Immigration Act 1999, as to why a deportation order should not be made, and request that leave to remain be granted.

Table 6: Breakdown of appeals received and completed from unaccompanied minors by year of appeal from 1 January 2001 to 30th April 2003

All Appeals by Year of Appeal Up to 30 th April 2003						
Year of Appeal	Appeals Received	Set Aside (Refugee Status recognised)	Recommendation of ORAC affirmed	Withdrawn	Number of Appeals Decided	Outstanding Appeals
2001	58	8	37	9	54	4
2002	500	29	255	20	305	195
2003	81	1	5	0	6	75
Total	636	38	297	29	365	274

According to an answer to a Dáil Question on 17th December 2002, there have been a total of 15 deportations of individuals who applied for asylum as unaccompanied minors.⁴ Minister for Justice, Equality and Law Reform, Michael McDowell stated:

“To date, a total of 15 persons who were unaccompanied minors in the State have been deported under the Immigration Act, 1999. These include three Libyan minors transferred under the Dublin Convention to the United Kingdom where their parents were awaiting the decision of the UK authorities on their applications for refugee status, two Romanian minors transferred under the Dublin Convention to the United Kingdom and one Nigerian minor transferred under the Dublin Convention to Germany. The remaining nine minors were returned to their countries of origin after their cases were considered under section 3 of the Immigration Act, 1999, and section 5 of the Refugee Act, 1996”

Essentially nine of these were deportations. Involuntary returns of minors must have the same safeguards in place as those for voluntary returns. These safeguards are discussed in Chapter 6 of the report.

Table 7: Statistically significant countries of origin of unaccompanied minors making asylum applications

1998	1999	2000	2001	2002	2003 (-March 31)
Romania	Romania	Nigeria	Nigeria	Nigeria	Nigeria
	Nigeria	Romania	Romania	Angola	DR Congo
	Kosovo	Sierra Leone	Sierra Leone	Sierra Leone	Kenya
		Kosovo	Moldova	Somalia	Angola
		Ghana	DR Congo	DR Congo	Georgia

Source: ECAHB

Table 8: Referrals from the ECAHB of separated children by country of origin and gender (2001)

Country of origin	Male N	Female N	Total
Nigeria	304	236	540
Romania	63	31	94
Sierra Leone	51	17	68
Moldova	39	12	51
DR Congo	16	21	37

Source: ECAHB

Significant legislative changes in Ireland

Domestic Legislation

The Refugee Act 1996 (as amended)⁵ was implemented in full on November 20th 2000. This placed the Irish asylum determination procedures on a statutory footing for the first time, and incorporated the 1951 Geneva Convention Relating to the Status of Refugees⁶ into Irish law. The references to children in the Act are found in Sections 8(5)(a)-(d), 9(12)(a)-(c) and 9A(1). The Immigration Act 1999 allows for the detention of persons against whom a deportation order is in force, and who failed to comply with the provisions of the order. However, Section 4(a) excludes minors, and those whom it is reasonably believed are under 18, from this provision. Under Section 3(6) the factors to be considered for granting of temporary leave to remain are set out. Section 3(6)(a) states that ‘age’ is

⁴ Dáil Question, 17th December 2002

⁵ By Section 11(1) of the Immigration Act 1999 and Section 9 of the Illegal Immigrants (Trafficking) Act 2000. All references will be to the Refugee Act 1996 (as amended) unless otherwise stated.

⁶ Convention Relating to the Status of Refugees, Geneva, July 28 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137 (entry into force April 22, 1954)

such a factor. The Illegal Immigrants (Trafficking) Act 2000 purpose is to create an offence of trafficking immigrants and to provide a framework by which those engaging in trafficking of illegal immigrants can be dealt with under the law. The legislation defines a “trafficker” as ‘a person who organises or knowingly facilitates the entry into the State of a person he or she knows or has reasonable cause to believe to be an illegal immigrant’. At the time of writing this report, the Immigration Act 2003 had just been passed. This Act provides for the imposition of fines on transport companies for carrying incorrectly documented passengers. The Act also provides for a number of substantial and procedural changes to refugee law in Ireland, including provision for accelerated procedures, and provision for certain countries being designated as ‘safe countries of origin’, finger-printing of all asylum seekers including those under the age of fourteen.

The ‘Dublin Convention’ has been updated with ‘Dublin II’⁷, which contains specific provisions in relation to unaccompanied minors. EURODAC⁸ was implemented as of 15 January 2003.

Access to Territory, Identification and Registration and Documentation

Separated children arrive in Ireland and are identified either at the point of entry, such as the airport, or within the country, by presenting themselves to the Office of Refugee Applications Commissioner (ORAC). At the airport, immigration officers proceed as follows. If it is a straightforward case that the individual is an unaccompanied minor, according to an immigration official, the practice is to implement the provisions of Section 8(5)(a) of the Refugee Act 1996 (as amended)⁹ and Article 4(1) of the 1991 Child Care Act, and refer a child identified as unaccompanied to the care of the Health Boards¹⁰.

In cases where children are accompanied by an adult, and as a result of the examination of travel or other documents, or through prior intelligence received, there is suspicion as to the relationship of the adult to the child or children, immigration officers may invoke Section 12 of the Childcare Act, 1991 and refer the child to the care of the Health Board. Some recent referrals made by the Garda National Immigration Bureau at Dublin Airport have been babies and toddlers who have arrived accompanied by adults but where there is a serious doubt about the identity of the child or adult, and where there is distinct uncertainty about the relationship between the parties¹¹. If a minor is identified as unaccompanied at ORAC, he or she is immediately referred to the Health Board.

A number of unaccompanied minors arrive outside of office hours, at night-time or week-ends. If minors are aged 12 years or over, they are referred to the Health Board’s crisis intervention unit, and the following day to the social work team for separated children. However, the crisis intervention service has no remit for children under 12 years, and there is a lack of formal provision for dealing with young children who arrive out of hours. Section 12 of the Child Care Act, which provides that a child should be taken to a place of safety if it would not be sufficient for the protection of the child to await the making of an application by a Health Board, will normally be implemented by Gardaí in these instances. Children will be taken to a children’s hospital, until they can be referred to the Health

⁷ Council Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national. 343/2003, February 18, 2003

⁸ Council Regulation (EC) No 2725/2000

⁹ Article 8.5 (a) of the Refugee Act 1996 (as amended) states: “Where it appears to an immigration officer that a child under the age of 18 years who has arrived at the frontiers of the state is not in the custody of any person, the immigration officer shall, as soon as is practicable, so inform the Health Board in whose functional area the place of arrival is situate and thereupon the provisions of the Child Care Act 1991, shall apply in relation to the child”.

¹⁰ Article 4(1) of the 1991 Child Care Act states “Where it appears to a Health Board that a child who resides or is found in its area requires care or protection that he is unlikely to receive unless he is taken into care, it shall be the duty of the Health Board to take him into its care under this section”.

¹¹ Taken from a presentation delivered by Marilyn Roantree, Principal Social Worker of the East Coast Area Health Board to the Seminar on Unaccompanied Minors seeking Asylum, Dublin, October 17th, 2002.

Board the following day. The reception of unaccompanied minors, including facilities for dealing with distressed children at the port of entry, and the issue of reception care for young children out of hours were identified as issues needing further attention.

If a minor arrives accompanied by an individual claiming to be an older sibling, it is the responsibility of the Health Board to evaluate the nature of the relationship with older sibling and the extent to which the sibling would be a suitable caregiver, capable of fulfilling his/her responsibilities to the child.

In practice, only a small minority of separated children are identified formally at a point of entry. Anecdotal evidence suggests that the vast majority of separated children enter through similar routes to that of adult smuggling.

Detention

There is currently no law allowing or prohibiting the detention of separated children seeking asylum in Ireland. The Immigration Act 1999 incorporates the provisions for detention contained in the Refugee Act (as amended). Section 9 (12)(a) states that subsection (8) ‘*shall not apply to a person who is under the age of 18 years*’. Section (b) follows:

“If and for so long as the immigration officer or, as the case may be, the member of the Garda Síochána concerned has reasonable grounds for believing that the person is not under the age of 18 years, the provisions of sub section (8) shall apply as if he or she has attained the age of 18 years.”

The Immigration Act outlines the periods of detention permissible under the legislation. The maximum period of detention before an individual may be brought before a judge is ten days. A Judge can commit the person for ensuing periods of 10 days without charge pending the determination of the person’s application under Section 8.

Conformity with the statement of good practice

Principle	Progress since 1999	Conformity with the statement of good practice
Definition of a “separated child”	Section 8.5 (a) of the Refugee Act 1996 (as amended) is utilised.	Practice is mostly in conformity with spirit of SGP but is not supported by a broader definition of ‘separated child’ in refugee or child law.
Access to the territory Freedom from Detention	The Irish Refugee Council sought to establish a ‘Refugee Arrivals’ project at Dublin airport but was refused permission.	No agency was aware of minors who were refused entry or deported, at the point of entry. Currently, there is a lack of transparency with regard to immigration procedures on arrival.
Identification	Creation of the Garda National Immigration Bureau; remit extends to include investigations pertaining to separated children but no staff formally assigned to separated children.	Under the provisions of the Refugee Act 1996 (as amended), a separated child may be interviewed by an immigration officer at point of entry. Minors do not appear to be subject to detailed interview at the point of entry. Immigration officials do not have specific guidelines/procedures with respect to the identification of separated children.

Documentation and registration	All separated children are referred to the Health Board where they are registered. Files exist for all children.	Practice appears to be in conformity with the statement of good practice.
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Age Assessment

The Office of the Refugee Applications Commissioner used a pilot project known as the ‘Greulich-Pyle’ method for a certain period. This test is based on x-raying the growing hand and the wrist and comparing the x-ray with a reference atlas. The ORAC sent 142 people, who looked significantly older, and claimed that they were 16 or 17, to be tested. The results were that 49 were shown to be over 18, 12 of these admitted to be over 18, 66 refused to take the test, 15 were shown to be 18, plus or minus a year, and those 15 were treated as minors. This, was however, only a pilot project and has been discontinued. Currently, a staff member of the Office of the Refugee Applications Commissioner determines age, where there is a doubt.

If a client instructed the Refugee Legal Service that he/she is a minor in cases where the ORAC have decided otherwise, the RLS may request that the ORAC reconsider the age of the applicant. The ORAC may in response invite the person for another interview. A senior staff member will conduct this interview. Legal representatives for separated children are unhappy with the subjective nature of the assessment in its present form and would like to see some ‘expert view’ incorporated into proceedings. They are concerned that the ‘benefit of the doubt’ with respect to age is not applied in some cases. Similarly, the Health Boards want screening mechanisms, as they don’t want to be in the position of accommodating adults in hostels with minors. Therefore, the Health Board have also asked the ORAC to re-consider an age assessment, where they have doubts as to whether the person referred to them is a minor.

If the young person were still deemed to be over eighteen by the ORAC, until recently, the RLS would treat the young person as a minor, and provide legal aid and advice. The difficulty in representing an unaccompanied minor in the asylum process, however, is the issue of the capacity of a minor to give instructions. Section 8 of the Refugee Act places a statutory duty on the Health Board to make an asylum application on behalf of a minor. The RLS cannot assist young people, claiming to be minors, but have been assessed by ORAC as being over eighteen, and therefore not placed in the care of the Health Board. Section 5(6) of the Civil Legal Aid Regulations 1996 states that in the case of a minor, ‘*the application (for a legal aid certificate) shall be made by a person of full age and capacity and where, the application relates to proceedings which are required by rules of court to be brought or defended by a next friend, or guardian ad litem*’.

Conformity with statement of good practice

Principle	Progress since 1999	Conformity with SGP
Age Assessment	The ORAC has worked to identify an appropriate age assessment methodology	Benefit of doubt principle mainly applied.
Principle of the ‘benefit of the doubt’ (20-24 months as a suggested guideline)¹²	The ORAC and UNHCR are examining alternatives to bone x-rays in international best practice for age assessment	Presently, not carried out by an independent physician with appropriate expertise and familiarity with the child’s ethnic and cultural background.

¹² Ruxton note 3 at 10.

Appointment of a Guardian and reunification with family in Ireland

Referrals of separated children come to the appropriate Health Board through a referral form received from immigration officials, the Department of Justice, or ORAC. A social worker meets with a child to do an initial assessment to assess his or her immediate needs. A social history is taken. This includes a brief background, why they've arrived here, the reasons they've left their country, the whereabouts of family members or if they have family members or others known to them in Ireland, and health and educational details. Sometimes, for many reasons, children feign an identity and it is difficult to access the real social history. Children receive brief information on the asylum process and are offered a medical screening. They are assigned to emergency accommodation. Social workers consult with the child to determine if it is in the child's best interests to submit an application for asylum. If the social worker makes a decision on behalf of the child to proceed with an asylum application, the child is registered with the Refugee Legal Services so they have access to a solicitor and caseworker. A project or social worker provides support for each child throughout the Refugee Determination Process.

If it emerges that the child has a family member already in Ireland, in line with the best interest of the child principle, the first option considered by the social worker is placement with family members already living in the State. In order to determine the relationship of the adult and child, and to assess the ability of parent(s), siblings or relatives to provide suitable care as guardian to the child, a brief assessment is made. This assessment involves interviews with both the child and adult/s; a review of previous and present documentation (linking in with GNIB, ORAC, etc.); contact with current service providers - Community Welfare Officer, local Social Work Department, Public Health Nurse; matching of photographs and stories; child's wishes and expectations; how appropriate is their interaction. When the information provided matches, reunification is agreed to proceed. The social worker notifies the reunification to the Office of the Refugee Applications Commissioner, the Reception and Integration Agency (if the family are in Direct Provision), the Community Welfare Officer, Public Health Nurse and Social Work office in the area in which the family is living. When there are considerable discrepancies in the information provided or serious concerns as to the suitability of the family members to care of the child, the child might be received into care voluntarily or on a Court Order (very rarely). The person claiming to be a family member will be asked to do DNA testing and further investigation is carried out while the child is in care. In the period January 1998 to March 2003, 1113 separated children have been reunited with and placed in the guardianship of family members already in Ireland.

For children or young people placed in the care of the health boards, those identified as particularly vulnerable are assigned a social worker. A project worker is assigned to individual accommodation centres. However given that an accommodation centre may house 60-70 young people, it is recognised to be seriously inadequate. At present these accommodation centres are not appropriately staffed to cater for all of the welfare needs of these young people.

There are also many separated children with special needs, such as sibling guardians of younger children, pregnant girls, young mothers and their infants, and depressed or withdrawn youth who may not come to the attention of social workers, who have significant guardianship needs. The social work team dealing with separated minors has insufficient social work and project work staff to address minors' rights and needs. In Dublin, although Health Board workers strive to meet the needs of separated children, there are significant pressures to meet the needs of the large numbers of multi-cultural, multi-lingual children and youth with complex needs living in unsupported accommodation.

Ratio of social workers/separated children and young people	1: 42
Because of current staffing in ECAHB team, it is not possible to assign a social worker to each individual minor and in this way separated children are treated differently from children who are received into care who each have an assigned social worker.	

The main area of individual support for separated children is with respect to the asylum determination process. Legal aid is available to all children from the Refugee Legal Services, and all children receive legal advice and assistance before their substantive interview. The role of the social or project worker in this process is:

- A statutory obligation to decide whether or not to make an application for asylum on behalf of the child
- To give instruction to the Refugee Legal Services, on behalf of and in consultation with the child
- To help the child fill out the questionnaire, schedule the initial interview, and attend the substantive interview. In this, their role is to emotionally support the child but not intervene, except to ask for breaks or postponement, if the child is in distress.

With respect to guardianship, the significant gaps are:

- Unsupervised and unsupported hostel accommodation
- The lack of an identified individual, such as a social worker, with overall responsibility to advocate for a child, plan for a child's best interests, contribute to identifying and putting in place durable solutions, and systematically explore family tracing and reunification
- Inadequate linking children with, and co-ordination of other service systems e.g. education and training

The only other legal system of guardianship in Ireland is the 'guardian *ad litem*' system. However guardians *ad litem* fulfil a legal role of representing a child's best interests in a court setting and this model was deemed unsuitable for separated children.

Interim care

After the initial assessment, a social worker determines a care placement for a child. In the East Coast Area Health Board, the criteria used to determine care placements include age, maturity, vulnerability, language and nationality, and any special or medical needs.

- Young people aged 15 years and upwards are generally placed in self-catering, privately managed hostel accommodation
- Children aged 6-14 years are placed in residential care, supportive lodgings, or in foster care. For very young children, social workers would look for a foster placement.
- Vulnerable young people may also be offered supported lodgings or foster placements, or a place in a residential children's home.
- Exceptionally, young people may be allowed access independent lodgings.

Interim care placements available are hostels for young people, residential care, foster care, supported lodgings in a foster placement or independent living. The characteristics of the different care placements are summarised in Table 9 as follows:

Table 9: Summary of Interim Care Placements available for minors in Ireland

Type of Accommodation	Managed by	Profile of Children/Capacity	Facilities/food	Welfare Allowances	Guardianship Supervision
Self-catering hostels Total number of hostels (April 2003)= 11 Total number of separated children in hostel accommodation-figure changes but <i>majority of separated children.</i>	Private	-Generally 15–18 years. -8 hostels are mixed sex, 2 are boys only, 1 is girls only -Also pregnant girls, young mothers and babies -Individual hostels have a capacity for between 15-100 separated young people.	-Conditions vary; usually one large kitchen, self-catering	-Full supplementary allowance €124.80 -Child benefit up to 16 years, or if at school, €125 School travel expenses, if relevant -Medical card -One parent allowance -Hospital/special needs allowance if relevant	Management - No supervisory or qualified care staff. -1 project worker assigned to each hostel, average 1 visit per week by Social worker to vulnerable cases -Community welfare officers visit hostels 1/week
Hostel/ meals provided (1) Chester House, Phibsboro	Private	Younger / mildly vulnerable children	Meals provided	Means-tested allowance (as meals provided)	Management No supervisory or qualified care staff.
Hostel / ‘direct provision’ (1)	R.I.A	Older (17+) youth, vulnerable youth.	Meals provided	Direct provision payment of Euro 19.10/week.	Management No supervisory or qualified care staff.
Residential care homes; Irish and non-national children (Number varies; possible spaces in 2-4 homes)	NGOs e.g. Crosscare Voluntary Organisation, Homeless Girls society - Voluntary Organisations receiving HB funding	Mix of Irish and non-national children, Total capacity 11-12 / home of which 1-3 are separated vulnerable children	Meals, homework support & social supports provided	No direct payment to children	2 managers and 10 child care staff, key worker and social worker assigned to each child
Residential care home, dedicated for separated children (1); Funded by East Coast Area Health Board	NGO. Clann Housing Association Ltd. (Tallaght)	Capacity for 6 separated children aged 6- 15 years.	Full care provision	No direct payment to children	12 childcare trained staff, key worker and social worker, from ECAHB team, assigned to each child
Supported	Health	Children 12+, or	Supported	Supported	Family

lodgings	Boards	vulnerable young people (<18 years) Small numbers	lodgings family provides meals. & limited support.	lodgings allowance given to family	environment, social worker assigned
Foster care	Health Boards	Particularly vulnerable children and young people Small numbers	Trained foster family provide meals & support.	Fostering allowance given to family	Family environment, social worker assigned
Private rented accommodation	Decision of Community welfare officer	17+ with refugee status, Some young mothers with partners. Small numbers	As per private rented accommodation	Full supplementary allowance, medical card.	Contact with community welfare officer

For 15,16, and 17 year olds in unsupported hostel accommodation, concerns have been expressed about those who were not providing themselves with a nutritionally adequate diet, that many were not accessing education, that those with mental health needs as a result of experiences of loss, violence or trauma were very isolated and lonely, and that adolescents were likely to be vulnerable to being recruited by criminal gangs or to be sexually exploited.

The system that has emerged, as it stands presently, is that adults are entered into a ‘direct provision’ system, where all meals are allocated, individuals receive a weekly allowance of €19.10, and their degree of independence is highly restricted. Minors, conversely, are treated as de facto adults, referred to self-management accommodation, given more money, which brings a lot more freedom. Rather contradictorily, adults are infantilised while young people are treated as adults.

In Dublin, there have been good experiences reported in cases where minors have been placed in accommodation centres with family groups from their country of origin, and adults have functioned as role models, helping to care for their babies, or in terms of homework or just the routine, or maintaining their language skills.

Recognising the serious challenge presented to Health Boards as a result of the unanticipated, large-scale increase in the numbers of separated children referred to their care, and constraints experienced in terms of human and other resources, the following are some other emergent issues identified by service providers with respect to interim care.

- *Mixed-sex accommodation* The fact that adolescent boys and girls are placed in unsupervised mixed-sex accommodation has raised concerns of support organisations regarding child protection needs, and they advocate for separate accommodation for teenage girls.
- *Hostel capacity* Hostels that cater for large numbers of separated children are difficult and stressful environments for separated children, and some hostels with up to 80 or more minors lack appropriate cooking, study, recreational and personal storage facilities. Although there is some good practice in this area, in particular in residential units, present interim care practice needs to be significantly enhanced i.e. accommodation units for smaller numbers of young people, with supervisory structures provided by trained child-care support staff, with appropriate provision for study and homework, and with strengthened links to non-statutory psychosocial support or youth organisations.
- *Monitoring* There is an urgent need for regular monitoring of privately managed hostels. The Social Services Inspectorate is in place to inspect residential care units under the auspices of the Health Boards, and this process is scheduled to begin shortly. However it is the Health

Board that is responsible for monitoring privately managed hostels and this needs to be carried out urgently and on an ongoing basis

- *Individualised planning* Individualised care plans should be developed so that minors can be placed in the most supportive environments for their needs and maturity levels, in particular for pregnant girls and young mothers. These care plans should incorporate planning for long-term durable solutions (See section 6).
- *Resourcing and supporting Health Board staff on the separated children team.* Health board staff working with separated minors tend to be highly motivated, and frequently have some background in multi-cultural issues. They also have received significant levels of training from UNHCR and the Health Board, in addition to having built up skills on working with children from different cultures through practice. Health board staff frequently feel overwhelmed with the scale of meeting the needs of separated children, given the staffing ratio of 1 project worker per hostel, and this can result in frustration and eventually burn-out.

Conformity with the Statement of Good Practice

Good practice	Progress since 1999	Conformity with the SGP
<p>Appointment of a Guardian or Advisor</p>	<p>Establishment of a project worker in Midwest Health Board, dedicated social worker in Southern Health Board and dedicated social work team on unaccompanied minors in the Dublin area which can ensure:</p> <ul style="list-style-type: none"> -Children are accompanied through the asylum process -Capacity to identify and respond to especially vulnerable children. -Experience and learning is disseminated to other Health Board regions -Building of knowledge and expertise on working with multi-cultural, diverse groups of children, and issues related to enhancing asylum procedures for children 	<p>Children identified as vulnerable are appointed a social worker. The majority of children have no one person acting in a guardianship role.</p> <p>It is presently ensured that a child has suitable legal representation to deal with his or her asylum claim</p> <p>Some provisions exist to ensure a child has accommodation, education and health care provision. There is broad recognition that care and hostel accommodation are inadequate to meet many adolescents' needs.</p> <p>Gaps exist for most minors as there is a lack of a guardian to ensure best interests, to contribute to durable solutions, to provide link between children and other services, to explore family tracing and reunification and to advocate for the child generally.</p>
<p>Interim care</p>	<p>Much greater awareness and experience of needs of separated children from different cultural backgrounds.</p> <p>Previous practice was to accommodate minors with adults, and a significant development has been the establishment of separate accommodation provision for minors.</p>	<p>A needs assessment is conducted and children are found care placements after their arrival.</p> <p>Siblings are generally kept together. Concerns exist where capacity of older siblings to function as guardians for younger siblings in unsupported hostel accommodation.</p> <p>Separated children over 16 years are treated as <i>de-facto</i> adults in unsupported,</p>

	<p>An audit has been carried out in relation to accommodation standards; minimum standards for accommodation centres are presently being established, looking at what is best for minors in terms of physical layout, as well as other needs.</p> <p>A dedicated residential unit for younger separated children has been established, and recognised as a model to expand.</p> <p>Increased access to supported lodgings and foster family placements. Development of new fostering standards that will include statements on cultural and diversity needs. Planned new post to recruit and assess families for separated children.</p>	<p>unsupervised hostel settings.</p> <p>In foster and residential settings, suitable professional care exists. Regular care reviews are sometimes, but not always, carried out.</p> <p>Minors are not helped develop links with their ethnic community.</p> <p>Re. safeguards against trafficking, hostels visited had a signing-in security procedure, and mechanisms for reporting ‘missing’ children. However it is not clear what happens minors who have ‘dropped out’ of the asylum process and the issue of children who go ‘missing’ from the system needs a holistic review.</p>
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Health, Psychological Services and Psychosocial Support

Health

The Health Board offers all separated children a medical screening. They have to request the equivalent of parental consent at the District Court for children under 16, for dispensing of parental consent, so that decision making is transferred to the Health Board. Minors over 16 years are deemed mature enough to give their own consent to medical assessment and treatment. Guidelines for medical screening are in line with those adopted nationally for all asylum seekers.

Medical screening includes:

- A full developmental medical, including vision testing and audiometry.
- Public Health Screening which involves taking blood samples for Hepatitis B, Hepatitis C, H.I.V., Rubella (females only), Varicella Zoster (females only), Tuberculosis (referred for chest x-ray), Mantoux test (referral to TB clinic if indicated, and faecal samples sent for polio testing (under 15 years only).

Testing for TB and Hepatitis B is offered to all asylum applicants, but is not compulsory. At present, unaccompanied minors are referred to the existing Area Medical Officer Service if necessary, but it has been proposed that a separate service be established to deal solely with minors. Medical screening takes place within a few weeks of arrival, but emergency cases or pregnant girls are given due priority.

It is policy that all separated children are accompanied to appointments with doctors by a social or project worker, but it does not always happen in practice. Respondents noted that within the health services, there is a lack of information about the status of separated children that could be addressed if, as desirable, a project worker could attend any medical appointments. All separated children are entitled to free health services and are entitled to a medical card. It is not clear what the policy regarding welfare provision for minors who are *not* in the asylum process.

Psychological services and psychosocial support

Psychological needs of separated children are complex and include safety needs, belonging needs (family contact, experience of friendship, absence of discrimination), esteem needs and confidence in the future¹³. Psychological and psychosocial support to separated children is provided by staff in many services, including the Health Board, psychological services and refugee and asylum seeker support groups. This latter group has emerged as particularly important in addressing the broad social support needs of children.

A psychology service for refugees and asylum seekers was established in 1991 and it is now located in the Northern Area Health Board providing a service to the three Health Boards in the E.R.H.A. area. In response to an increasing number of referrals of minors, a designated senior psychologist post was created in November 2001. There were 65 referrals of unaccompanied minors in 2002 and from January-March 2003, referral rates have been almost double that of the previous year. According to a psychologist working with unaccompanied minors, presenting symptoms “range from persistent sleeping problems, intrusive memories, anxiety, depression, to suicidal or self-harming behaviours. The types of experiences, which may give rise to psychological problems described, include forced separation from family, traumatic bereavement, sexual abuse, experience of/witnessing violence. Anxiety and uncertainty within the asylum process, feelings of loneliness, lack of daily structure can compound the psychological distress of an unaccompanied minor”.

The asylum determination process, through its nature of asking children to recall and narrate events in their past, frequently triggers distress. Receiving the outcome of a negative decision can spark extreme distress. Receiving a positive decision can also be very distressing psychologically as minors face the fact of not being able to return home, and of having to accept the losses of living in exile. There is a concern that Health Board resource and personnel constraints may result in support to separated children through the asylum process being reduced or discontinued. This would have a significant negative impact on minors, and would impact on systems that can presently identify and monitor children experiencing extreme psychological distress.

The service provides psychological forms of intervention including psychotherapy and counselling. Psychologists and psychology services are not generally familiar to children from non-Western cultures and the Psychology Service for Refugees and Asylum Seekers maintains a strong awareness of this and aims to access the central place of culture within the delivery of the service.

There are a number of referrals for which the psychological services are not the appropriate service, including for support around a HIV diagnosis, girls in need of pregnancy counselling or support, and children and youth with specific learning and literacy difficulties. In the former two instances, referrals are made to specialist services. In the case of children with learning or literacy difficulties, there is little or no specialist support available. There are also bureaucratic difficulties around the referral to psychiatric services of youth assessed to be of suicide risk.

Many of separated children’s primary psychological needs are most appropriately addressed by systems outside of specialist psychological services. For example, it has been noted that minors display more distress during summer holidays due to lack of structure which may impact on coping mechanisms, what Rea (2000) refers to as ‘thinking problem difficulties’, i.e. thinking about families, loved ones and losses experienced. In this respect, it is teachers, youth clubs, community-based support groups and others who have the potential to play the most important role in addressing children’s psychological needs.

Within the asylum system, it has been noted that a lack of procedures for the dissemination of

¹³ Ager, A. (2000) *Psychosocial programs: Principles and practice for research and evaluation*. In Ahearn, F. Psychosocial wellness of refugees. Studies in Forced Migration, Vol. 7., p 24-40. New York: Berghahn Books.

information regarding policy changes within asylum procedures has resulted in the creation of undue psychological stress. For example, information that minors, on reaching 18 years would be relocated to direct provision adult accommodation centres created high levels of confusion and distress.

Conformity with the Statement of Good Practice

Statement of Good Practice	Progress since 1999	Conformity with the SGP
Health	A part-time area medical officer and a health nurse have developed a medical screening service for minors	Separated children have the right to access health care on an equal basis with Irish children. As with children in care, all have access to a medical card. A developmental medical assesses for health needs arising from previous physical deprivation and illness, disabilities and trauma. ¹⁴ It was not possible in this report to assess service responses post-assessment.
Psychological support	The psychological service for refugees and asylum seekers created a designated post at senior level for unaccompanied minors in November 2001.	Health Board workers can refer distressed or traumatised children to a designated psychological service for unaccompanied minors. The capacity of this service is now being significantly stretched and there is a danger of unacceptable waiting lists emerging.

Education, language & training¹⁵

Project workers are responsible for enrolling separated children into schools or alternative courses. The Reception and Integration Agency, in conjunction with school principals and the social work team for separated children, have prepared procedures concerning the enrolment of unaccompanied minors in education. However there are only 9 project workers for approximately 500 separated children in the Dublin region. In practice, while the ECAHB reports that project workers have developed very good working relations with schools and principals, human resource constraints means that non-statutory organisations such as the Dún Laoghaire Refugee Project, and children themselves, have frequently had to take responsibility for finding a school that will accept children. This is particularly difficult mid-way through the school year. The ECAHB social work team reports that it has developed a good working relationship with school principals to facilitate mid-year enrolment of separated children. However, it is not clear how many separated children fail to access education as they are not linked in to educational systems.

Children with poor or no English may not be at the standard where they can go straight into the Irish school system. In these cases, Health Board workers link children to various organisations offering a basic English programme before entering children in mainstream schools. However, concerns were

¹⁴ It was not within the scope of this report to assess the health needs and responses to the health needs of unaccompanied minors, so this is an area in need of further investigation.

¹⁵ It was not within the scope of this report to assess the educational needs of separated children, and a detailed analysis of issues facing separated children with respect to education is shortly to be released by the VEC.

raised that this is inadequate, and once mainstreamed, children need ongoing language support and special instruction. Children with literacy or specific education needs are particularly vulnerable to getting left further behind educationally.

The Department of Education issued a leaflet on the education of foreign students in primary and secondary schools. The leaflet recommends, amongst other measures, that ‘all schools with non-national students treat all students and non-national students fairly; consider establishing an informal support team that involves the Principal, teaching staff, representatives of the students and parents; create a buddy system of help for non-national students to acclimatise to the new school; and ‘pay attention to the particular needs of non-national students especially if they’re unaccompanied minors.’ However education sources stated that currently schools do not have sufficient resources to implement all of the recommendations.

Individual schools have responded to the circumstances of separated and non-national children in responsive and creative ways. However, in many other cases, separated children grapple with the education system with little extra support.¹⁶ At present, there is a view that separated children are viewed within a deficit education model, rather than assessing the skills they already have and building in supports to empower them to learn.

As asylum seekers, separated minors or those that ‘age-out’ of the system do not have the right to attend third level education. It is only if they get refugee status and they live in Ireland for three years they can access full-time third level education. But they lose their social welfare payments and they are not entitled to unemployment assistance if they are enrolled in full-time third level education while in the asylum process. There are reports that minors have had their social welfare allowances stopped for enrolling in post-leaving certificate courses, which has resulted in youth experiencing significant hardship.

An increasingly pressing issue is what will happen with children who are refused refugee status but are still enrolled at school?

There is a lack of co-ordinated information to inform minors of their entitlements with respect to education. Difficulties have arisen in cases where the minors cannot speak English and they have been obliged to enrol in a school without any assistance whatsoever. Many have the ambition to attend third level, but frequently receive no information regarding what subjects or courses are appropriate to take; for example, if they enrol in a Youthreach programme, they then rule out the possibility of accessing third level education.

Conformity with Statement of Good Practice

Statement of Good Practice	Progress since 1999	Conformity with the SGP
Education, language and training	<p>The City of Dublin Vocational Education Committee (VEC) has established a post to address the educational needs of separated children through setting up a working group and developing pilot education projects.</p> <p>Non-statutory bodies have initiated summer schools, literacy classes and homework</p>	<p>Separated children have the same statutory rights as Irish children with regard to primary and secondary education.</p> <p>Resources to link children with education institutions are very limited. It is unknown how many separated children access or fail to access education.</p> <p>The extent to which schools</p>

	<p>clubs to support children's education.</p> <p>Research on the educational needs of separated children is being finalised by City of Dublin VEC.</p> <p>Development of agreed procedures between RIA, ECAHB and second level schools in the ECAHB area on the enrolment of unaccompanied minors in schools.</p>	<p>provide a flexible, welcoming approach is reported to be good, and principals accept children into schools mid-year.</p> <p>Basic English language support is resourced by the Department of Education. In general, children do not have access to mother tongue teaching.</p> <p>Vocational and professional training is highly restricted and not available to separated young people at third level. Asylum seeker adolescents are not entitled to access third level programmes.</p>
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Asylum or Refugee Determination Process

In Ireland, separated children have access to the normal asylum procedure, and the same definition of a refugee applies, regardless of age. There is a need for an alternative form of protection for those children who do not fall within the narrow definition of a refugee. At the moment, the Health Board has little option but to make an application for asylum for a separated child who cannot be reunited with his/her family, even if does not appear, subjectively and objectively, as though the child has grounds for asylum.

Accelerated Procedures

The accelerated procedures that currently operate in Ireland are the 'Dublin Convention' (safe third country) and the finding of a case to be 'manifestly unfounded'. "Safe country of origin" policies, which contravene the spirit of the 1951 Convention, have been included in the Immigration Act 2003. This Act was passed at the time of writing this report. Included are the provisions for accelerated procedures. These may apply to individuals who made false or misleading representations, to individuals who did not make an application at the earliest opportunity and to individuals whose application does not show on its face any grounds for contention of refugee status. These particular procedures, and safe country of origin policies, should never be applied to separated children. Under the Immigration Act 2003, priority is to be accorded to minors. As discussed in Chapter 6 of the report, this may not be appropriate in all cases.

Dublin Convention

In September 1997, the Dublin Convention 1990 became part of statutory procedures with the introduction of the Dublin Convention (Implementation) Order¹⁷. As applications of unaccompanied minors are processed in the same manner as those of adults, their applications may be examined under the Dublin Convention. Dublin Convention procedures may be applied up to six months after an application for asylum has been made. Proceeding under the Dublin Convention, can, in certain cases, potentially serve the best interests of the separated child by reuniting him/her with a family member seeking asylum in another country. According to an answer to a Dáil question¹⁸, to date there have been three Libyan minors transferred under the Dublin Convention to the United Kingdom where their parents were awaiting the decision of the UK authorities on their applications

¹⁷ Dublin Convention (Implementation) Order. [S.I. No. 360 of 1997]

¹⁸ Dáil Question to Minister for Justice, Equality and Law Reform, 17th December 2002

for refugee status, two Romanian minors transferred under the Dublin Convention to the United Kingdom and one Nigerian minor transferred under the Dublin Convention to Germany.

‘Dublin II’¹⁹, was adopted in January 2003, and means that there are now specific guidelines relating to unaccompanied minors²⁰ who may have travelled through other States before arriving in Ireland. Under Article 6 of this Regulation, where the applicant for asylum is an unaccompanied minor, the Member State responsible for examining the application shall be that where a member of his or her family is legally present, provided that this is in the best interest of the minor. In the absence of a family member, the Member State responsible for examining the application shall be that where the minor has lodged his or her application for asylum.²¹

If an unaccompanied minor wishes to make an appeal against a decision made under the Convention, s/he or his/her representative must do so within 5 working days of the issue of the notice.

Manifestly Unfounded Cases

The Immigration Act 2003 repeals Section 12 of the Refugee Act 1996, which set out the criteria for finding an asylum application to be ‘manifestly unfounded’. Section 12 of the Refugee Act 1996 provided that at any time during the investigation of an application for asylum, the ORAC may form the opinion that a case is “manifestly unfounded”. With regard to adult applicants, this included making such a decision before the substantive interview. If a case was determined manifestly unfounded this is the equivalent of an initial negative decision.²² The twelve grounds for determining a case to be manifestly unfounded in Ireland are set out in Section 12(4)(a-I) of the Refugee Act 1996 (as amended). An appeal, on paper only, could be made against a decision that an application for asylum is manifestly unfounded. The appeal had to be lodged within 10 days to the RAT.

To date, this concept of ‘manifestly unfounded’ has rarely been used with separated children. In 2002, four cases were deemed to be manifestly unfounded – two were aged out, and two were reunited with family. However, there have been recent cases, where an opinion was formed by ORAC, prior to the interview, that the cases were manifestly unfounded under Section 12(4)(b) of the Refugee Act (as amended) – where insufficient detail has been provided to substantiate an asylum claim. The ORAC notified the applicants before their interview of this opinion, and the applicants were afforded the opportunity to have an interview to explain whether or not they had a *well-founded fear of persecution*.

Legal representation

In order that separated children are able to express their views in relation to their asylum applications, it is vital that they are legally represented at all stages.

The Refugee Legal Service (RLS) was established by the government in 1999 as a law centre of the Legal Aid Board; therefore it falls under the Civil Legal Aid Act 1995, for the purpose of providing legal advice and legal aid to asylum seekers for a nominal fee. The RLS has a specialised children’s unit dealing exclusively with unaccompanied and accompanied minors. The Unit is made up of three solicitors and six caseworkers who have received specialised training from the UNHCR.

Registration with the RLS is usually done as soon as the unaccompanied minor makes an application

¹⁹ Council Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, Brussels, 21 January 2003

²⁰ “Unaccompanied minor”, according to the Dublin Convention, means an unmarried person below the age of eighteen who arrive in the territory of the Member States unaccompanied by an adult responsible for them whether by law or by custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the Member States.

²¹ Article 6

²² For more information on the manifestly unfounded procedures see *Manifestly Unjust: A Report on the Fairness and Sustainability of Accelerated Procedures for Asylum Determination*, Siobhán Mullally & Sheila McGovern, Irish Refugee Council, September 2001.

for asylum. It is done by the social worker, either in person, by fax or post. Most children register with the RLS before they submit their questionnaire. As soon as a child is registered with the RLS, they are immediately allocated to a solicitor and a caseworker. The first consultation with the child and the social worker takes place with the solicitor/caseworker prior to filling in the asylum questionnaire, during which interpreters are available if necessary, and the minor is introduced to the RLS, to the definition of a refugee and to the asylum process. The minor must fill out the questionnaire himself or herself; the RLS will deal with any queries arising. The second consultation takes place prior to the substantial interview with the ORAC. The minor is accompanied by solicitor/caseworker at the interview with the ORAC. A third consultation might take place over the next seven working days for the purpose of making post-interview submissions.

Difficulties have arisen with regard to legal representation for young persons whom the ORAC have assessed to be over 18, and the young person claims to be a minor. The difficulty in representing an unaccompanied minor in the asylum process stems from the capacity of a minor to give instructions. Section 8 of the Refugee Act places a statutory duty on the Health Board to make an asylum application on behalf of an unaccompanied minor.

Minimal procedural guarantees

First Instance Hearing: Office of the Refugee Applications Commissioner (ORAC)

Under the Refugee Act (as amended), an independent statutory office, the Office of the Refugee Applications Commissioner (ORAC) was established to consider applications for refugee status. The ORAC have ensured that staff dealing with unaccompanied minors have received special training and have drawn up policies in relation to separated children. Children's applications are accorded priority, and once the questionnaire has been submitted, it now generally takes between six weeks and two months for an interview. The ORAC are satisfied that this timeframe will remain constant, unless there are larger numbers of separated children applying, or there is a sudden shortage of trained caseworkers.

Appeals: Refugee Appeals Tribunal (RAT)

If the recommendation of the ORAC is that the applicant should not be declared a refugee, a Notice of Appeal must be submitted to the Refugee Appeals Tribunal (RAT) within 15 working days. The case will generally be dealt with in-house by a solicitor of the Children's Unit. In certain circumstances, depending on factors such as the solicitors' caseload the solicitor retains discretion to instruct a barrister who has expertise in this area.

The Refugee Appeals Tribunal was established under Sections 14 and 15. The Tribunal is a statutorily independent body, and exercises a quasi-judicial function. The processing of appeals from Unaccompanied Minors has been an issue for the Tribunal effectively since July 2002, at which time the ORAC started to process applications at first instance. Initially there were three members of the Tribunal selected to hear appeals from minors. These members have undertaken special training provided by the UNHCR. The Tribunal has since selected have four additional members available to hear unaccompanied minors cases and these selected Members have also received specialist training.

The RAT, in recognition of the sensitivities surrounding the processing of appeals by unaccompanied minors has prepared special procedures. All policies are drawn up with respect to Statement of Good Practice. The Tribunal also has internal procedures for processing appeals by unaccompanied minors in terms of flagging such appeals and dealing with them in a timely and sensitive manner. Once an appeal has been lodged, an appeal hearing will be set for approximately six to eight weeks later.

Independent Assessments

- Neither the ORAC, nor the RAT currently uses an independent expert in individual cases.

Interviews

The ORAC and RAT have received training, arranged by UNHCR, on interviewing techniques for separated children. Both also have policies in relation to these interviews. One of these policies is that every effort will be made at the interview to ensure that the minor/child has an opportunity to fully explain his or her circumstances and any fears that s/he may have of returning to the country of origin.

While all may have received training, it is reported by solicitors, caseworkers and Health Board staff, that there is a varying degree of technique with regard to communicating successfully with children. A ‘child-friendly manner’ includes ensuring that the seating arrangements in the interview room, the body language of the interviewer, the way in which questions are presented, are all as ‘child-friendly’ as possible. Both the ORAC and the RAT give children a break during the interview, if the child or the Health Board worker requests it, or if the child becomes distressed during the interview.

The Health Board worker decides whether a legal representative will attend the interview, and minors are always accompanied to the interview by their solicitor or caseworker. In the case of a legal representative attending the interview, the normal procedures apply as they would in an adult interview. The legal representative may not intervene during the interview but may make comments at the end of the interview, or in writing within seven days of completion of the interview.

The minor or child, the RLS representative and the Health Board Representative will be given a record of the interview. The caseworker of the ORAC will also fully explain to the child, the steps that will, or may follow in the asylum process.

With regard to the appeal, if the Health Board representative or guardian is aware before the hearing of any special needs of the minor these should be brought to the attention of the legal representative who can inform the Member at the hearing, or they may be brought to the attention of the Tribunal prior to the date of the hearing. The appeal hearing is an inquisitorial process. The minors are not interviewed but are taken through their evidence by their legal representative. The Health Board is there to represent the social needs of the Minors.

Some emergent issues with respect to interviews were:

- *Interviewing pre-adolescents* Questions have arisen in the course of the research as to how to interview very young children – or whether very young children should be interviewed at all. An interview per definition requires questions and a format. If there is a departure from this format, in the case of very young children, and if instead of oral questioning, the use of toys and drawings is made, an expert is required to interpret. Due to a lack of experience of interviewing pre-adolescent separated children in Ireland, the ORAC requested training from UNHCR in this area. UNHCR sourced experts from Sweden to conduct the training. A Swedish psychologist and immigration official, who have been working in the area for fifteen years, provided combined training, for the ORAC, the RAT the RLS and the Health Board team.
- *Continued health board representation* An immediate issue of concern is that, due to the demands, time-wise, that attending the interviews places on the Health Board workers, they are not sure if they will be able to continue attending all interviews.
- *Interpreters* There is an ongoing concern about the scarcity of professionally trained interpreters. While many of those providing interpreter services are excellent linguists, ethical issues arise in relation to confidentiality and specific communications skills with children, in the absence of professional training.

Criteria for making a decision on a child's application

Asylum decisions are not published in Ireland, so, without the opportunity to analyse cases, it is impossible to make an in-depth commentary on the 'substantive' rather than the 'procedural' law in this area. The ORAC and RAT policies, as outlined below, are in conformity with the statement of good practice, however, others bodies refer to the fact that there are varying degrees of conformity with the policies.

Overview of ORAC policies

In investigating an application of an unaccompanied minor/separated child, the ORAC will endeavour to ensure that the maturity of the minor or child, or any other particular circumstances (trauma, abuse etc.) is/are taken into account. In investigating the application of an unaccompanied minor/separated child, it is accepted that some minors or children may not be able to elucidate the reasons why they left their country of origin, and why they are applying for asylum. In the investigation of an application of an unaccompanied minor/separated child, the ORAC will address whether the child's race, religion, etc. would make him/her liable to persecution in their country of origin. Where necessary and possible, the circumstances of the case will be discussed by the caseworker of the ORAC and the Health Board Representative before the interview. The Health Board representative may bring to the attention of the caseworker any particular circumstances relevant to the minor child.

In the examination and investigation of the factual elements of the claim of an unaccompanied minor or separated child, regard will be given to circumstances such as:

- The child's stage of development
- His/her possibly limited knowledge of conditions in the country of origin
- Their significance to the legal concept of refugee status, and his/her special vulnerability

It is acknowledged that some minors or children may manifest their fears in ways different from adults or that they may not be able to fully elucidate the reasons why they left their county of origin. In the examination of the claim of an unaccompanied minor or separated child, it may therefore be necessary to have greater regard to certain objective factors such as country of origin information, and to determine, based upon these factors, whether a minor/child may be presumed to have a well-founded fear of persecution.

It may also be necessary to take into account that particular policies and practices amounting to violations of specific rights of the child may, under certain circumstances, lead to situations that fall within the scope of the 1951 Geneva Convention relating to the Status of Refugees. It may also be necessary to take into account that the circumstances of the family members may be central to a minor's or child's refugee claim, and that she/he may fear or have been affected by other discriminatory or persecutory measures affecting the entire family.

Conformity with the statement of good practice

Principle	Progress since 1999	Conformity with the statement of good practice
Access to the asylum procedure	All children have access to the asylum procedure and procedures have been developed for unaccompanied minors in consultation with a wide array of partner agencies.	Applying 'manifestly unfounded', or other 'accelerated procedure' provisions to separated children is not in line with the SGP.
Legal Representation	RLS has developed a specialised unit for unaccompanied minors. Since 1999, all separated children, who are not	All separated children, who are not reunited with family in Ireland, now have legal representation, in line with

	reunited with family in Ireland, have legal advice attending interviews.	the SGP.
Minimum Procedural Guarantees	ORAC and RAT have made huge improvements with regard to dealing with separated children. Both have trained staff who are dedicated to separated children. The timescale for decisions on a child's application is now generally within six months.	Policies are in line with the SGP. Children are given the right to appeal a negative first instance decision. Applications from separated children are prioritised
Independent Assessment	ORAC has never used the services of an independent expert in relation to an assessment of the ability to articulate a well-founded fear of persecution.	
Interviews	Since 1999, all separated children, who are not reunited with family in Ireland, have legal representatives and their social/case Health Board worker attending. ORAC, RAT and RLS have had inter-agency training with regard to interviewing separated children.	All staff interviewing children, have been trained in this area but there are reports of inconsistent quality of interview skills with minors. No child-centred methodology exists for interviewing young children.
Criteria for making a decision on a child's asylum application	ORAC and RAT have put in place procedural and evidentiary policies in relation to determining a child's application for asylum	These policies are in line with the Statement of Good Practice. Exactly how the policies are applied in Ireland cannot be determined without a more in-depth analysis of cases

Durable Solutions: Remaining in a Host Country; Integration; Family Reunification and Returns to a Country of Origin; Settlement in a Third Country

Remaining in host country

In Ireland, separated children may remain legally by being recognised as refugees, being granted leave to remain or being reunited with family, already recognised as refugee in Ireland under Section 18 of the Refugee Act 1996.

To date, 110 unaccompanied minors have been granted refugee status at the first instance. This excludes those that aged-out during the application process. Many more unaccompanied minors are awaiting a decision on their appeal to the Refugee Appeal Tribunal. Others, whose application for refugee status has been refused, are awaiting the outcome of a decision by the Minister for Justice, Equality and Law Reform on their application for leave to remain, under Section 3 of the Immigration Act 1999. There are approximately 297 young people awaiting such a decision and an issue will be: what is going to happen for those children with respect to durable solutions in their best interests?

Table 10 summarises some of the differences and similarities between having refugee status and leave to remain, in terms of their implications for children's best interests. As can be seen, temporary leave to remain offers weak legal protection compared to refugee status, and there is a need for an alternative such as some form of complementary protection.

In general, attention and resources to date have been directed to the reception and interim care of separated children. Practice in relation to durable solutions, outside of entering and supporting children through the asylum process, is undeveloped as yet.

Family Reunification for Minors in Ireland in host country

Where a minor is recognised as a refugee, he or she is entitled to family reunification under Section 18(3)(b) of the Refugee Act (as amended), for his/her parents to join him/her in Ireland. The minor must apply to the Minister for Justice, Equality and Law Reform for family reunification. The application is then transferred to the ORAC, whose function it is to investigate the application and to submit a report to the Department. Both parents must have right of access to child. As stated above, 110 children have received refugee status, and statistics are not available on how many minors have been granted leave to remain. According to the ORAC, family reunification cases of minors are prioritised in their Family Reunification Unit. It can take a number of months for a decision on a family reunification application to be decided.

Integration

Children who are recognised as refugees, or granted leave to remain in Ireland, remain under the care of the Health Board until they turn 18. The rights of these children with regard to education, and health care are the same as that for Irish children. However, minors that are granted leave to remain are in a much more vulnerable situation with respect to rights to facilitate their social and economic integration, such as access to Third Level education and training courses.

Family tracing, contact, reunification and voluntary return to country of origin

Family tracing and reunification for separated children in Ireland are not well developed, especially prior to an asylum application being made. This is due to a number of factors, which are discussed in Chapter 6 of the report. In total, 33 children have applied for family reunification to their country of origin, of which there has been 1 case closed with a successful outcome to date. Tracing and reunification is presently been handled by the Irish Red Cross. Tracing is initiated on behalf of the child through the social worker. The two services the Irish Red Cross offers are a ‘family messaging’ service and family tracing. Family messaging is the first stage of the tracing process, and involves sending a message form containing information with brief details about a child, details of who he or she is writing to, and a contact address and brief message, to the International Committee of the Red Cross office. At best the process of sending a message and receiving a reply can take 8-12 weeks. In many cases, it can take from months to years, as messages are returned after 8 weeks, and re-sent if desired. In the case of unaccompanied minors, if the messaging service is unsuccessful, tracing can then be initiated.

The Irish Red Cross is not resourced for this task. There is no detailed child-centred tracing methodology in place, no interpreter facilities, and it is a part-time service and on request. If tracing is successful, and a child and family have details to contact each other, the Irish Red Cross has no further involvement, and the case is closed. The Department of Health and Children do not have responsibilities in the area of family reunification to a country of origin or follow-up, so this area is a major gap at present in service provision.

With respect to voluntary return, IOM has worked to return a number of separated children to their country of origin under their Voluntary Assisted Return Programme. This programme was mainly offered to Romanian and Nigerian nationals, though the organisation accepted applications from children of other nationalities on an exceptional basis. Unaccompanied minors, although a small number of voluntarily returned individuals, represented approximately 10% of the overall number of

individuals returned through the programme. According to IOM staff, about twice as many children applied but half decided not to go through with the process. This is a programme that has been offered to a limited group and, based on this experience, is being explored for further development in conjunction with the Ministry of Justice, Equality and Law Reform.

Settlement in a Third Country

‘Dublin II’, as discussed earlier in the report, provides for the asylum application of an unaccompanied minor to be processed in the country where there may be family of the child. Where family members have been located, children have been reunited under Dublin Convention procedures, with their family. It is not clear how many children have been re-united in this way.

Deportation: Involuntary return

With respect to involuntary return, to date 9 unaccompanied minors have been deported.²³ All returns, voluntary or involuntary, to country of origin must comply with these mechanisms set out in detail in Article 12.2 of the Statement of Good Practice. This includes ensuring it is safe for a child to return, that a child’s guardian agrees it is in the child’s best interests to return and the carer or State agrees to care for the child, that a careful assessment is made of the family situation, and this investigation be carried out in conjunction with professional, independent and non-political organisations, such as the IOM, ICRC or Save the Children Fund. If it is not possible to comply with any of these mechanisms, a minor should not be returned. It is not clear whether those returns carried out to date complied with all or any of these protection safeguards.

Conformity with the statement of good practice

Statement of Good Practice	Progress since 1999	Conformity with the SGP
Remaining in a host country	Asylum procedures have been adapted to facilitate children to access this process.	Two grounds exist for permission to remain: refugee status and leave to remain.
Family reunion in a host country (family to join child)	The ORAC is processing applications for family reunification for some minors granted refugee status.	Procedures for dealing with applications by separated children, recognised as a refugee, for family reunification i.e. family members joining the child in Ireland are in place. It remains to be seen how these will work in practice.
Integration	Limited language support in schools for asylum and non-national children. Significant numbers of children are presently reaching the end of the asylum process or requests for humanitarian leave to remain. The issues of long-term placements, ‘after-care’ programmes and transitions to independent living will become more important in the near future.	Children granted refugee status are entitled to the same rights as Irish children. They receive some language support through schools. No extra statutory support exists with respect to social integration. The integration of children granted leave to remain is adversely affected by their lack of right to access third level education or training.
Return to country of origin	IOM and the Irish Red Cross, in conjunction with the Health	Voluntary Return Programmes for Nigerians and Romanians

²³ Dáil question, 17th December 2002.

	<p>Boards, have undertaken voluntary return.</p> <p>33 children have been registered for family tracing and reunification.</p>	<p>have included unaccompanied minors, and the return process appears to have been in conformity with the SGP.</p> <p>Family tracing and reunification is undeveloped and lacks resources. It is responsive to requests and practice in this area is not systematically in place.</p> <p>In situations of involuntary return i.e. deportations, it is not known if the protection mechanisms listed in 12.1.1(a) of the SGP were carried out.</p>
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