

THIS IS WHO WE ARE

Part 2



Documentation of the secondary findings from the profiling survey of unaccompanied Afghan children arriving to Sweden in 2015

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1 Introduction

Amidst the unprecedented numbers of refugees and migrants arriving to Europe in 2015 was an equally unparalleled number of unaccompanied and separated children (hereafter “UASC”). Girls and boys who had seen no other alternative than to flee on their own, and undertake the dangerous journey despite risks of exploitation, abuse, and even death, along the route. More than half of the UASC who arrived in Europe were Afghan nationals. Half of these Afghan UASC chose Sweden as their final destination.

In order to enhance the understanding of who these Afghan UASC are, what made them decide to leave their place of residence and undertake such a long and difficult journey, what happened along the way, and why they ultimately chose Sweden as their destination, UNHCR decided to undertake a profiling study of Afghan UASC who had arrived to Sweden and sought asylum in 2015. Individual interviews, based on pre-prepared questionnaires were conducted by trained Dari/Farsi or Pashto-speaking enumerators with 240 Afghan UASC, randomly selected from lists kindly provided to UNHCR by the Swedish Migration Agency (hereafter the “SMA”). In addition, four focus group discussions were conducted by UNHCR staff from the UNHCR Representation in Afghanistan, in which 34 boys participated.

The findings from these individual interviews, and focus group discussions are presented in the report *“This Is Who We Are - A study of the profile, experiences and reasons for flight of unaccompanied or separated children from Afghanistan seeking asylum in Sweden in 2015”* (hereafter “This Is Who We Are”)¹ The findings relating to the background and ‘profile’ of the Afghan UASC, the reasons that compelled them to leave Afghanistan or their first country of asylum and the risks they experienced along the journey to Europe will inform UNHCR’s protection and solutions response and programming in the relevant countries, and, hopefully, provide asylum countries like Sweden with a deeper understanding of the background and needs of this vulnerable population.

While the profiling survey was not intended to gather information about, and/or assess, the reception of Afghan UASC in Sweden by the national authorities, a number of issues were noted during the course of the study, which touch upon the application of the best interests of the child principle, including the use of best interests assessments and determinations; family tracing; identification, registration and information sharing; the capacity of guardians; accommodation; and security from exploitation. Based on the constructive discussions during two consultative meetings held with a group of national and regional stakeholders,² where the preliminary findings from the primary report “This is Who We Are” as well as secondary findings were presented, UNHCR decided to also publish this report, documenting secondary findings from the profiling survey. While these findings are not the outcome of scientific research, UNHCR notes that they largely correspond with findings from previous studies conducted by other actors, the experiences of the national stakeholders consulted, as well as of UNHCR from its

¹ UNHCR, This Is Who We Are - A study of the profile, experiences and reasons for flight of unaccompanied or separated children from Afghanistan seeking asylum in Sweden in 2015, October 2016, available at: <http://www.unhcr-northerneurope.org/>

² The Swedish Ministry of Justice, Ministry of Health and Social Affairs, the Swedish Migration Agency, the National Board of Health and Welfare, the Ombudsman for Children and the Swedish Association of Local Authorities and Regions.

interaction with UASC in the asylum system, and reports in the media. UNHCR therefore hopes that this report can contribute to ongoing discussions and processes aimed at strengthening the reception and protection of UASC in Sweden.

2 The Reception and Protection of UASC in Sweden

2.1 Arrival and identification of UASC in Sweden ³

In 2015, 88.300 UASC applied for asylum in Europe. Of these, Sweden received 35.369 UASC, with applications lodged by UASC constituting one-fifth of all asylum applications in Sweden. Remarkably, over half of the UASC applying for asylum in Europe 2015 were Afghan nationals,⁴ out of which Sweden received 23.480. Afghans thus made up two-thirds of the total number of UASC who applied for asylum in Sweden in 2015. More than half of all Afghan UASC who applied for asylum in Europe 2015 applied in Sweden.⁵

The number of persons applying for asylum in Sweden has steadily increased over the past years, with a marked increase in 2015 when a record number of 162.877 persons applied for asylum, resulting in a 50 percent increase compared to the previous year.⁶ Sweden was also the European country that received the highest numbers of UASC asylum applications both in 2013 and 2015.

When an UASC arrives in Sweden, the social services in the municipality where the child is first identified shall be notified of the child's arrival. An UASC is assigned to a resident municipality, based on a principle of equal distribution of responsibility among the municipalities of Sweden. Until the child is assigned to a resident municipality and moves there, the municipality of arrival is responsible for the care of the child. Unless the municipality of arrival is assigned to be the resident municipality, the stay in the municipality of arrival is temporary and the child does not have access to all basic services, such as primary and secondary school.

The social services in the resident municipality, where the child settles for the duration of the asylum procedure, provides accommodation in a care home or with a foster family, and appoints a legal guardian who functions as the legal care taker in Sweden. The social services are also responsible for conducting best interests assessments during the course of the child's stay in Sweden. The National Board of Health and Welfare provides, *inter alia*, non-binding instructions to municipal social services concerning the management of UASC cases.

³ For further information about the reception and protection of UASC in Sweden, and the involvement of different actors, see for example Save the Children's report: *One Plus One Equals Three - A mapping of the reception and protection of unaccompanied children in Sweden*, available at: http://www.connectproject.eu/PDF/CONNECT-SWE_Report.pdf

⁴ Eurostat, Press release 87/2016, 2 May 2016, available at: <http://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf/19cfd8d1-330b-4080-8ff3-72ac7b7b67f6>, p. 3.

⁵ Eurostat, Press release 87/2016, 2 May 2016, available at: <http://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf/19cfd8d1-330b-4080-8ff3-72ac7b7b67f6>, p. 3;.

⁶ SMA, Asylum applications 2015, available at:

<http://www.migrationsverket.se/download/18.7c00d8e6143101d166d1aab/1451894593595/Inkomna+ans%C3%B6kningar+om+asyl+2015+-+Applications+for+asylum+received+2015.pdf>

2.2 Responsibility for assessing and determining a solution in the best interests of UASC in Sweden

For a child who arrives to Sweden without a legal caretaker and without family or other links in Sweden, on the basis of which he or she could seek a right to reside, the only pathway available towards a permit is the asylum procedure.

The SMA is the authority in charge of the asylum procedure. When an UASC approaches the SMA to apply for asylum, the SMA registers the asylum claim, appoints a legal representative and, in due course, determines if the UASC is in need of international protection or should be granted a residence permit on another ground.

The principle of the best interests of the child, which is provided for in Article 3 of the Convention on the Rights of the Child, (hereafter the “CRC”)⁷ is expressed in the Swedish Aliens Act, Chapter 1, Section 10. The provision is formulated as an overarching principle and reads:⁸

”In cases involving a child, particular attention must be given to what is required with regard to the child’s health and development and the best interests of the child in general.”

Aliens Act, Chapter 1, Section 10

The Ombudsman for Children in Sweden is the Government agency responsible for supervising the implementation of the rights set out in the CRC. The Ombudsman for Children does not have regulatory powers, but provides advice to authorities on how the rights of children can be respected.⁹ The Ombudsman for Children has developed a model for a so-called “child impact analysis”, based on the CRC, to assist decision makers to systematically take a child perspective into regard in the decision-making.¹⁰

The Government’s Ordinance with instructions for the SMA obliges the SMA to assess the consequences its decisions or actions will have for children, before a decision or action that concern children is undertaken.¹¹ In its Handbook on Migration Cases, the SMA states that a child impact

⁷ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html>. About the responsibilities of Ombudsman for Children in Sweden see: <http://www.barnombudsmannen.se/om-webbplatsen/english/>.

⁸ The Swedish Alien’s Act is available in Swedish, Utlänningslagen, SFS 2005:716, at: http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716_sfs-2005-716.

⁹ See further about the mandate of the Ombudsman for Children at <https://www.barnombudsmannen.se/om-webbplatsen/english/>

¹⁰ Information about the Ombudsman for Children’s model for child impact analyses is available in Swedish at: http://www.barnombudsmannen.se/globalassets/dokument-for-nedladdning/publikationer/faktablad/faktablad2_uppna11.pdf.

¹¹ Section 2, point 9, of the Ordinance with Instructions for the Swedish Migration Agency, (“Förordning (2007:996) med instruktion för Migrationsverket”), available in Swedish at: http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2007996-med-instruktion-for_sfs-2007-996.

analysis includes a systematic approach to gathering and describing relevant facts, and analyzing the consequences a decision will have for the child, before a decision is made.¹² The SMA handbook further states that decisions should specify how the assessment of the child's best interests has been carried out. The SMA has developed a non-exhaustive check-list to ensure that the child's best interests is given due regard in the asylum procedure.

¹² The Swedish Migration Agency, *Handbok för migrationsärenden*, updated per 25 oktober 2015, available at: http://www.migrationsverket.se/download/18.5e83388f141c129ba63109a5/1445867195906/handbok_migrationsarenden.pdf page 334ff.

3 . Secondary Findings from the Profiling Survey of Afghan UASC

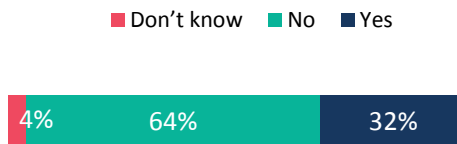
3.1 Assessments and determinations of the best interests of UASC arriving to Sweden

One of the questions asked during the individual interviews with the UASC who participated in the profiling survey was “Since you arrived in Sweden, have you had an in-depth discussion with State authorities, or other organization about your future?”

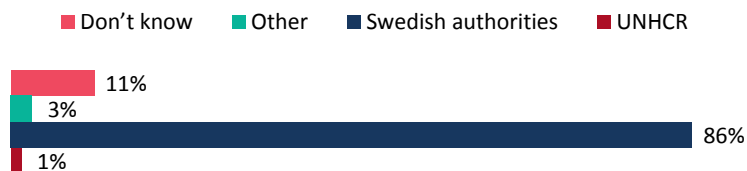
The reason for including this question was UNHCR’s wish to better understand how UASC themselves perceive the best interests assessments, and best interests determinations, that need to be undertaken concerning UASC pursuant to Chapter 1, Section 10 of the Alien’s Act, which is meant to reflect the obligations following from Article 3 of the CRC.¹³ The same question was therefore asked during the four focus group discussions with UASC.

Only one-third of the UASC interviewed said they had engaged in a longer conversation about their situation and best interests after their arrival to Sweden. Out of those who said they had a best interests assessment, the majority said they had discussed their best interests with the Swedish authorities (86%).

BIA conducted in Sweden



Person in charge of conducting the BIA in Sweden



¹³ See the Committee on the Rights of the Child’s elaboration on the operationalization of Article 3 CRC in UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, para. 79, available at: <http://www.refworld.org/docid/42dd174b4.html>; UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC /C/GC/14, available at: <http://www.refworld.org/docid/51a84b5e4.html>.

On the other hand, all UASC who participated in the focus group discussions stated that the Swedish authorities had held discussions with them about their best interests; however, the UASC were unable to specify with whom/which authority they had the discussions.

The findings from the individual interviews and the focus group discussions thus diverge. One reason could be that the UASC who participated in the focus group discussions had legal guardians who were more actively engaged in the UASC's well-being, and may therefore have ensured that a best interests assessment had been undertaken. Another explanation could be that the UASC interviewed misunderstood the question, and that the findings in relation to this part are unreliable. There may be value in examining this issue more closely in another study, as UNHCR's profiling survey did not yield any evidence-based, conclusive, findings in regard to asylum-seeking UASC's perception of how their best interests are assessed and determined.

Nonetheless, from the profiling survey conducted, and UNHCR's previous knowledge of the Swedish procedure, it is evident that an assessment, or determination of whether it is in the child's best interests to go through the asylum procedure is not conducted, before an UASC is actually referred to this procedure. This is largely due to the absence of any other pathway for UASC who have arrived to Sweden with the aim of seeking a right to stay. At the same time, the Committee on the Rights of the Child has stated that the best interests of the child "must also be a guiding principle for determining the priority of protection needs and the chronology of measures to be applied in respect of unaccompanied and separated children".¹⁴

Upon the remit of the Government, an Inquiry has presented proposals for the incorporation of the CRC into Swedish law.¹⁵ In its comments to the Inquiry's proposals, UNHCR has welcomed the Inquiry's proposal "to make it an obligation to carry out best interests assessments as a continuous process in all cases concerning children, in line with the interpretation of the principle of the best interests of the child as encompassing a rule of procedure" in line with the recommendations of the Committee on the Rights of the Child.¹⁶

Further, in the publication *Safe & Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*,¹⁷ (hereafter "Safe and Sound"), UNHCR and UNICEF recommend that 'process planning', which is defined as "the act of deciding which asylum or immigration procedures and which protection services are in the best interests of the child", is undertaken by the actors who have information of relevance for assessing and determining which actions are in the best interests of a particular child. By undertaking 'process planning', applications

¹⁴ UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, paragraph 31, available at: <http://www.refworld.org/docid/42dd174b4.html>

¹⁵ Barnkonventionen blir svensk lag, SOU 2016:19, available at: <http://www.regeringen.se/rattsdokument/statens-offentliga-utredningar/2016/03/sou-201619/>

¹⁶ UNHCR, Observations by the UNHCR Regional Representation for Northern Europe on the Inquiry "Barnkonventionen blir svensk lag" SOU 2016:19, 14 October 2016, available at: <http://www.refworld.org/docid/580a2e904.html>

¹⁷ UN High Commissioner for Refugees (UNHCR), *Safe & Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, October 2014, available at: <http://www.refworld.org/docid/5423da264.html>

from UASC would be dealt with as ‘child protection applications’, rather than as asylum applications by default. Process planning would require that the roles, responsibilities and relationships between the child protection (social) services, the asylum authority, and other actors are redefined, so as to create a holistic child protection framework for UASC. ‘Process planning’ would therefore, in UNHCR’s view, lead to a more holistic assessment of UASC’s protection needs.

“Safe and Sound” outlines two types of procedures to consider the best interests of a child; “the first is a so-called best interests assessment, or BIA, which is to be undertaken as soon as an individual child is identified as being at risk, and before any action affecting an individual child is taken, as part of a continuous process. A BIA could for example be used for the purpose of process planning. The other procedure is a so-called best interest determination procedure, or BID, which is a more formal procedure with specific procedural safeguards, used when significant decisions that will have a fundamental, long-term impact on the child’s future development are made, e.g. when deciding on a durable solution for a child. Both the BIA and the BID involves gathering the views of the child, as well as the views of other professionals with the relevant expertise, any other information as needed, and weighing the elements of the child’s circumstances. UNHCR places particular importance on the holistic nature of the BIA and BID processes, meaning that professionals with different relevant expertise shall collaborate in making the decisions on what would be in the best interests of a child.”¹⁸

UNHCR would recommend the relevant authorities to map how, when and by whom best interests assessments and best interests determinations of UASC arriving to Sweden are conducted today, in order to analyze whether the requirements set out by the Committee on the Rights of the Child are being implemented.

UNHCR would also recommend that the relevant authorities examines if a system of ‘process planning’ could be introduced to ensure a more holistic approach to the reception and protection of UASC in Sweden.

3.2 Family tracing

From the individual interviews conducted with the UASC who participated in the profiling survey, it appeared that the majority of the children were in contact with at least one parent.¹⁹ During the focus group discussions, several of the UASC also expressed a longing for their parents. A few had lost contact with their parents, who were either still in the country of origin or had been separated from the UASC during the journey.

¹⁸ “Safe and Sound”, page 20.

¹⁹ See full report UNHCR, This Is Who We Are - A study of the profile, experiences and reasons for flight of unaccompanied or separated children from Afghanistan seeking asylum in Sweden in 2015, July 2016, available at: www.unhcr-northerneurope.org

According to Section 2 of the Ordinance on the Reception of Asylum Seekers,²⁰ the SMA should conduct family tracing as soon as possible after an UASC has arrived to Sweden. The SMA will only conduct family tracing after the UASC has presented the asylum claim, to ensure that family tracing would be in the best interest of the child. In practice, the SMA has found that family tracing is difficult to conduct if the child does not cooperate.²¹

UNHCR understands from its discussions with the SMA that only limited efforts are taking place to trace family members in the initial stages of the asylum procedure. As a system of ‘process planning’ is not in place, the possibility of initiating family tracing is also not discussed amongst the actors involved, including the SMA, the child protection (social) services and the legal guardian before the asylum procedure is initiated.

In “Safe and Sound”, UNHCR and UNICEF express that UASC may be in contact with their family members but may be under instructions to resist family tracing. The UASCs resistance to family tracing could be better understood by providing counselling to the UASC, and by engaging with the UASC. Thereby an understanding of the individual circumstances of the child could be established, and with that, the trust of the UASC could be gained. “Safe and Sound” further elaborates that “gaining the trust of the child may be a long and sometimes difficult process, but it is critical to a full understanding of the circumstances surrounding the child’s separation and to supporting the child in reestablishing contact with her/his family”.²²

The Committee on the Rights of the Child has stated that:

“The ultimate aim in addressing the fate of unaccompanied or separated children is to identify a durable solution that addresses all their protection needs, takes into account the child’s view and, wherever possible, leads to overcoming the situation of a child being unaccompanied or separated. Efforts to find durable solutions for unaccompanied or separated children should be initiated and implemented without undue delay and, wherever possible, immediately upon the assessment of a child being unaccompanied or separated. Following a rights-based approach, the search for a durable solution commences with analysing the possibility of family reunification.”²³

²⁰ Förordning (1994:361) om mottagande av asylsökande m.fl. available at: http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-1994361-om-mottagande-av_sfs-1994-361.

²¹ Swedish Migration Agency, *Rättsligt ställningstagande angående verkställighet av beslut som rör ensamkommande barn* (Judicial position regarding enforcement of decisions concerning unaccompanied children). RCI 10/2013, 2013-06-12, available at: <http://lifos.migrationsverket.se/dokument?documentSummaryId=30447> (available in Swedish).

²² Safe and Sound, page 32.

²³ UN Committee on the Rights of the Child (CRC), *General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, 1 September 2005, CRC/GC/2005/6, para. 79, available at: <http://www.refworld.org/docid/42dd174b4.html>.

Family tracing should be undertaken as early as possible in the process, except where the act of tracing, or the way in which tracing is conducted, would be contrary to the best interests of the child or jeopardize fundamental rights of those being traced.²⁴

UNHCR would recommend that the relevant authorities review how family tracing could be undertaken more effectively, as soon as possible after the arrival of an UASC in Sweden.

3.3 Registration and maintenance of updated records concerning UASC in Sweden

To assist UNHCR in randomly selecting a representative sample of Afghan UASC to interview for the profiling survey, the SMA kindly provided UNHCR with lists containing names and addresses of the Afghan UASC who at the time of the sampling were applying for asylum in Sweden, as well as the names and addresses of their legal guardians.

To inform the guardians and children about the profiling survey, UNHCR sent out a letter, together with a flyer in Dari and Swedish with child friendly information intended for the children, to all guardians of the UASC selected for the survey. However, many of the legal guardians reportedly did not receive the letters. UNHCR did not verify the reasons, though a couple of letters were returned to sender with a note that the addressee was unknown.

During UNHCR's use of the lists provided by the SMA, a number of challenges emerged. Firstly, a sizeable number of the UASC who were selected for the survey from the lists turned out to be not of Afghan nationality. It is unclear if this was because the lists provided contained other nationalities than Afghans, or if the nationality of the children had been registered wrongly as Afghans. Additionally, several UASC were registered more than once in the lists, sometimes with two different legal guardians. Further, the list shared with UNHCR contained several discrepancies with regard to names and addresses of legal guardians and care homes, which were spelled and registered differently, which could perhaps partly explain the double registrations. The fact that some of the letters UNHCR sent out were returned to UNHCR could also indicate that the addresses of the legal guardians were not up to date.

Additionally, there were discrepancies between the information shared by the SMA and the information available to the municipalities. For example, a number of the legal guardians on the lists provided by the SMA were no longer the legal guardians of the sampled children. The municipalities

²⁴ UN Committee on the Rights of the Child (CRC), *General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, 1 September 2005, CRC/GC/2005/6, para. 80, available at: <http://www.refworld.org/docid/42dd174b4.html>.

had the information about the correct legal guardian, but the SMA evidently did not. In other instances, the child had moved and was no longer living in the sampled regions, however, the SMA did not have the updated information.

Furthermore, for a small number of legal guardians, neither the SMA nor the responsible chief legal guardian authorities could provide UNHCR with correct contact details for the legal guardians concerned.

The erroneous information in the records of the SMA raises questions as to how the SMA's register of UASC is maintained, including how information is registered, verified and updated. During the stakeholder consultations, the SMA noted that the exceptional pressure the agency experienced, when large numbers of UASC arrived during the second half of 2015, could explain the errors in their records to a certain degree. In this context, UNHCR notes that the authority in charge of overseeing the social services, the Health and Social Care Inspectorate, in a report to the Government in December 2015 raised serious concern over the fact that between September and December 2015, 31 municipalities reported to the Inspectorate that they were unable to live up to their obligations towards UASC, due to lack of capacity, which shows that many parts of the society were struggling to cope with the unprecedented situation in 2015.²⁵

The apparent gap in information sharing between authorities raises concern regarding the proper registration and maintenance of updated records of UASC in Sweden. It is important that all authorities responsible for the well-being and protection of a child is aware of the whereabouts and individual circumstances of a child.

It is of particular importance that there is a collaborative information sharing and assessment of the protection risks facing an individual child in situations where a child may be at risk of trafficking or exploitation, or is at risk of disappearing. During the stakeholder consultations, the stakeholders raised that information is not regularly shared, for example, with the police. The County Administrative Board in Stockholm, having identified a lack of coordination between relevant authorities in situations when UASC disappear, has started a network of different actors, authorities as well as civil society actors, in order to coordinate the knowledge about UASC who disappear, to prevent disappearances, and respond to the risk of UASC disappearing.²⁶ This is a good practice, which could be used as an example for how authorities can coordinate information sharing about UASC in Sweden.

²⁵ See <http://www.ivo.se/nyheter/2015/regeringsskrivelse-om-ensamkommande-barn/>

²⁶ The County Administrative Board in Stockholm, "Ensamkommande barn som försvinner – en nulägesanalys", available at: <http://www.lansstyrelsen.se/stockholm/SiteCollectionDocuments/Sv/publikationer/2016/R2016-1-Ensamkommande-barn-som-forsvinner-nulagesanalys-WEBB.pdf>. In February 2016, the Government tasked the County Administrative Boards in Sweden to conduct a national-wide analysis of unaccompanied children who disappear and how to prevent and respond to the risk of disappearing, see: Ministry of Health and Social Affairs "Uppdrag om barn som försvinner", available at: <http://www.regeringen.se/regeringsuppdrag/2016/02/uppdrag-om-ensamkommande-barn-som-forsvinner/>.

²⁶ Lag (2005:429) om god man för ensamkommande barn, section 3, available at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2005429-om-god-man-for-ensamkommande-barn_sfs-2005-429.

UNHCR would recommend that the relevant authorities review the procedures for registration and for maintenance of registers, to safeguard that all personal information and contact details of UASC, as well as their legal guardians, are updated. UNHCR notes in this regard that improving the communication between the relevant authorities could assist with timely amendments to registries, as well as facilitate for the relevant authorities to adopt a holistic approach to UASC's protection needs.

3.4 Access to a competent legal guardian

During the course of the profiling study, UNHCR contacted a large number of legal guardians through letter, e-mail and telephone. Most legal guardians appeared to be engaged and caring of the UASC under their responsibility. However, a number of issues of concern were noted in the contact with legal guardians. Firstly, some legal guardians contacted by UNHCR could not immediately identify which UASC UNHCR was calling about, as they were in charge of several UASC. A number of legal guardians on the lists made available to UNHCR were responsible for large numbers of UASC, with up to 25 UASC under their care. Secondly, some legal guardians contacted by UNHCR expressed a disinterest in taking on further work for themselves and declined participation for the UASC under their care, without first consulting the UASC. Thirdly, it is noteworthy that a sizeable number of UASC interviewed individually did not opt to bring their legal guardian as the person they trust to accompany them during the interview. Instead, many chose to be accompanied by a friend or a staff member from the accommodation centre.

According to the Act on Legal Guardians for Unaccompanied Children,²⁷ an UASC who arrives to Sweden shall be appointed a legal guardian as soon as possible. Every municipality has a chief legal guardian authority that is responsible for appointing, training and monitoring legal guardians.

There is, however, no national standard on how the monitoring of legal guardians shall take place. Nor is there a mandatory training or exam that legal guardians need to pass before being appointed.²⁸ The Swedish Association for Local Authorities and Regions, which represents municipalities and regions in Sweden, has developed a training for legal guardians which is freely accessible, but not mandatory. There is further no set limitation on the maximum number of UASC one legal guardian can represent. The Swedish Association for Local Authorities and Regions has called for an overhaul of the legislation concerning legal guardians, which they claim is outdated and does not correspond to the needs today.²⁹ In a report from 2010, Save the Children Sweden also called for a reassessment of the responsibilities

²⁷ Lag (2005:429) om god man för ensamkommande barn, section 3, available at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2005429-om-god-man-for-ensamkommande-barn_sfs-2005-429.

²⁸ For further elaboration, see CONNECT, *One Plus One Equals Three: A Mapping of the Reception and Protection of Unaccompanied Children in Sweden*, 2014, page 21, available at: http://www.connectproject.eu/PDF/CONNECT-SWE_Report.pdf.

²⁹ See the Swedish Association for Local Authorities and Regions position at: <http://skl.se/ekonomijuridikstatistik/juridik/overformyndarjuridik/skiltyckerogoromssystemetmedgodemanochoverformyndare.4486.html>.

of legal guardians for unaccompanied children.³⁰ In the report, Save the Children noted that despite a provision in the Act on Legal Guardians for Unaccompanied Children, the UASC is seldom given the right to express their wishes concerning who is appointed as legal guardian for them.³¹

In a recent report, Human Rights Watch also highlighted several deficiencies in the legal guardian system, including delays in the appointment of legal guardians, divergent practices concerning the appointment and training of legal guardians, and that legal guardians can be responsible for too many children.³² In its latest concluding observations to Sweden, the Committee on the Rights of the Child observed that the Swedish legislation does not provide for a time-frame when a legal guardian shall be appointed, and that the actual appointment can be delayed by weeks.³³

During the profiling study, it became evident to UNHCR that the different authorities involved in providing for the care and protection of the UASC held different pieces of information about the UASC, which creates a situation where a comprehensive understanding of the child's individual circumstances and protection needs in principle can be attained only by the legal guardian. It is therefore very important to ensure that UASC are provided with competent and qualified legal guardians, who are subject to regular supervision by the responsible authorities.

UNHCR would recommend that the relevant authorities and actors ensure that legal guardians who are assigned to be responsible for UASC are competent and qualified for their role, by for example ensuring that legal guardians undergo relevant training programmes and by ensuring that legal guardians are regularly supervised by the responsible authority.

3.5 Access to services

During the individual interviews and focus group discussions, the UASC raised several concerns regarding access to services, in particular education, during their stay in Sweden. The information obtained from the UASC interviewed, and from actors around them, indicate that many UASC are frustrated about the delayed access to education. Many UASC had found their own ways of learning Swedish, for example through attending classes organized by civil society actors. UNHCR observed a good practice in Uppsala, where the municipality had made school facilities available for UASC in the early morning (8-10) and late afternoon (16-18), so that the UASC could attend voluntary Swedish classes for two hours per day.

³⁰ Save the Children, Oklart uppdrag. Om rollen som god man för ensamkommande flyktingbarn, 2010, page 17, available at: <http://resourcecentre.savethechildren.se/sites/default/files/documents/2992.pdf>.

³¹ Ibid, page 5.

³² Human Rights Watch, Seeking Refuge: Unaccompanied Children In Sweden, 2016, page 27 ff, available at: <http://www.refworld.org/docid/575910a54.html>

³³ UN Committee on the Rights of the Child (CRC), Concluding observations on the fifth periodic report of Sweden, 6 March 2015, CRC/C/SWE/CO/5, p. 49, available at: <http://www.refworld.org/docid/566e7e8c4.html>

For the UASC whom UNHCR met, attending school was of key importance. According to the Ordinance on Education, asylum-seeking children should have equal access to education, and should be offered the chance to start in a school within one month of arrival.³⁴ In a recent report, the Swedish Ombudsman for Children found that none of the UASC residing in the temporary accommodation centres had been offered any education, despite the fact that the UASC had in some instances lived in the temporary accommodation in the municipality of arrival for several months.³⁵

It should also be noted that education is an important part of providing a stable environment for the UASC. According to a recent law proposal concerning *inter alia* municipal placements of UASC, 34 per cent of the UASC who arrived in Sweden in 2015 were accommodated in a municipality other than the one to which they had been assigned.³⁶ In 2016, several reports have suggested that the UASC who were placed outside of their assigned resident municipality now were being moved back to the resident municipality. Some legal guardians in one municipality, to whom UNHCR spoke during the survey, brought up this problem and expressed their concern that the UASC they were responsible for were being moved from the municipality, thereby uprooting them, and adding emotional stress to an already stressful situation. In UNHCR's comments to the law proposal concerning *inter alia* municipal placements of UASC, UNHCR expressed that the proposal to limit the possibilities for municipalities to accommodate UASC outside of the one the UASC had been assigned to "would strengthen the reception conditions for unaccompanied children through increased stability and predictability in their lives."³⁷ UNHCR further expressed that "the proposed amendments could lead to a better control of the whereabouts of unaccompanied children, and thereby strengthen the efforts made by municipalities, County Administrative Boards and other stakeholders to prevent trafficking and disappearances of unaccompanied children."³⁸

UNHCR observed during the focus group discussions, that many UASC displayed signs of stress, anxiety and sadness, and it is UNHCR's assessment that several UASC would benefit from psychosocial support. Based on information received from actors around the UASC, mainly their legal guardians, it appears however that the availability of psychosocial support for UASC is inadequate. The obstacles to gaining access to psychosocial support may increase by frequent moves, new environments and changes in the persons responsible for the care of the UASC.

UNHCR also noted during the profiling survey that many UASC explicitly asked for their individual interviews to be conducted in the care homes. The care homes that UNHCR was in contact with were

³⁴ Skolförordning (2011:185), Chapter 4, Section 1a, available at: http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/skolforordning-2011185_sfs-2011-185

³⁵ The Swedish Ombudsman for Children, *Barn på flykt - Barns och ungas röster om mottagandet av ensamkommande*, page 19, available at: <http://www.barnombudsmannen.se/globalassets/dokument-for-nedladdning/publikationer/barn-pa-flykt--barns-och-ungas-roster-om-mottagandet-av-ensamkommande.pdf>

³⁶ Ds 2016:21 Ändringar i fråga om sysselsättning för asylsökande och kommunplacering av ensamkommande barn, available at: <http://www.regeringen.se/rattsdokument/departementsserien-och-promemorior/2016/06/andringar-i-fraga-om-sysselsattning-for-asylsokande-och-kommunplacering-av-ensamkommande-barn/>

³⁷ UNHCR, *Observations by the UNHCR Regional Representation for Northern Europe on the Law Proposal (Ds 2016:21) concerning activities for asylum-seekers and municipality placements of unaccompanied children*, August 2016, paragraph 8, available at: <http://www.refworld.org/docid/57fb7fe619.html>

³⁸ Ibid.

in general very protective of the UASC under their care and took measures to ensure that unauthorized or harmful access to the UASC was not allowed.

UNHCR would recommend that the relevant authorities and actors strengthen UASC's access to education and other services, including psychosocial support, in a timely and effective manner, and to ensure that the UASC benefit from a stable environment so that they are able to take advantage of the services provided.

3.6 Access to child-friendly information

During the focus group discussions, several children expressed frustration over the long case-processing times and questioned the perceived de-prioritization of their asylum cases. Several children mentioned how they had already lived in Sweden for several months, without having gone through an asylum interview. They perceived that Syrian asylum-seekers were fast-tracked in the processing. UNHCR observed that when the UASC were given a number of possible reasons for the long case-processing time (e.g. the back-log built up at the SMA in 2015), and for the perceived prioritization of Syrian applicants (e.g. Syrian applicants' possible possession of verifiable identity documents), the UASC were put at ease.

It also became apparent that a number of children had misunderstood how parts of the asylum procedure in Sweden works, and that they based their information on what people around them told them, rather than on the information initially received from the SMA. Some of the information given by staff of the care homes, as well as information provided by legal guardians, and even the legal representative in one case, seemed to have been misunderstood by the children, or had even been erroneous. For example, one UASC said that his legal guardian had told him that since he did not have an education, he would not be allowed to stay in Sweden. It could not be clarified if the child had misunderstood the information or had been given incorrect information.

One participant in the focus group discussions revealed that he no longer had a legal guardian and had been told to move from his current accommodation. He also said that his case had been moved to a new list and that he had to start anew with the waiting. When probed, it was revealed that the participant had turned 18 recently and that his case had been moved from the UASC case processing system to the regular case processing. The participant had, however, not understood what his ageing-out meant in terms of his entitlements or the procedure in which his case would be processed.

The Ombudsman for Children also found in their report that children do not get sufficient information about the asylum procedure, resulting in a spreading of incorrect information.³⁹ Some children had told

³⁹ Ibid, page 8-9.

the Ombudsman for Children that staff of the temporary accommodation centre had given them incorrect information.⁴⁰

UNHCR would recommend that the relevant authorities ensure that child-friendly information is made available to UASC through different channels. The responsible authorities should also strive to provide services where the UASC can ask individual questions and get correct answers from a reliable source.

⁴⁰ Ibid.

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Please send your comments, questions and suggestions for future revisions to the UNHCR Regional Representation for Northern Europe at swest@unhcr.org

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