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***“Unscrupulous People Posing as
Children”*: The Problematisation of
Unaccompanied Children in UK Home
Office Policy Discourse.**

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Abstract

This article builds upon the premise that the Home Office holds the most significant power over constructing *policy truths* about unaccompanied children in the UK. This discursive creation of *policy truths* conveys a rationality of governing that is convened into a technology of government, shaping the actions of those contracted by the Home Office to implement policy towards unaccompanied children. This paper critically analyses Home Office policy statements and guidance to uncover the ways in which unaccompanied children are constructed as a policy problem in the UK. The analysis reveals that unaccompanied children are problematised under four main frames: the delegitimization of children arriving irregularly, the construction of unaccompanied children as both a vulnerable burden and paradoxically as ‘unchildlike’, “*unscrupulous*” and ‘bogus’. Finally, unaccompanied children are discursively produced as ‘migrants first, children second’, severely implicating their access to safeguarding upon arrival into the UK.

Keywords

Asylum policy, unaccompanied minors, UK Home Office, biopolitics, problematisation.

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Author’s biographical note



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List of Abbreviations

1989 UN Convention on the Rights of the Child	UNCRC
The 1951 Convention Relating to the Status of Refugees'	The 1951 Convention
The United Nations Refugee Agency	UNHCR
Separated Children in Europe Programme	SCEP
Home Office	HO
Unaccompanied Asylum-Seeking Child	UASC
Human Rights Watch	HRW
National Age Assessment Board	NAAB
Department for Education	DoE
Every Child Protected Against Trafficking	ECPAT
'What's the problem represented to be'	WPR

Introduction

In 1948, the United Nations General Assembly announced the Universal Declaration on Human Rights claiming to provide “*inalienable rights*” for all. This was followed by the 1951 International Refugee Convention and the 1989 United Nations Convention on the Rights of the Child (UNCRC). However, these ‘inalienable’ human rights frameworks have continually failed to protect children rendered stateless.

Globally, around 34 million of the 79.5 million displaced persons are children (UNHCR, 2020a). The number of these children who are unaccompanied or separated is on the rise and the number of unaccompanied children seeking asylum in the UK has been increasing since 2015. Despite this number being relatively small, the arrival of unaccompanied children has been constructed as a threat. Subsequently, they have been problematised in UK public policy discourse. The problematisation of unaccompanied children as a threat is epitomised in this quote from the current Home Secretary, Priti Patel (2021 Column 923) who described unaccompanied asylum-seeking children (UASC) as, “*unscrupulous people posing as children*”.

The discursive problematisation of unaccompanied children in the UK leads to their ‘right to have rights’ (Arendt, 1951) frequently being violated. The UK Government’s disregard towards asylum-seeking children was set in 1991 when the UK acceded to the UNCRC but included a reservation to limit the extension of rights to asylum-seeking children (Brittle, 2019). Despite this reservation being dropped in 2008 it set the tone for the treatment of

UASC's in UK immigration policy. Subsequently, this thesis seeks to uncover how the once 'morally untouchable category of child refugees' has been discursively constructed to legitimise the violation of children's rights within the UK's asylum system. In contrast to previous studies that have focused on the portrayal of unaccompanied children in the media (McLaughlin, 2018; Rosen, 2018), this thesis focuses on the discursive construction of unaccompanied children in Home Office (HO) policy. The term used in UK policy is 'unaccompanied asylum-seeking child' (UASC), referring to "*a person under 18, or in the absence of documentary evidence establishing age, appears to be under 18, who is applying for asylum in his or her own right and has no relative or guardian in the United Kingdom*" (HO, 2020a p.10).

Children arriving unaccompanied to the UK fall between two contrasting policy frameworks, the child protection, and the immigration enforcement policy frameworks. This leaves UASC in a legal grey area, caught between two extremely complex policy frameworks, (*see Annex D*). UASC are predominantly channeled into the latter framework, subjecting them to a 'migrant first, child second' approach, violating their rights under the UNCRC. This research investigates how the violation of UASC's rights is driven, and 'justified' by the discursive framing of UASC in HO policy. The discursive creation of *policy truths* about UASC conveys a rationality of governing. This is convened into technologies of government which influence the actions of state functionaries, like border officials and social workers, who are contracted by the HO to implement policy towards UASC (Doherty, 2007).

This article seeks to uncover how the UK HO influences the way that asylum policy towards UASC is implemented in practice. This was achieved by firstly identifying how UASC are framed in HO policy. Following this, the impact of how the identified frames influence the way that state functionaries implement HO policy in practice is evidenced using reports by governmental bodies, the UNHCR and Refugee Council. This leads to the two main research questions:

- 1) How are unaccompanied children problematised in Home Office policy?
- 2) How does this representation influence the subjection of UASC to a 'bare life' by state functionaries contracted by the Home Office?

To investigate these questions, Bacchi's (2009) 'What's the problem represented to be' (WPR) method of critical policy analysis was chosen. Bacchi (2012) posits that 'policy' is not the government's best effort to solve 'problems', rather policies produce 'problems'. The WPR approach is comprised of 6 main questions that provide the tools to critically deconstruct what is implied about UASC in HO policy. Bacchi (2009, p.63) further proposes

that the problematisation of the policy target group generates three effects: “*Discursive effects which determine the scope of thinking about the solution, subjectification effects or the effect of the way of constituting subjects in the policy*” and “*lived effects of the impact of the policy on life and the body of the people*”. This method allowed links to be drawn between the framing of UASC in HO policy and how they are subsequently treated in practice within the HO asylum policy framework.

This thesis brings a unique dimension of analysis through investigating how HO policy guidance conveys a particular rationality of governance which shapes the way in which state functionaries perceive UASC, and subsequently implement policy. The analysis is therefore comprised of two main dimensions. Firstly, it demonstrates how UASC are problematised in HO policy discourse. This was done through analysing all the most recent HO policy guidance documents concerning UASC that were issued to state functionaries in December 2020. Secondly, this paper investigates how the problematisation of UASC in HO policy acts as a technology of governance through shaping how state functionaries like border officials and social workers, who are employed by the HO to implement policy, perceive UASC. Biopower (Foucault, 1976) and the state of exception (Agamben, 1998), are employed as a theoretical framework. Mbembe’s (2003) necropower is also used to reveal the structural violence inflicted on UASC by the HO. The WPR approach is used to identify the main problematisations used to frame UASC in HO policy discourse. The analysis is structured around these frames. Each frame is examined using evidence about how HO policy is implemented in practice from governmental and non-governmental bodies. This reveals the impact of each policy framing on the treatment of UASC by state functionaries.

The Current Political Climate: Brexit, Home Secretary Priti Patel and the New Plan on Immigration

Policies replicate the cultural systems in which they are being implemented and convey implicit representations of different groups in the society being governed (Shore, 2012). It is therefore vital to contextualise current UK asylum policy in the post-Brexit climate. The success of the Leave Campaign in swaying voters to vote in favour of Brexit was largely credited to their use of extreme anti-immigrant discourse (Meleady, 2017). Fuelled by the Government’s promise to deliver Brexit by ‘taking back control of Britain’s borders’, in 2019 the notoriously hard-line, right-wing backbencher Priti Patel was appointed as the new Home Secretary.

Throughout 2020, the arrival of 8,400 people seeking asylum via The Channel led to the increased use of alarmist discourse by the HO. Despite overall asylum applications in the UK

falling by 41% from the previous year (Walsh, 2020), the HO began to discursively link asylum to danger and chaos (Connelly, 2021). In December 2020 the month prior to the Brexit deadline, the HO subsequently issued updated policy guidance for frontline staff working with UASC at the UK's borders. Following this, in March 2021 Patel announced the HO's *New Plan for Immigration Plan*. These policy guidance documents, and the *New Plan for Immigration* are the focus of analysis. In short, the Plan illegalises those who enter the UK via irregular routes, making claims for asylum from people who arrive irregularly inadmissible. The Plan introduced measures to make age assessments stricter through a National Age Assessment Board which will use 'undisclosed scientific methods' (HO, 2021). It also dangerously removes rights to appeal deportations and proposes to remove the right for refugees to challenge immigration decisions in the High Court. In the post-Brexit climate, it is of vital importance to deconstruct the HO's discursive practices towards UASC as the UK is no longer bound by the Common European Asylum System. This loss of supra-national regulation on asylum standards requires greater scrutiny of current national frameworks.

1. Theoretical Framework: Unaccompanied Asylum-Seeking Children as 'Bare Life'

The UK has ratified both the UNCRC and the Refugee Convention which ought to provide a rights-based framework for the protection of all children. Subsequently, UASC should be entitled to the same 'inalienable' rights as British children. However, as evidenced in the analysis UASC continue to be excluded from these 'inalienable' rights. To reveal how this violation of rights is 'justified' by the HO, the following theoretical framework is applied.

1.1. Biopower and the State of Exception

Biopower constitutes the power of the sovereign to "*foster life or disallow it to the point of death*" through a range of "*diverse techniques*" to control the populations (Foucault, 1976, p.138). The analysis focuses on two biopolitical control mechanisms; the sovereign's power to implement domestic policies that regulate which groups can access which public services, and the sovereign's power to covertly shape dominant paradigms of knowledge (Foucault, 1976). In this context, the HO acts as the sovereign to construct dominant *policy truths* about UASC. Through policy, the population is categorised to conform with the biopolitical agenda of the sovereign (the Home Office). The analysis investigates how the institutional categorisation of UASC in HO policy influences the lived realities for children categorised as such.

Biopower as conceptualised by Agamben (1998), is grounded in the sovereign's power to decide on the state of exception; the space and bodies over which the rule of law is suspended. Those subjected to the state of exception are exposed to a 'bare life', devoid of the rights granted to the citizenry. 'Bare life', is paradoxically excluded from the rights of the citizenry but

simultaneously included through exposure to state violence. To contextualise this concept, unaccompanied minors who enter the UK are actively granted a lower level of access to welfare services than non-migrant children, restricting their quality of life. For example, care services for non-migrant children are centrally funded by the government whereas Local Authorities must apply for limited funding from the HO to care for UASC. Subsequently, London Councils reported that they face a shortfall of £32m for supporting UASC (Samuel, 2020). This leads to UASC receiving lower levels of care than national children in the care system.

The subjection of groups of society to the 'bare life' is mechanised through the sovereign ban which functions as a discursive form of identity construction (Agamben, 1998). This discursive division of the population is driven by biopolitical racism. Through a predominantly racialised othering, the population is discursively divided into two antagonistic groups based on their perceived worth: the individuals in the *bios* (British children) and those resigned to a 'bare life' (UASC). This regulatory function of biopower requires the creation of a biological metric (irregular migrants), against which the 'legitimate' population (British citizens) can reinforce their identity.

The final element of the theoretical framework concerns the exertion of necropower which considers more extreme cases of body regulation that subjects the 'foreign other' to destitution through an active abandonment to "*death-in life*" (Mbembe, 2003 p.21). Necropower highlights how the sovereign can subject groups of the population to political violence through actively restricting their access to rights and welfare services. Necropower can be observed looking at how UASC are actively abandoned in HO policy. While the UK Government has the resources to provide sufficient care to UASC, children are abandoned to destitution through actively being denied protection and access to welfare services. The framework allows an investigation of how the power exerted by the HO through asylum policy "*penetrates subjects' very bodies*" (Agamben, 1998 p.10).

1.2. Relevance of the Study: The Home Office as the Sovereign

Justification for focusing the analysis on how HO policy discourse influences the treatment of UASC by state functionaries is provided by previous research concerning the impact of institutional policy discourse on social workers. Saglietti (2019) highlighted how the categorisation of clients by social workers directly reflected wider political norms. Jenkins (2008) determined that external labelling most powerfully shapes identity construction when it is discursively legitimised by governments. Furthermore, Bhabha (2009) highlighted that in the US, the influence of government policy discourse is most significantly reflected in the actions of state functionaries involved in border and immigration enforcement. This demonstrates the need to investigate the influence of HO discourse on the treatment of UASC by border officials

in the UK. Empirically, the discursive power held by the HO to shape dominant paradigms of knowledge was revealed in 2020 when Counter Terrorism officers notified the HO that the motivation for an attempted attack by far-right extremists, on a solicitors' firm which provides legal aid to migrants in London, was directly traced to Home Secretary Priti Patel's anti-migrant rhetoric (Grant, 2020). This demonstrates both the importance of deconstructing rhetoric from such powerful actors, and the need to apply alternative methods like Bacchi's (2009) WPR approach to uncover the political agendas underlying current asylum policies.

2. Methodology

To deconstruct the *policy truths* that are constructed about UASC by the HO, Bacchi's (2009) WPR method of critical policy analysis was applied. Using reports about how HO asylum policy is implemented in practice in the UK, the theoretical framework was then applied to examine how HO policy subjects UASC to a 'bare life'.

2.1. 'What's the Problem Represented to Be'

Bacchi's (2009) WPR approach builds upon the premise that contemporary society is governed through the creation of *policy truths* by those in power. WPR views policies as discursive practices that construct policy 'problems' through implying certain ideas in proposing certain policy 'solutions' (Bacchi, 2010). While Shore and Wright (1997) are credited with triggering the shift from previous mainstream approaches to policy analysis, Bacchi's WPR approach was selected as it looks at how people are governed not just through policies, but through problematisations. To do this, the WPR approach works backwards from the policy itself to reveal the deep-rooted ways of thinking that underpin what are subsequently viewed as 'problems' in the society being governed (Bacchi, 2014). This method was selected as it provides the tools to both reveal and resist the underlying conceptual logic of the problematisation of UASC in HO policy. This allows the impact of the portrayal of UASC in HO policy on how they are treated by state functionaries to be revealed.

The first step of analysis involved familiarising oneself with HO policy documents using inductive, qualitative coding to categorise cohorts of data openly into emerging categories. Using qualitative coding, these categories were then distilled into the four most prominent frames of problematisation and meaning units taken from the policy documents were categorised into these four main frames in a table (*see Annex II*). The table allowed meaning units to be condensed into implied meanings, allowing a WPR lens to be applied to deconstruct the policy discourse.

The WPR approach is comprised of six questions that are applied to policy to uncover what

are implied to be the policy ‘problems’ (Bacchi, 2009 p.48). These begin with questioning what the ‘problem’ is represented to be, what presuppositions underlie the problem representation, and how the ‘problem’ representation arose? Question 4 interrogates what is silenced, and “*what is left unproblematic*” (Bacchi, 2009 p.48)? This allows consideration for how the policy ‘problem’ could be thought of differently. Question 5 examines the impact of the policy ‘problem’ representation. These questions can be applied in a linear or integrated way (Bacchi, 2009). For this analysis, the integrated method was chosen due to policy towards UASC being highly complex and vague. While all WPR questions were considered, the focus was placed upon 2, 3, 4 and 5. Question 5 was addressed using data from governmental and non-governmental reports on how policy towards UASC is implemented in practice, predominantly reports from the UNHCR. Question 4 allowed the necropower embedded in HO policy discourse to be uncovered. Necropower is characterised by the way the State inflicts violence through active policy inaction. The HO exerts this power through actively silencing certain problematisations for example, denying freedom of information requests to prevent the problematisation of their own practices.

2.2. Data Selection

In contrast to previous studies which have focused on analysing only one formal policy document (see Rigby, 2019), this analysis encompasses a range of HO policy documents. This is vital as there exists no specific policy framework for UASC. The data set includes all the most recent HO policy guidance documents concerning UASC which were updated in December 2020, and the *2017 Safeguarding Strategy for UASC*. Policy guidance documents were selected as the main source of data as they play the most significant role in conveying the HO’s technology of governance to state functionaries implementing policy in practice.

As highlighted by Shore (2012) the implementation of policy is influenced by the inscription and translation process that occurs as they move into different contexts, shaped by a range of ideas and institutions. Additionally, as confirmed through the literature review, discourse used by government officials influences state functionaries’ political views and therefore, significantly impacts how they implement policy in practice (Bhabha, 2009). Subsequently, along with policy guidance documents the analysis also includes HO press releases, and speeches in parliament by the Secretary of State, Priti Patel, and the Parliamentary Under Secretary of State, Chris Philip. This accounts for how these powerful actors influence the context in which asylum policies are being implemented.

Data Sources:

Press Releases/Parliamentary Transcripts

- Priti Patel (2021). Transcript: Priti Patel speaking in the UK Parliament. *New Plan for Immigration Volume 691*.
- Chris Philip (2021) The Parliamentary Under Secretary of State, Minister for Immigration Compliance and Justice, under Priti Patel as Secretary of State. *Question for Home Office: UIN 138039*.
- Home Office (2020d) Press Release: *'Unaccompanied Asylum-Seeking Children Transfers'*.
- Home Office. (2017b). *Government's response to the House of Lords European Union Committee report – Children in Crisis: unaccompanied migrant children in the EU*.

Policy Briefs

- Home Office. (2021). *The New Plan on Immigration*.

Policy Guidance

- Home Office. (2020a). *Children's Asylum Claims Version 4.0*
- Home Office. (2020b). *Assessing Age Version 4.0*.
- Home Office. (2020c). *Kent Intake Unit Social Worker Guidance Version 2.0*.
- Home Office (2017a). *Safeguarding Strategy: Unaccompanied asylum seeking and refugee children*.

Through a systematic scrutiny of each data source, four main themes of problematisation towards UASC emerged. These are the discursive problematisation of: (Frame 1) UASC who arrive via irregular means, (Frame 2) UASC as apolitical, passive and a burden of vulnerability, (Frame 3) UASC as 'unchildlike', "*unscrupulous*", 'bogus children'. Lastly, (Frame 4) the problematisation of the 'UASC' category which discursively produces UASC as 'migrants first, children second'. Frame 4 considers the intersectional impact of *policy truths* on the treatment of UASC in the UK asylum system.

The analysis is structured around the four main frames of problematisation identified using qualitative coding (*see Annex II*) and the WPR approach. These frames are used to make visible the way in which HO policy discursively produces UASC as a policy 'problem'. Reports from the UNHCR and government bodies provide direct evidence on how state functionaries implement HO policy in practice towards UASC. Using the WPR method, links are then drawn between each framing of UASC identified and the treatment of UASC in practice by state functionaries. This reveals how each frame influences the subjection of UASC to a 'bare life'. Reports from the UNHCR and Refugee Council, based on primary research with frontline state

functionaries including social workers and border officials, provide a reliable data source to substantiate the claims made in the analysis.

3. The Problematisation of UASC in Home Office Policy Discourse

3.1. Frame 1: The Problematisation of UASC 'Irregularly' Entering the UK

The first frame of problematisation identified in HO policy exploits the fact that most UASC arrive irregularly through problematising UASC as 'illegitimate', in binary opposition to the 'legitimate' 'child refugees' who arrive via 'legal' resettlement schemes. The problematisation of irregular arrivals as illegitimate was prominent in both HO press releases, and parliamentary speeches by Home Secretary Priti Patel. UASC who arrive irregularly are problematised in a plethora of ways. Arriving irregularly is illegalised and UASC who arrive in this way are constructed as a triple threat to national security, the British welfare system and to the 'integrity of the UK's asylum system'.

It is firstly implied that 'genuine refugees' would have stayed in the first 'safe' country they reached. Subsequently, deportations of UASC are legitimised through sanitised language, covering up deportation with "*returns*" to "*safe countries such as France*" (Patel, 2021). The dangers that these policies pose to UASC, considering France has repeatedly been found in violation of UASC's human rights (see: HRW, 2019), are actively left unproblematised.

To further illegalise UASC who arrive irregularly, HO policy pitches the life of one 'illegal' entry by 'asylum-seekers' against the life of one 'deserving' 'refugee' entry: "*The Governments is prioritising resettling vulnerable refugees direct from dangerous conflict zones rather than those who have paid people smugglers*" (Philip, 2021, Question for HO: UIN 138039, 14th January 2021). UASC who arrive irregularly are problematised for 'selfishly' entering the UK 'illegally', at the expense of 'legitimate' refugees who 'wait their turn to be resettled via legal routes'. Here it must be highlighted that discourse used by the HO to criminalise irregular routes has become harsher since 2017. The Safeguarding Strategy document uses 'clandestine' to describe irregular arrivals (Rigby, 2019). However, all HO policy documents from 2020/21 overtly use 'illegal'.

HO policy further implies that UASC arrive irregularly due to pull factors in the UK, "*we must act to reduce the pull factors of our system and disincentivise illegal entry*" (Patel, 2021). Most significant is the proposition that children arriving unaccompanied have been sent by family members to facilitate their family's entry. Through problematising UASC in this way, the HO limits the scope of thinking regarding the proposed policy 'solution'. The chosen policy 'solution' is therefore to further restrict family reunification for UASC. Under the *New Plan for Immigration* (HO, 2021), only UASC who already have family members residing in the UK

can ‘legally’ enter.

The discursive use of the legal versus illegal binary in HO discourse privileges certain policy ‘solutions’, preventing consideration for alternatives (Bacchi, 2009). HO policy suggests the problem is UASC choosing to enter the UK irregularly, preventing the policy ‘problem’ focusing on the absence of ‘legal’, safe routes for UASC to be resettled in the UK. Through actively refusing to provide safe routes to the UK, the HO exerts a necropolitical, structural violence, forcing children to risk their lives crossing the Channel. This violently subjects these children to preventable risks of trafficking and drowning. The HO ensures that problematisation of it’s responsibility for these deaths is avoided through shifting blame onto smugglers and UASC themselves; “*people are dying at sea... having put their lives into the hands of criminal gangs*” (Patel, 2021 Column 921). This discourse suggests that UASC are responsible for their own deaths as opposed to being endangered by the HO’s violent border regime.

3.2 Frame 2: UASC as ‘Apolitical, Passive and a Vulnerable Burden’

HO policy implies that UASC are vulnerable and passive. This vulnerability is problematised as both a burden on the British welfare system and on professionals working with UASC. Vulnerability is also discursively weaponised to delegitimise the credibility of children’s asylum claims. This problematisation was most prominent in policy guidance issued to social workers and border enforcement.

HO (2020a p.52) guidance on processing children’s asylum claims states that because of their ‘immaturity’, “*a child may be less able to produce objective evidence to corroborate their claim*”. Simultaneously, HO (2020a) policy focuses predominantly on a child’s ability to produce ‘credible documentary evidence’ in determining the outcome of their asylum claim. The issue of ‘credibility’ is mentioned 21 times in the HO’s (2020a) guidance for assessing children’s asylum claims. This requirement is coupled with the policy implication of children as untrustworthy due to their ‘immaturity’. Subsequently, the HO Caseworkers and Border Agency routinely refuse children’s asylum applications on ‘credibility grounds’ (Clayton, 2019). This policy focus on ‘credible’ documentation evades consideration for UASC’s psychological issues including PTSD that can severely influence memory, hindering their ability to repeat a coherent story to immigration officials. This renders UASC as the ‘ultimate subject of modern biopolitical mechanisms’ (Agamben, 2005). Their assigned status as ‘stateless’, perceived ‘illegitimacy’ arising from their ‘child’ status and their lack of access to guidance from a trusted adult assigns them an ‘expendable’ status, devoid of rights.

HO guidance was found to construct UASC’s vulnerability as a burden to Local Authorities and a threat to welfare systems. Explicitly, the implication of UASC posing a challenge to state

functionaries is evident in HO (2017a p.14) safeguarding guidance: “*it can be a challenge for social workers to fully understand their role in supporting unaccompanied children*”. Here, the complexity and uniqueness of UASC’s experiences are portrayed as a policy problem, outside of social workers’ abilities. This implies that UASC are different from national children, delineating them as an ‘asylum-seeking’ group rather than as vulnerable children who require care like any other child in the UK care system. Through this policy framing, the HO ensures that its institutional failure to provide specialised training to social workers is left unproblematised. For example, funding cuts to Local Authorities have led to the disbanding of specialised ‘UASC teams’ and reduced the number of social workers (UNHCR, 2019c). Subsequently, alternative policy solutions that would better accommodate for the unique needs of UASC, including better training for social workers, are left unconsidered.

The HO further shifts blame away from its own policy through discursively placing responsibility for vulnerabilities faced by UASC onto social workers, foster carers, and children themselves (Rigby, 2019):

“We know that one of the risk factors associated with children going missing is having carers who are not able to develop trusting relationships” (HO, 2017a p.10).

The high rate at which UASC go missing is blamed on children themselves and foster carers. It is implied that due to UASC being culturally different, foster carers will struggle to form a strong bond with them. Additionally, UASC’s vulnerability to exploitation is placed on themselves for by ‘actively absconding’ from the care of LAs. This framing is highly gendered. While girls are stated to be at a higher risk from going missing due to exploitation, boys are more prominently problematised as putting themselves at risk to avoid ‘fair’ immigration controls like being deported back to ‘safe’ third countries.

HO policy guidance also shifts responsibility for the care of UASC onto LAs. HO (2020a) policy guidance on processing children’s asylum claims repeatedly mentions the LA’s obligation to take care of UASC. This framing suggests that the care of UASC is a local level rather than a national level responsibility. Through decentralising the responsibility for UASC’s care, the HO’s lack of care provision for UASC is left unproblematised.

3.3 Frame 3: ‘Unchildlike’, “Unscrupulous”, ‘Bogus Children’

The image construction of the ‘helpless’ ‘vulnerable’ child, highlighted in Frame 2, excludes most UASC who often display racial signifiers different from the western perception of the child. Building on this, the most prominent problematisation identified in HO policy is the antithesis construction of UASC as unchildlike, economic migrants, “*unscrupulous people posing as children*” (Patel, 2021 Column 923).

Through constructing UASC as ‘bogus children’ in policy discourse, the HO discursively legitimises children’s subjection to the same inhumane, hostile immigration system as adults. The discourse can also be linked to the extremely high rate at which children are age assessed by HO border officials (see Refugee Council, 2021). Upon arrival, UASC are held in Short-Term Holding Facilities, predominantly the Kent Intake Unit (KIU), to be identified and processed. During this initial identification, biometric data is taken and uploaded onto the HO’s Case Information Database (HO, 2020b). The extraction of biometric data is used to profile UASC as security ‘threats’ to varying degrees. The main biopolitical filter applied at this stage is the age assessment process. UASC can have their age disputed at any stage in the asylum process: on arrival; at a police station; at the HO screening interview; in immigration detention and even once they have been moved into the care of a Local Authority (Campbell, 2020). UASC are expected to meet the same evidentiary requirements as adult asylum seekers. The UK Border Agency requires UASC to provide official documents including original birth certificates and passports which is near impossible for UASC who have travelled irregularly, often for over a year. This is exacerbated by the extreme questioning of their credibility, highlighted in Frame 2, making it extremely difficult for UASC to ‘prove’ their child status. This age assessment policy fails to problematise the difficulties that an UASC may face in age assessment interviews which may make their claims appear less credible. For example, many children have grown up in cultures that do not follow the Gregorian calendar or where chronological age is given less importance (Crawley, 2010). Additionally, smugglers often take away children’s documents leaving them vulnerable to misidentification of age (Silverman, 2016).

The problematisation of age arose as a prevalent theme in all HO guidance. In the Age Assessment and Children’s Asylum Claims guidance (HO, 2020a/b), age assessments are prioritised over any safeguarding concerns as the first step that must be taken when a child is encountered by authorities. Furthermore, in 2020, the HO issued new guidance to social workers at the KIU. The guidance aims “*to reduce pressures on local authority resources by decreasing the number of adults referred to them by the Home Office for age assessments*” (HO, 2020c p.4). The guidance (HO, 2020c p.8) states that the social workers’ “*primary objective*” is to assess age and encourages carrying out a “*short Merton compliant age assessment*” to reduce resource pressure on KIU. This policy response implies that a higher number of UASC arriving occurs due to more adult migrants posing as children, rather than the closure of safe settlement routes by the HO. Additionally, nesting the problem representation in this way prevents the problem being identified as a lack of HO action to increase the capacity of the KIU. *The New Plan for Immigration* (HO, 2021) announced that a National Age

Assessment Board will be implemented. The introduction of this further reinforces existing, false policy narratives that imply adult migrants frequently pose as UASC.

HO (2020b) age assessment guidance exemplifies the way in which the category of childhood is open to interpretation and manipulation. The guidance imposes a certain perception of UASC onto border officials and social workers. This allows the HO to impede upon the highest number of UASC applications possible by focusing age assessment guidance on rigid, arbitrarily chosen bodily markers that excludes most UASC. The HO (2020b p.13) places the main consideration of a child's age on, "*height, build, facial features, including facial hair, skin lines or folds, tone and weathering, voice*". This focus on physical appearance likely influences the way racial signifiers are perceived by state functionaries when assessing a child's 'child status'.

As highlighted by Hall (1997), the way in which certain racial signifiers are perceived changes depending upon the context in which they are being viewed. The analysis revealed that the HO simultaneously focuses age assessment policy guidance on physical appearance, while also discursively perpetuating stereotypes in parliament that imply UASC are 'adultlike' and "*bogus*". This covert discourse arguably shapes the way social workers and border officials perceive the racial and gender signifiers displayed by UASC. In announcing the *New Plan for Immigration*, the Home Secretary stated, "*we should ask ourselves: where are the vulnerable women and children*" (Patel, 2021 Column 922). Through pitching the 'male asylum-seeker' against the 'vulnerable women and girls' a climate of suspicion is constructed towards the arrival of UASC, most of whom are boys.

Subtle constructions of UASC as 'more mature' and 'unchildlike' compared to British children were prevalent in all HO policy guidance analysed. It is inferred that male UASC are not vulnerable and subsequently, are 'less deserving' of asylum. The guidance for processing children's asylum claims proposes that state functionaries, "*must always be open to interviewing a child under 12, especially if the child is mature*" (HO, 2020a p.40). This permits border officials to treat children differently if perceived to 'look more mature', leaving UASC vulnerable to further racial profiling. The majority of UASC arriving to the UK do not fit into the strict classification constructed by the HO. Subsequently, their racial signifiers are often challenged by border officials in the context of the image construction of the 'helpless', 'vulnerable' child. Consequently, unaccompanied boys are often accused of being 'imposter children' and are much more likely to be detained (Mossou, 2017).

The biopower held by the HO to influence the way UASC are perceived by border officials is evident in the high rate at which age assessments are conducted. This focus on age constitutes a biopolitical technique exercised by the HO to exclude UASC from accessing their rights. If

denied child status, UASC become subjected to the full brutality of the UK's border, outside of the secure zones of childhood (McLaughlin, 2018). The *New Plan for Immigration* (HO, 2021 p.22) justifies harsher age assessments by stating that 54% of individuals who had their age disputed were found to be adults. However, 88% of age assessments that were disputed through the Refugee Council's (2018) Age Dispute Project were found to be children. Through focusing the policy 'problem' on the safeguarding risks associated with adults being wrongly deemed as children, the HO silences the more severe safeguarding risks attached to mistakenly assessing a child as an adult.

HO policy surrounding the care of UASC by Local Authorities further reinforces the idea that UASC are 'more mature' than national children. In contrast to British born children in care, UASC are not provided with a guardian (DoE, 2017), implying that they do not require the same level of care. This violates articles 20 and 22 of the UNCRC. Furthermore, social workers assess the level of care required by UASC at ages 12, 16 and 17.5 allowing their level of care to be reduced at each age, unlike national children who remain in foster care. As a consequence of the problematisation of particularly male UASC as 'unchildlike', social workers predominantly choose to move UASC out of foster care into semi-independent living upon turning 16 (UNHCR, 2019a). Research conducted by the UNHCR (2019c) further confirmed that in several cases, social workers' decisions to place children in semi-independent living instead of foster care was influenced by feelings of mistrust and suspicion towards UASC. The influence of gendered policy discourse is further evident in the fact that in 2019, upon turning 16, 94% of male UASC were placed in semi-independent living compared to 6% of females (DoE, 2020 p.7).

The treatment of UASC in the care system can be equated to the form of political death, identified by Mbembe (2003), concerning homicide and suicides that occur within state-governed institutions housing 'less valuable' members of the necroeconomy. This was horrifically visible in the recent suicide of Mulubrhan Kfleyosus who was the fourth from his friendship group of unaccompanied Eritrean refugees to take his own life having been moved from their original accommodation (Taylor, 2021).

3.4 Frame 4: 'Migrant first, Child Second'

All the frames of problematisation identified in HO policy intersect in order to construct the UASC category. The 'making up' of the UASC category places these children into a state of exception, outside of the norms applied to national children. This leads to the final main frame identified in HO policy; the implication of UASC as 'migrants first, children second'. All the frames previously outlined intersect to influence the treatment of UASC as migrants not

children by state functionaries. This violates the UNCRC non-discrimination principle.

The violation of UASC's rights is exacerbated by the policy terminology used by the HO. The HO rejected calls to replace 'unaccompanied asylum-seeking children' with 'unaccompanied and separated children', making the UK one of the only countries in Europe that uses the former term (Kelly, 2012). The use of the 'UASC classification' in HO policy has real implications on how children categorised as such are treated. This term emphasises their 'migrant' rather than 'child' status. Additionally, through focusing on children 'seeking asylum', this term fails to encompass the plethora of reasons that children arrive in the UK unaccompanied, including children who have been trafficked.

In all data sources analysed, the HO was found to embed a 'migrant first, child second' approach through using alarmist discourse to inflate the constructed 'threat' posed by UASC. The HO constantly blames asylum policy 'problems' on UASC themselves for 'arriving uncontrollably' and 'overwhelming' the UK's asylum system. The distortion of statistics to inflate the 'threat' posed by UASC was found to be most prevalent in the *New Plan for Immigration* (HO, 2021), HO (2020c) guidance to the Kent Intake Unit and the Safeguarding Strategy (HO, 2017a). The HO publishes extremely limited data and includes only those who are granted asylum. Data on the number of children who are deported or who go missing is not published. Subsequently, most separated children arriving in the UK are invisible in statistical terms. Following the WPR approach, this can be viewed as a discursive tool used by the HO to ensure the violation of UASC's rights under HO policy is left unproblematised. For example, through refusing to publish data on how many UASC are missing, the HO silences this issue.

"Of the 72,670 children being looked after by local authorities at 31 March 2017, 4,560 were unaccompanied asylum seeking children. This was a 6% increase in looked after unaccompanied asylum-seeking children from the previous year" (HO, 2017a p. 7).

In this quote, the HO emphasises the '6% increase', evading the fact that when contextualised this is a very small percentage of all children in care. This theme of inflating both the number of UASC arriving to the UK, and the 'burden' that they place on welfare systems, discussed in Frame 2, was prevalent in all policy discourse. Certain statistics are included in policy to invoke certain responses in support of the proposed policy 'solution' (Bacchi, 2009). Consequently, through 'crisis' construction the HO invokes fear of UASC to legitimise the embedding of the state of exception as the norm in UK asylum policy (Agamben, 2005). When coupled with the discursive emphasis placed on UASC's 'migrant' status over 'child' status, this severely implicates the way in which state functionaries treat UASC by legitimising their subjection to harsh immigration controls. Again, this framing ensures that the HO's failure to support frontline Local Authorities, including Kent, is left unproblematised.

The ‘migrant first, child second’ approach was particularly prevalent in the guidance issued to the Kent Intake Unit by the HO (2020c).

*“Please note that where an unaccompanied child **is detained exceptionally**, in line with section 5 of the Immigration Act 2014, they must not be detained in an immigration removal centre (**the Kent Intake Unit is a short-term holding facility**)”* (HO, 2020c p.17).

This declaration of exception is used by the HO to standardise and legitimately embed the legal framework required to enact a conspiratorial biopolitics that counteracts international children’s rights norms. Through combining the use of ‘exceptional’ with the sanitised term ‘intake unit’, instead of ‘detention centre’, the HO (2020c) legitimises the detention of UASC in the *KIU Guidance*. ‘Intake units’ like ‘detention centres’, can be similarly characterised as total institutions. This sanitising discourse ensures that the HO policy of de facto detaining children is left unproblematised in policy discourse. Through using the term ‘intake unit’, the HO circumvents legal accountability as it is therefore not viewed as detention under UK domestic law. The detention and deportation of children violates their rights under Article 37(b) of the UNCRC, which asserts that detention is never in a child’s best interests. Furthermore, one of the main goals stated for border officials is to, *“assess whether the child can be returned to their family”* (HO, 2020a p.70). This encourages border officials to determine whether the child can be legitimately deported before any child safeguarding assessments are carried out. The violence of deportation is cloaked in ‘returns’.

The influence of the ‘migrant first, child second’ framing is evident in reports on how policy is implemented towards UASC in practice by border officials. Firstly, children are interviewed immediately upon being intercepted when they are still disorientated, and HO officials then use the initial asylum screening interview to obtain information to decide the child’s migration status, rather than assess their safeguarding needs (Campbell, 2020). Interviews conducted by the UNHCR (2019b) found that in addition to being *de facto* detained upon arrival, many children described being subject to lengthy periods of questioning (around 1-2 hours). Children were also found to have been denied information on whether they were being questioned by the police, as part of an initial welfare/safeguarding screening processes, or by immigration officials. This HO policy treatment of UASC as ‘migrants’ rather than a ‘children’, imposes a violent, necropolitical trauma. 11 of the 23 children interviewed by the UNHCR (2019c) subsequently had suicidal tendencies exacerbated by their experience of the UK asylum system.

The subjection of UASC to a bare life due to ‘crisis’ construction in the HO’s (2020c) guidance to the KIU, was most horrifically visible in the treatment of UASC after the Guidance was issued. Upon arrival, border enforcement held UASC at the KIU for up to 66 hours, often

with adults, in cramped conditions with no access to beds or washing facilities (Chief Inspector of Prisons, 2020). The subjection of UASC to additional mental stressors upon arrival and during the settlement process equates to an institutional violence of ‘permanent wounding’, arising from the HO actively refusing to provide sufficient funds for the care of UASC. Ultimately, it is the intersectionality of UASC’s race and displaced status that allows the HO to evade juridical scrutiny, subjecting these mainly non-white, teenage boys to avoidable torment.

While all UASC have their ‘migrant’ rather than ‘child’ status emphasised, the extent to which their child status is ignored is further implicated by intersectional factors. UASC are discursively situated into a hierarchy of morality based significantly on factors including race, age, and gender. UASC who are 17.5 or above are abandoned as the least worthy of being accepted into ‘qualified life’. Teenage UASC are ambiguously situated between being morally deserving of compassion whilst also being treated with extreme suspicion. Very young UASC are predominantly viewed as morally worthy of rights under the UNCRC however, this can be complicated by factors of race and gender. Girls are predominantly granted a greater level of sympathy than boys throughout the asylum process. Therefore, the gendered and racialised discourse underlying HO policy leads to different group of UASC being granted significantly different access to their ‘inalienable’ rights under the UNCRC.

The intersectional influence of the problematisation frames outlined above, in promoting a ‘migrant first, child second approach’ is evident looking at the status of ‘protection’ that is commonly granted to UASC, ‘UASC Leave’. UASC Leave is granted to children whose asylum applications are rejected but who cannot be returned to their country of origin due to ‘inadequate reception arrangements’ (HO, 2020b). State functionaries are likely influenced to grant this limited form of protection due to HO discourse questioning the credibility of claims (Frame 2/3), delegitimising UASC who arrive irregularly (Frame 1) and promoting the idea that ‘bogus’ UASC arrive to the UK to take advantage of the welfare system and bring their families into the UK (Frame 1/3). UASC Leave grants limited and temporary leave only until the child turns 17.5 years old. Upon reaching 17.5, this protection status expires, stripping the child of all access to the UK welfare system. This leaves children in a state of precariousness and uncertainty at a critical period of their lives. Subsequently, many children go missing from their Local Authority prior to their eighteenth birthday to avoid being deported, exposing them to trafficking, exploitation and re-victimisation (UNHCR, 2019d). The active withdrawal of rights from those granted UASC Leave upon turning 17.5 imposes a state sanctioned structural violence. Through suddenly expelling UASC from the care system and removing their access to welfare, the HO exercises an exclusionary power through withdrawal. This exposes UASC

to a plethora of preventable vulnerabilities, a letting die through an active inaction (Davies, 2017). This is starkly evident in the fact that 60% of unaccompanied children who had been trafficked were re-trafficked from the UK care system, and 1 in 6 UASC in care are reported missing in the UK (ECPAT, 2018). Through constructing UASC as ‘migrants’ rather than ‘children’ the HO legitimises the necropolitical impact of UASC Leave, ensuring it is left unproblematised in policy.

3.5 *The Separated Child: An alternative way to classify unaccompanied children in Home Office policy?*

The UASC policy label should be replaced with the term ‘separated child (Bokhari, 2012). Unlike the UASC label, this term does not lead to the xenophobic discrimination experienced by those categorised as ‘asylum-seeking’. This label shifts focus away from children’s migration status towards a focus on the care that they require due to the trauma inherent from being separated from primary caregivers. The ‘separated child’ label also encompasses all groups of children that may arrive in the UK alone. This includes victims of trafficking, migrant children and children who become separated upon arrival, as well as those seeking asylum (Kelly, 2012). Subsequently, this shift in policy terminology can encourage state functionaries to channel children into appropriate safeguarding systems instead of straight into the asylum system. Finally, the ‘separated’ label also discourages state functionaries from discriminating against children based on their migration status, encouraging the upholding of Article 2 of the UNCRC, the non-discrimination principle. This change in terminology cannot bring about the full institutional change required to ensure that the rights of unaccompanied children are upheld. The UK system must be restructured to ensure that children are channeled into the child protection framework, instead of the immigration framework.

4. Conclusion

Using the WPR approach to policy analysis, this paper has rendered visible the problematising *policy truths* that are discursively constructed about unaccompanied children by the UK HO. These *policy truths* convey a particular technology of governance to state functionaries contracted by the HO to implement asylum policy towards UASC. Subsequently, the HO influences the ideologies of those contracted to implement policy in practice, shaping the way in which they perceive and subsequently treat UASC. As a consequence of the problematisation of UASC in HO policy documents, UASC are assumed by state functionaries to be a threat to the welfare system, economy and the UK’s national security and also to the UK’s “fair” asylum system, which prioritises ‘deserving’ refugees that ‘wait their turn to legally

enter the UK’.

HO policy was found to problematise UASC under four main frames. Firstly, UASC who predominantly arrive to the UK via irregular means, are problematised as ‘illegitimate’ in contrast to ‘legitimate’ ‘child refugees’ who are resettled via ‘legal’ routes. Secondly, the analysis revealed that UASC are framed as passive and vulnerable. This vulnerability is discursively problematised to imply that UASC’s claims for asylum lack credibility and their vulnerability is problematised as a burden to Local Authorities and social workers. Furthermore, the HO implies that the care of UASC is the responsibility of local level actors, shifting responsibility away from the HO. Paradoxically, HO policy most commonly frames UASC as unchildlike, ‘bogus children’. The framing of UASC as ‘unchildlike’ is highly racialised and gendered. The simultaneous, binary framing of UASC as innocent and vulnerable, as well as ‘unchildlike’ and ‘bogus’ constructs a climate of suspicion that heavily influences the age assessment process conducted by state functionaries. Therefore, UASC who are predominantly teenage boys, are perceived by border officials and social workers to challenge the constructed image of the ‘innocent’, ‘young’, unaccompanied child. The construction of UASC as ‘migrants first, children second’ was prevalent in all documents analysed. The emphasis of their ‘asylum-seeking’ rather than ‘child’ status influences border officials to subject children to the full force of the UK immigration system, severely disregarding their safeguarding. Through discursively problematising UASC, the HO ensures that the necropolitical impact of HO policy is left unproblematised. Subsequently, their ‘child status’ offers them no compassion or protection upon unaccompanied children’s interaction with the biopower of the UK border. Finally, through discursively constructing a strict policy criterion that must be met in order for a child to be epistemologically placed within the UASC category, the HO achieves its political agenda. This is to legitimise the expulsion of most unaccompanied children to bare life, devoid of their rights under the UNCRC.

Further research is required to determine the full influence of the policy climate post-Brexit, and the *New Plan for Immigration* which will not be confirmed in full till the end of 2022. In the post-Brexit climate, there is significant uncertainty over whether the UK will continue to be bound by the European Convention on Human Rights, and whether the UK Government can be challenged in the European Court of Justice. This demonstrates a vital need for greater research attention to be focused on revealing the covert mechanisms used by the UK government to legitimise the violations of international human rights treaties.

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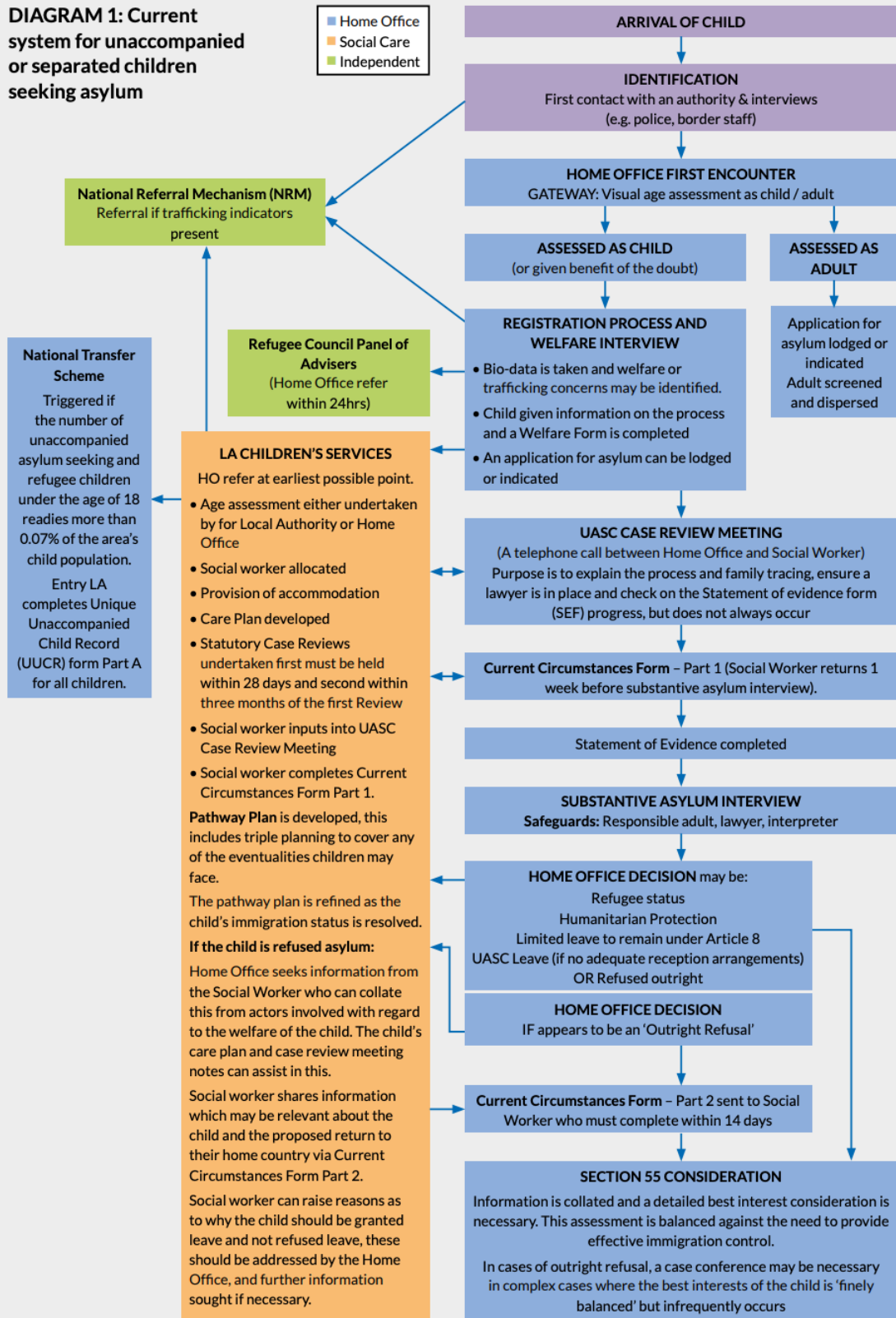
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Annex I: Summary of the Asylum System for UASC (UNHCR, 2019a p.20)

DIAGRAM 1: Current system for unaccompanied or separated children seeking asylum



Annex II: Extract of Qualitative Coding Tables Us

Data Source 2: Home Office (2020b). Guidance on Assessing Age. Version 4.0.

<u>Page</u>	<u>Meaning Unit</u>	<u>Problematisation: Implied Meaning</u>	<u>Frame</u>
P.10	<i>“All asylum seekers and migrants who claim to be children must be asked for documentary evidence to help establish their age when they are first encountered.”</i>	Lack of documentation is problematised, failing to consider that this ‘problem’ stems from being forced to rapidly flee or having documents removed by smugglers. The Home Office policy proposal to make decisions on age is based on the availability of documentation provided by the ‘child’.	2: Lack of credibility. 3: Bogus children. 4: Migrant first, child second.
P.13	<i>“The assessment of an individual’s physical appearance may include, but not necessarily be limited to, the following potential indicators of age: •height •build •facial features, including facial hair, skin lines or folds, <u>tone</u> and weathering •voice, including tone, pitch and expression (particularly in respect of males)”.</i>	The age assessment guidance focuses on the physical appearance of the child. This fails to problematise the impact of the long journey on appearance and leaves the child vulnerable to significant racial profiling.	3: Unchildlike.