

## CYPE(5)-09-19 - Paper to note 10

Rt. Hon Stephen Barclay MP  
Secretary of State for Exiting the EU  
Whitehall, London

19<sup>th</sup> February 2019,

Dear Stephen,

We are writing you jointly as the Children's Commissioners for England, Scotland, Wales and Northern Ireland about Brexit and the implications for children. While we continue to have reservations about the degree to which children have been engaged and considered during the Brexit process, we have immediate concerns about the provision for children from the 1<sup>st</sup> April 2019. Below we have outlined some of the most pressing issues on which we seek assurance. While we appreciate that the UK Government has many pressing concerns in preparing for a potential no-deal Brexit, we are sure you will agree that nothing is more important than children and their safety. We would therefore be grateful if you, and your cabinet colleagues, could address the points below to assure us, and numerous other partners, that the protection of children is being considered by the UK Government in preparing for Brexit.

### **Co-operation on child protection and law enforcement**

As you will know, while individual states have strategies for the prevention of child abuse and exploitation, there is an important international dimension. Whether this be international criminal gangs which exploit children or networks of paedophiles across countries who abuse them, it is vital that the reach of law enforcement matches that of these criminals. For example, the viewing and sharing of child abuse images nearly always involves a network, often international. This means an offender may be discovered elsewhere in the EU, but resident and presenting a threat to children in the UK. At present, pan-EU co-operation protocols enable such information to be shared swiftly.

Similar issues apply to children who are trafficked into the UK. Generally, these children will arrive from Europe, even if their home country was outside the EU. Co-operation in identifying and tracking these children is vital both in protecting these children, giving aid to victims, closing down the networks, and ensuring perpetrators are brought to justice. The importance of doing this does not end when children are identified within the UK, as a large proportion of child trafficking victims who are identified then go missing, and may end up in the EU.

The same is true for abducted children, including those taken by a parent who may pose an immediate danger to them or a teen groomed by an older man. If abducted children are taken abroad, states need to be able both to arrest and extradite the perpetrator and ensure immediate steps are taken to protect the child. The co-operation of EU member states is vital in enabling this. This is just one of many examples where the European Arrest Warrant, and other associated aspects of police co-operation is used to keep children safe. These issues are exacerbated for children living in Northern Ireland and we ask that particular consideration is given to this area.

If we were to continue to have visa-free travel between Britain and the EU, yet not have the police and security co-operation underpinning this, the system would have serious and immediate weaknesses that undermine the protection of children. We need to ensure that strong child protection protocols, including information-sharing, are in place as soon as we lose EU co-operation. Therefore we would be grateful if you could:

- 1) Explain the status of UK participation in policing and security co-operation, including the European Arrest Warrant, Europol (including co-operation on image hashing), Eurojust and ECRIS if the Withdrawal Agreement is ratified.

- 2) Lay-out the no deal contingency planning, including specific descriptions of the protocols which would be in place on the 1<sup>st</sup> April to cover trafficking, abuse images and abduction.

### **Co-operation on family law matters**

As well as co-operation on criminal law enforcement and child protection there is crucial co-operation on civil law procedures and child protection. There are, and will continue to be, numerous EU national children in contact with children's services across the UK, and children, including UK national children who have a parent living elsewhere in the EU. Ongoing co-operation between jurisdictions, including mutual recognition of civil child protection cases is vital for the immediate safety of the children concerned, and the long-term protection of their right to family life<sup>1</sup>. As well as the immediate issues for these children, there are longer-term issues for the system. If family courts regularly have to decide on jurisdictional issues, forum bars, cross-border applications etc. then we will need *far* greater capacity in all elements of the system.

Therefore it is imperative that the UK Government:

- 1) Sets out its no-deal contingency planning for cross-border civil child protection processes in the event of no-deal Brexit scenario. Including what would happen if a child is removed from the UK to circumvent a child protection plan or care order after April 1<sup>st</sup>;
- 2) Explains the longer-term plans for cross-European co-operation in the child protection system and family court system;
- 3) Publishes clear guidance for local institutions on the immediate and long-term planning they need to be undertaking on Brexit.

### **Criminal records and staff vetting**

There are a large number of EU nationals working in childcare positions across the UK. At present information sharing across the EU enables criminal-record checks issued in the UK to be informed by information gathered in other countries. It is vital for the safety of children that EU national staff continue to be able to work with children, and to do so having been adequately vetted. This requires that the criminal record clearance continues to be informed by intelligence from other countries in which the professional has worked. Can you please explain the immediate contingency planning for co-operating on staff vetting in the case of no deal, and the long-term plans for collaboration on the issuing of DBS checks if the withdrawal agreement is ratified? We would be grateful if you could also provide assurances that consideration has been given to how these arrangements will apply to people travelling across the Irish Border.

We would be grateful for a formal response responding to all the points in this letter by the 4<sup>th</sup> March.

If you have any queries about any issue raised in this letter, please contact Martin Lennon, Head of Public Affairs for the Children's Commissioner for England ([martin.lennon@childrenscommissioner.gov.uk](mailto:martin.lennon@childrenscommissioner.gov.uk))

Yours sincerely,

**Anne Longfield OBE, Children's Commissioner for England**

**Sally Holland, Comisiynydd Plant Cymru, Children's Commissioner for Wales**

**Bruce Adamson, Children and Young People's Commissioner Scotland**

**Koulla Yiasouma, Northern Ireland Commissioner for Children and Young People**

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<sup>1</sup> For further examples please see [https://www.familylaw.co.uk/news\\_and\\_comment/part-2-the-implications-of-a-no-deal-brexit-for-cross-border-children-s-cases](https://www.familylaw.co.uk/news_and_comment/part-2-the-implications-of-a-no-deal-brexit-for-cross-border-children-s-cases)

cc. Rt Hon Nicola Sturgeon MSP, First Minister of Scotland  
Rt. Hon Mark Drakeford AM, First Minister of Wales  
Rt. Hon Sajid Javid MP, Home Secretary  
Rt. Hon Damian Hinds MP, Education Secretary  
Rt Hon Karen Bradley MP, Secretary of State for Northern Ireland  
Michael Russell MSP, Cabinet Secretary for Government Business and Constitutional Relations  
Rt. Hon Hilary Benn MP, Chair, Brexit Select Committee  
Rt. Hon Yvette Cooper MP, Chair, Home Affairs Select Committee  
Rt. Hon Robert Halfon MP, Chair, Education Select Committee  
Dr Andrew Murrison MP, Chair NI Affairs Committee