

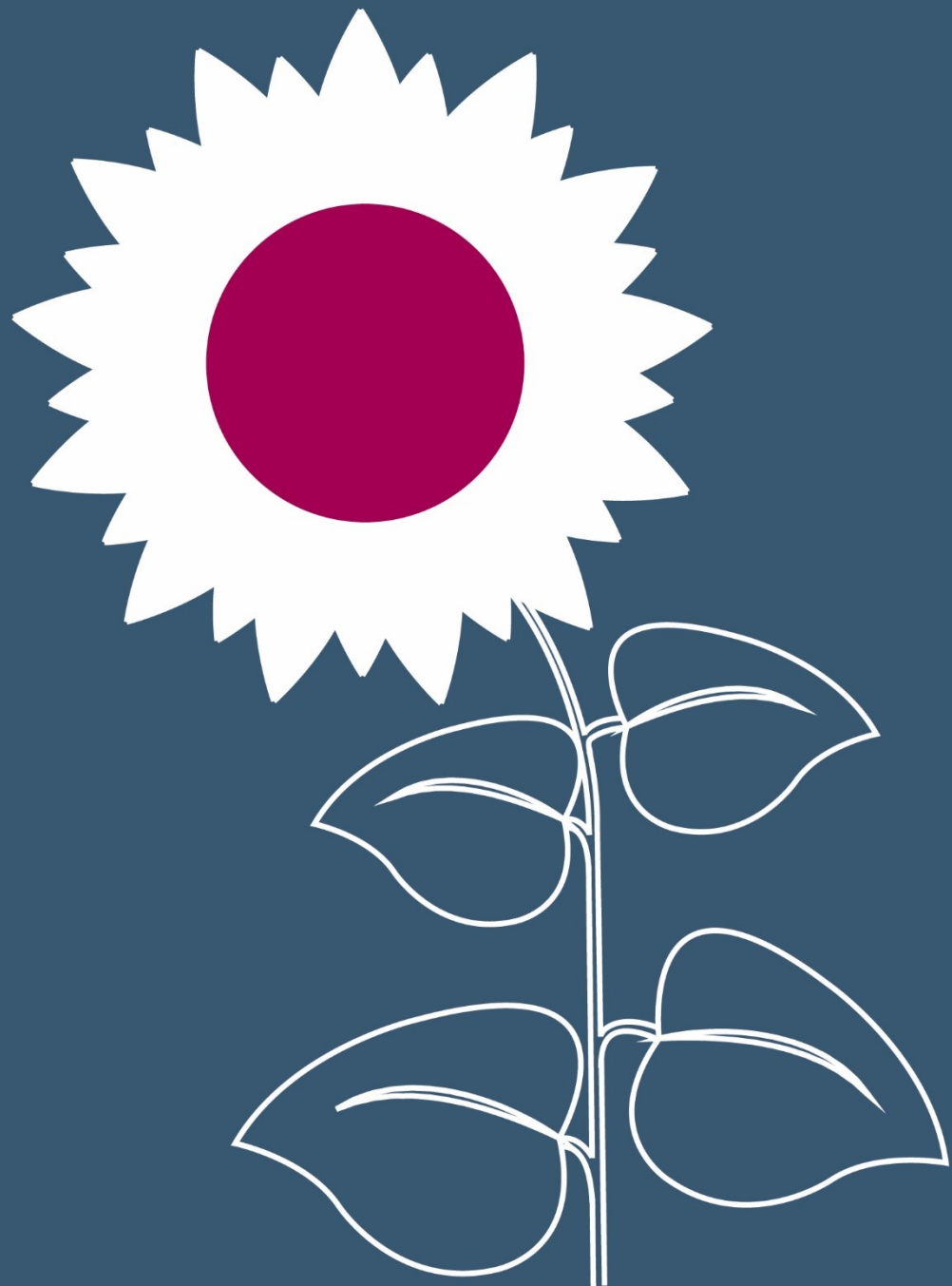


City of  
**Stoke-on-Trent**

# Unaccompanied Migrant Children and Child Victims of Trafficking and Modern Slavery

Tri x 3\_3\_3 (November 2022)

Review November 2023



# Contents

1. Introduction and Definitions .....	2
2. Responsibilities of the Local Authority .....	4
3. Managing the Case .....	4
4. Assessment.....	6
5. Provision of Services .....	8
6. Suitable Placements.....	9
Placement Options .....	10
7. Withdrawal of Services .....	11
8. Unaccompanied Child Migrants Reaching the Age of 18 .....	12
9. Review of Services .....	13
10. Asylum Process - Possible Outcomes.....	14
11. Further Information.....	15
Legislation, Statutory Guidance and Government Non-Statutory Guidance .....	15
Good Practice Guidance.....	16
Useful Websites.....	16

## 1. Introduction and Definitions

This chapter should be read in conjunction with the following government guidance:

**[Care of Unaccompanied Migrant Children and Child Victims of Modern Slavery: Statutory Guidance for Local Authorities, November 2017](#)** - which sets out the steps local authorities should take to plan for the provision of support for Looked After Children who are unaccompanied asylum seeking children (UASC), unaccompanied migrant children or child victims of modern slavery including trafficking. Elements of this guidance will also be relevant for the care of looked after UK nationals who may also be child victims of modern slavery. It does not provide detailed guidance on steps that local authorities should take, in partnership with other agencies, to identify and protect child victims of modern slavery, including trafficking, before they become looked after. This is described in practice guidance: **[Safeguarding Children who May have Been Trafficked](#)**.

For information on where Unaccompanied Asylum Seeking Children should be placed, please refer to: **[National Transfer Scheme Protocol for Unaccompanied Asylum Seeking Children](#)**.

The protocol aims to ensure that unaccompanied children can access the services and support they need and ensure a more even distribution of unaccompanied children. It is intended to ensure that any participating local authority does not face a disproportionate responsibility in accommodating and looking after unaccompanied children, pursuant to its duties under parts 3, 4, and 5 of the Children Act 1989, simply by virtue of being the point of arrival of a disproportionate number of unaccompanied children.

In August 2022, following the raised number of migrants crossing the English Channel, all Local Authorities received a letter from Kevin Foster, Minister for Safe and Legal Migration, indicating that 'from the date of this letter, transfers will be directed, in line with the regional rota, to all local authorities at or above the previous threshold of 0.07% but below the new threshold of 0.1%. Also, from the date of this letter the NTS will no longer accept new referrals in from any local authority below the new threshold of 0.1%. Referrals already made by local authorities which are currently awaiting transfer to a care placement in another local authority will be reviewed on a case-by-case basis and, provided it is considered to be in the best interests of the child, the transfer will continue to be progressed.'

In February 2022, the Home Office announced that participation in the National Transfer Scheme is to become mandatory for all councils with responsibility for Children's Services. The Home Office will take into account a range of factors when deciding the number of children that will be allocated to a specific local authority including the proportion of unaccompanied asylum seeking children.

The cohort of unaccompanied migrant children and child victims of modern slavery includes a wide range of children in a variety of circumstances that a local authority will need to be aware of in order to ensure that the child receives appropriate legal advice and support. Some will have been trafficked or persecuted and may have witnessed or been subject to horrific acts of violence. Other migrant children may have been sent in search of a better life, or may have been brought to the UK for private fostering and subsequently exploited or abandoned when the arrangement fails.

There are a wide range of status possibilities for migrant children that the local authority will need to be aware of. In brief, the following categories regarding status are the most likely to be encountered. However, this list is not exhaustive and legal advice should be sought wherever there is uncertainty about a migrant child's status.

Categories of unaccompanied children include:

- **Unaccompanied asylum seeking children - a person who:**
  - a. Is under 18 years of age when the asylum application is submitted;
  - b. Is applying for asylum in their own right; and
  - c. Is separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.

**(Immigration Rules Part 11)**

Some will not qualify for asylum but may require 'humanitarian

protection' (where an individual is found not to be a refugee under the Refugee Convention but they are nevertheless at risk of serious harm on return to their country of origin - see [Home Office Guidance on Humanitarian Protection](#)). Others may not qualify for any leave to remain in the UK. Their status will be determined by the Home Office;

- **Unaccompanied migrant child not seeking asylum:** a child who is not seeking asylum because their reasons for being here are not connected to seeking protection, or who may be undocumented, or is not seeking asylum because they have not been advised of the need to do so. The child may be separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.

From 1 January 2021, following the UK's exit from the EEA, the rules relating to 'family reunions' have narrowed, and only cover children reuniting with parents who have refugee status or humanitarian protection.

## 2. Responsibilities of the Local Authority

Where it is established that the referral concerns a young unaccompanied child migrant, regardless of the category, this will always satisfy the criteria for services to a Child in Need.

An unaccompanied child will become looked after by the local authority after having been accommodated by the local authority under section 20(1) of the Children Act 1989 for 24 hours. Once accommodated, they will be subject to the appropriate regulations and the same provision as any other Looked After Child.

The local authority should have procedures in place to monitor their policies and performance and should record any modern slavery concerns on the child's Care Plan.

As part of the general duty to assess and meet the needs of an unaccompanied asylum seeking child, the local authority should ensure that the child has access to a legal representative.

Unaccompanied children are highly likely to require specialist support from a variety of organisations and agencies.

## 3. Managing the Case

All professionals involved in the care of unaccompanied children and child victims of modern slavery should be able to recognise indicators of trafficking, slavery, servitude and forced or compulsory labour and should have an understanding of the particular issues likely to be faced by these children.

This is a highly complex area of work, and professionals will need to have available to them a solid understanding of the asylum process or colleagues or other professionals with such expertise.

The kinds of issues that may need to be negotiated include:

- An understanding of the Welfare Interview, Statement of Evidence Form;
- The purpose of the asylum case review;
- The importance of the substantive asylum interview;
- The different possible outcomes of a child's asylum claim and how that impacts on pathway planning.

Social workers should also have a broad understanding of the immigration system - for example, the immigration application process, different types of leave, making further leave to remain applications and the appeals process. Social workers should also have an understanding of the trafficking referral process and the wider child protection system around child victims of modern slavery, including how and when to refer a child to the [Digital Referral System: Report Modern Slavery](#).

In areas where the Independent Child Trafficking Guardians service has been implemented, if the social worker considers a child to be a potential victim of modern slavery, they should refer them to the ICTG service by completing the [online referral form](#).

One of the most crucial aspects of the social worker's role will be accessing specialist asylum and/or immigration legal advice and representation for all unaccompanied children and child victims of modern slavery. Legal advice can only be provided by a registered immigration advisor, who is either a regulated solicitor or registered with the Office of the Immigration Services Commissioner (OISC) to provide immigration advice to the relevant level. Ideally the solicitor should also have expertise in working with children. This specialist advice will be required to ensure the child can fully present their case for asylum or leave to remain.

Details on where to find immigration legal representation can be found using the Adviser Finder function on the [OISC website](#).

Where a child is undocumented this should be identified as soon as possible as the child will need to access specialist immigration legal advice.

Legal Aid is available for asylum cases and Looked after Children will generally be eligible.

Independent Reviewing Officers should be aware of the need to have regard to the child's needs as an unaccompanied child or child victim of modern slavery, including trafficking, when planning and providing care. They should also have an awareness of the particular needs and issues children may face as a result of being an unaccompanied child or child victim of modern slavery so that they can provide appropriate challenge at review.

Service providers should ensure that foster carers and all other care staff in placement settings are aware of appropriate steps to reduce the risk of trafficked children returning to their traffickers.

## 4. Assessment

Social workers should consider all unaccompanied migrant children as potential victims of modern slavery in the first instance until this possibility is either confirmed or discounted and they should also have an understanding of the trafficking referral process. For further information on the indicators of Modern Slavery and Trafficking - see the [Stoke-on-Trent Children Safeguarding Partnership](#) for: Safeguarding children from abroad (including child trafficking), Trafficked Children, Child Sexual Exploitation.

The social worker must ensure that all unaccompanied children have access to specialist asylum and/or immigration legal advice and representation in their assessment so as to ensure the child can fully present their case for asylum or leave to remain.

The Assessment will take account of:

- a. The immigration status of the child;
- b. The young person's ethnicity and religion;
- c. Any safeguarding issues or factors that may indicate the child is or has been trafficked or may be a victim of compulsory labour, servitude and slavery;
- d. The fact that many unaccompanied and/or trafficked children are at risk of going missing from care, often within the first 72 hours, whilst others may be at risk of repeated missing episodes due to ongoing exploitation. Photographs of the child should be kept on file for use if they do go missing and be shared with the police in that instance. Photographs may include one of their full body length, one of their face and any others that depict distinguishing features (see the [Stoke-on-Trent Children Safeguarding Partnership](#) for: Children who run away or go missing from home or care);
- e. Any family links that may be available to support the child (ensuring that any search for family members does not jeopardise the safety of the child). The child should always be consulted with and informed if family tracing is being undertaken or commissioned on their behalf (see [British Red Cross - Find Missing Family](#));
- f. The young person's accommodation arrangements and needs;
- g. The child's education needs and how these will be addressed through a Personal Education Plan;
- h. The young person's local connection with the local authority area;
- i. The young person's financial and other support;
- j. The age assessment of the young person (where relevant) and any available information on their agent, their access into this country, the length of time they have been in this country and possible other connections; and
- k. The child's health needs and any particular psychological or emotional impact of experiences as an unaccompanied or trafficked child, and any consequent

need for psychological or mental health support to help the child deal with them.

Unaccompanied migrant children and child victims of modern slavery will need access to specialist legal advice and support. This will be in relation to immigration and asylum applications, and decisions and any associated legal proceedings. If they have been a victim of modern slavery, it may also be in relation to criminal proceedings or compensation claims. The assessment should note that specialist legal support is required and how it will be provided. The child's social worker should ensure that the child is accompanied in all meetings, including this meeting, with legal professionals. The person accompanying the child does not have to be the child's social worker.

In determining an unaccompanied young person's accommodation needs, the Assessment must have regard to their age and independent living skills, and consider the intensity of service required. This may range between independent accommodation, semi-independent accommodation foster or residential placements, or in specific cases, a specialist residential therapeutic unit.

No assumptions should be made about the child's language skills. An appropriately qualified and vetted interpreter must be used to assist in all assessments.

The allocated social worker must complete a Case Record in all cases. Social workers should seek to pay particular attention to the detail of spelling names and of descriptions of familial relationships.

Planning for the child should include planning for a variety of possible outcomes regarding the child's immigration status - see [Section 10, Asylum Process - Possible Outcomes](#).

## **Age Assessment**

[Children Act 1989 Guidance and Regulations - Volume 2: Care Planning, Placement and Case Review](#) provides that in every case where someone seeking asylum claims to be a child but their age is in doubt they should be treated as the age they claim to be, unless, and until, a case law compliant age assessment – including a less prolonged enquiry carried out by a social worker in accordance with [Home Office guidance 'Assessing Age'](#) - shows them to be otherwise, or other documentary evidence of age comes to light (see also: [Section 6.1, Placement Options](#) in relation to 'other arrangements' placements).

Where they are claiming to be a child, the presumption that they are a child until assessed or established otherwise enables them to receive immediate assistance, support and protection in accordance with section 51 Modern Slavery Act 2015. Assessments must be undertaken in accordance with standards established in case law and should only be carried out where there is reason to doubt that the individual is the age they claim. For further guidance, see: [Age Assessment Guidance](#) published by ADCS. In all cases where a referral is received concerning an unaccompanied child, the relevant Team will carry out an Assessment in



accordance with the [Assessment Procedure](#), to determine whether they are a Child in Need.

## 5. Provision of Services

Young unaccompanied child migrants should be provided with information about the services available to them from the local authority and other agencies.

The young person will also be given assistance to register with a GP and dentist, and enrol in a local school or college. The health professionals and the school should be aware of the child's status and senior managers such as the Virtual School Head should be informed of the school placement. There will be a need to set out clearly any particular implications of the child's status for non-specialist professionals such as GPs and teachers, including any urgency of involvement - particularly with health practitioners. An interpreter should be booked to accompany the young person to appointments with the GP or school, where necessary.

Where there are safeguarding concerns relating to the care and welfare of any unaccompanied child, including where modern slavery is suspected or has been identified, these should be investigated in line with the statutory provisions, Working Together to Safeguard Children statutory guidance and locally agreed protocols and processes. The opportunity to intervene to prevent any further exploitation might be very narrow, so the entry local authority should convene a strategy discussion as soon as possible and take any necessary immediate action to safeguard and promote the child's welfare. This strategy discussion should involve the police, immigration officials and any other relevant agencies and plan rapid further action if concerns are substantiated.

For example, Police installed alarms, discussion with the child or young person about the use of mobile phones, etc.

Provision may need to be made for the child to be in a safe place before any further assessment takes place and for the possibility that they may not be able to disclose full information about their circumstances immediately. The location of the child should not be divulged to any enquirers until their identity and relationship with the child have been established and the local authority is assured of their motives, if necessary, with the help of police and immigration officials.

See the [Stoke-on-Trent Children Safeguarding Partnership](#) for: Safeguarding children from abroad (including child trafficking), Trafficked Children, Child Sexual Exploitation.

All unaccompanied young asylum-seekers who are eligible for a service will be entitled to financial assistance which must first be authorised by the manager. The social worker should arrange for payment of the relevant amounts in accordance with the local authority's financial procedures.

Travel cards or warrants will be issued to young unaccompanied asylum-seekers in relation to appointments at the Home Office.



Where an Assessment identifies that an unaccompanied child migrant does not meet the criteria for a service from Children's Services, but appears to be in need of services from elsewhere, the social worker will refer the young person to the appropriate agency which may be a different Children's Service, the Refugee Council, UK Visas and Immigration and/or an appropriate voluntary agency.

In such circumstances, the duty social worker should make an appointment for the young person and advise them of the name, address (including a map where necessary) and contact number of the person with whom the appointment has been made. In addition, the duty worker must send a copy of the Referral Form and Assessment Record to the relevant office.

In all cases where a service is to be refused, the social worker must consult their manager before the decision is made and the letter confirming the decision is sent. Any correspondence received in relation to the decision should be referred to the manager.

## 6. Suitable Placements

"Placement decisions should take particular account of the need to protect children from any risk of being exploited, and the heightened risk of them going missing. Transfer to the care of another local authority or an out of area placement might in some cases be appropriate to put distance between the child and where the traffickers expect them to be". See: [What is a suitable placement for an unaccompanied asylum seeking child?](#) – Information for local authorities to accompany the national transfer protocol for unaccompanied asylum seeking children.

It is important that suitable emergency accommodation can be accessed directly at any time of the day or night and that there is sufficient supervision and monitoring by on-site staff to keep the child safe. Bed and breakfast (B&B) accommodation is **not suitable**, even on an emergency accommodation basis. Such accommodation can leave the child particularly vulnerable to risk from those who wish to exploit them and does not meet their protection or welfare needs.

Often very little information about the young person is available at the outset and so it is highly likely that a permanent placement decision will not be made immediately. A temporary placement can enable the child or young person to feel safe and help them begin to physically recover from their journey and enable them to engage with an assessment of their needs with the help of interpreters as necessary.

Where a young person's needs are for independent or semi-independent accommodation, and the manager agrees, assistance should be given with completion of the necessary Housing Application, (see below).

Where the Assessment identifies that an unaccompanied young child migrant needs to be Looked After, all the procedures in relation to Care Plans, Health Care Plans, Personal Education Plans and Placement Plans must be completed as for any other Looked After Child. See: [Decision to Look After and Care Planning Procedure](#).

For unaccompanied migrant children who are Looked After, the placement decision also needs to be informed by careful consideration of the wider support needs of the child, including their cultural and social needs. Creative ways of meeting those needs, such as mentors or links to groups from their country of origin living in the UK could be used. As with all Looked After Children, an unaccompanied child's ethnicity, cultural and linguistic background should be taken into account when placing the child. However, these are not overriding considerations and should be taken into account alongside all of the child's needs. Nevertheless, the placement should meet the child's needs as a whole and be consistent with their wishes and feelings.

All residential home staff, foster carers or support workers of semi-independent accommodation caring for unaccompanied children and child victims of modern slavery (including independent advocates where appropriate) should be aware of any particular risks of them going missing, or of any risk to the child from those who wish to exploit them. They should also understand what practical steps they should take in the event that the child does go missing, or if they suspect that someone is trying to lure the child away from their care placement.

Carers should seek to develop an awareness of the child's past experiences and any psychological issues they face, which may not be immediately apparent, as well as understanding cultural issues, which may put them at greater risk of going missing. This may include the potential negative impact of protection measures which may appear to the child to replicate methods used by their traffickers to control them.

Carers and professionals should work closely together to develop a holistic assessment of the child as well as provide support, reassurance and effective safeguarding to them.

## Placement Options

Placement options for unaccompanied migrant children are the same as for other Looked After Children i.e:

**Connected Carers (or Family and Friends carers)** - the [Family and Friends Care Procedure](#) should be followed.

**Foster Care** in a family setting either in a placement in an Ofsted registered and inspected placement with an Independent Fostering Agency foster carer or in a placement with a local authority foster carer.

**Residential Care** within an Ofsted registered and inspected children's residential care home.

**Semi - Independent living arrangements or "other arrangements" including supported lodgings, supported accommodation and shared housing.** These forms of accommodation are usually for older children, who require less intensive support and close monitoring and require only accommodation, as opposed to care and accommodation. Where there has been an assessment of need and the best match is in "other arrangements" the placement could be supported lodgings,

supported accommodation or shared accommodation. Statutory guidance and the Care Planning Regulations clearly set out that in some cases, a child can be suitably placed in accommodation termed as "other arrangements", and [Regulation 27](#) sets out the duties of a local authority when placing a child in such arrangements (see also: [Schedule 6](#)).

With effect from 9 September 2021, Regulation 27B Care Planning, Placement and Case Review (England) Regulations 2010 (as amended by Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021) and [Children Act 1989 Guidance and Regulations - Volume 2: Care Planning, Placement and Case Review](#) provide that those claiming to be under 16 should not be placed in an 'other arrangements' placement until an age assessment has been carried out and the child is assessed as being 16 or 17. The responsible authority will need to plan for suitable accommodation before, during, and after the assessment with particular care given to ensuring that the placement is fully risk-assessed – in many cases a solo foster placement or single occupancy children's home may be the most suitable setting.

Where an asylum seeking person claims their age to be 16 or 17 they can be placed in an 'other arrangements' placement by a local authority only if such a placement is consistent with their welfare in line with the local authority's statutory duties. In cases where an unaccompanied asylum-seeking child's claimed age is 16 or 17 and they have been placed in an 'other arrangements' setting but on completion of a case law compliant age assessment are found to be under 16, the responsible authority has up to 10 working days following completion of the assessment to find a suitable alternative placement.

See also: [Placements in Other Arrangements Procedure](#).

For details regarding the advantages of each of these options above, please see: [What is a suitable placement for an unaccompanied asylum seeking child?](#) – Information for local authorities to accompany the national transfer protocol for unaccompanied asylum seeking children, and [On the Safe Side: Principles for the safe accommodation of child victims of trafficking, ECPAT](#).

## 7. Withdrawal of Services

The provision of a service is dependent on the young person continuing to qualify for the service.

Services to an unaccompanied child migrant may be withdrawn, for example, where another adult wishes to assume Parental Responsibility and this is assessed as appropriate.

The service must not be withdrawn without a Child in Need Plan Review (see [Child in Need Plans and Reviews Procedure](#)) and the agreement of the social worker's manager. Any such decision must be clearly recorded, with reasons. In all such cases, legal advice should usually be obtained before a final decision is made.

Where a service is withdrawn, the social worker should inform the Finance Office, if appropriate, immediately.

## 8. Unaccompanied Child Migrants Reaching the Age of 18

Planning transition to adulthood for unaccompanied children is a particularly complex process that needs to address their developing care needs in the context of their immigration status.

Pathway planning to support an unaccompanied child's transition to adulthood must cover the areas that would be addressed within any care leaver's plan as well as any additional needs arising from their immigration status and the action required to resolve this (see [Leaving Care and Transition Procedure](#)).

Former unaccompanied children who qualify as care leavers and who have been granted leave to remain, or who have an outstanding asylum or other human rights claim or appeal, are entitled to the same level of care and support from the local authority as any other care leaver.

The extent of any care leaver duties on local authorities to provide support to former unaccompanied children who have turned 18, exhausted their appeal rights, established no lawful basis to remain in the UK and should return to their home country is subject to a Human Rights Assessment by the local authority. This is set out under the restrictions on local authority support for adults without immigration status.

For former unaccompanied children whose long-term future is in the UK, transition planning will need to consider the challenges and issues facing any care leaver, such as education or preparing for independent living. Planning for children and young adults who have been granted refugee status or humanitarian protection should also consider when they may be required to make a further application for leave to remain.

Where an unaccompanied child or child victim of modern slavery qualifies for local authority care leaving support, a personal adviser must be appointed to support them.

Pathway Plans should always consider and reflect the implications for the child or young adult if their asylum claim is refused without a grant of leave, if their application to extend their leave is refused or if their appeal against a refusal is dismissed. In such circumstances, the person will become unlawfully present in the UK and be expected to make plans for a return to their home country. A plan for a return to their home country may also need to be made at any other point, should the care leaver decide to leave the UK.

Planning may have to be based around short-term achievable goals whilst entitlement to remain in the UK is being determined. For the majority of

unaccompanied children who do not have permanent immigration status, transition planning should initially take a dual or triple planning perspective, which, over time should be refined as the young person's immigration status is resolved. Planning cannot pre-empt the outcome of any immigration decision and may be based on:

- A transitional plan during the period of uncertainty when the care leaver is in the UK without permanent immigration status;
- A longer-term perspective plan should the care leaver be granted long-term permission to stay in the UK (for example through the granting of Refugee Status); and
- A return to their country of origin at any appropriate point or at the end of the immigration consideration process, should that be necessary because the care leaver decides to leave the UK or is required to do so.

Assistance should be given in advance of their 18th birthday with the necessary applications for housing, Housing Benefit and any other relevant benefits. The social worker must ensure that the young person has accommodation to which to move on their 18th birthday. The social worker must also ensure that the provider of the young person's present accommodation and the Finance Office is informed when the accommodation arrangement will end.

### **Access to Public Funds**

Financial support for care leavers who are former unaccompanied child migrants should reflect their needs and their immigration status. Financial policies should highlight any entitlements and how their immigration status may affect these. Pathway Plans should address employment opportunities and funding arrangements for education and training, taking account of the young person's immigration status.

If a young person has no recourse to public funds, they will be unable to access a number of welfare benefits and social housing. Subject to the Human Rights Assessment by the local authority under Schedule 3 Nationality, Immigration and Asylum Act 2002 (as amended), the provision of accommodation may form part of the leaving care support provided to a young person who has no recourse to public funds. For further information, please see: [Families with No Recourse to Public Funds Procedure](#).

Having 'no recourse to public funds' does not prevent a person from accessing other publicly funded services, but many of these will have eligibility criteria based on immigration status which will need to be considered.

## **9. Review of Services**

Where a young person is Looked After, their case will be reviewed in accordance with the [Looked After Reviews Procedure](#).

Any other services provided should be reviewed at least every 6 months as set out in the [Child in Need Plans and Reviews Procedure](#).

In advance of each review, the social worker will send the young person a Checklist setting out the documents which the social worker requires to be produced at the Review, such as confirmation of registration with a GP, enrolment at schools/college and updated information concerning their asylum status.

The young person should be invited to the Review and an interpreter should be booked as necessary.

Independent Reviewing Officers should be aware of the need to have regard to the child's needs as an unaccompanied child or child victim of modern slavery, including trafficking, when planning and providing care. They should also have an awareness of the particular needs and issues children may face as a result of being an unaccompanied child or child victim of modern slavery so that they can provide appropriate challenge at review. Service providers should ensure that foster carers and all other care staff in placement settings are aware of appropriate steps to reduce the risk of trafficked children returning to their traffickers.

Guidance for cases where the child has been the subject of sexual exploitation can be found at [Child Sexual Exploitation: Definition and Guide for Practitioners](#).

Where a Review confirms the service, the Financial Assessment Form should be updated. Where additional support services are identified as necessary, the Plan should be updated to reflect this.

Where services are withdrawn as a result of the Review, the relevant teams should be notified immediately.

## 10. Asylum Process - Possible Outcomes

There are four main possible outcomes of the asylum process for an unaccompanied child, which will determine what the long term solution might be:

- **Granted refugee status** (i.e. granted asylum), with limited leave to remain for five years, after which time they can normally apply for settlement (i.e. indefinite leave to remain);
- **Refused asylum but granted humanitarian protection**, with limited leave to remain for five years, after which time they can normally apply for settlement (i.e. indefinite leave to remain). This is most commonly granted where the person is at risk of a form of 'ill treatment' in their country of origin but which does not meet the criteria of the Refugee Convention.

As it is very likely that those granted refugee status or humanitarian protection will qualify for indefinite leave to remain, their care and pathway planning should primarily focus on their long-term future in the UK, in the same way as for any other care leaver;

- **Refused asylum but granted Unaccompanied Asylum Seeking Child (UASC) Leave**. This is normally for 30 months or until the age of 17½,



whichever is the shorter period. This form of leave is granted to unaccompanied children where they do not qualify for refugee status or humanitarian protection, but where the Home Office cannot return them to their home country because it is not satisfied that safe and adequate reception arrangements are in place in that country. There must be no reasonable grounds for regarding the applicant as a danger to the community or security of the United Kingdom; they must not have been convicted by a final judgment of a particularly serious crime; and they must not, at the date of their application, be the subject of a deportation order or a decision to make a deportation order;

- It is a form of temporary leave to remain and is not a route to settlement. It is important to note that this decision is a refusal of the child's asylum claim and will attract a right of appeal. The child should be assisted to obtain legal advice on appealing against such a refusal. Before the child's UASC Leave expires, they can submit an application for further leave to remain and/or a fresh claim for asylum, which will be considered. It is essential that they are assisted to access legal advice and make any such further application or claim before their UASC Leave expires.

In such cases, care and pathway planning should therefore consider the possibility that the child may have to return to their home country once their UASC Leave expires or that they may become legally resident in the UK long-term (if a subsequent application or appeal is successful). Planning should also cover the possibility that they reach the age of 18 with an outstanding application or appeal and are entitled to remain in the UK until its outcome is known;

- **Refused asylum and granted no leave to remain.** In this case the unaccompanied child is expected to return to their home country and their Care Plan should address the relevant actions and the support required. The Home Office will not return an unaccompanied child to their home country unless it is satisfied that safe and adequate reception arrangements are in place in that country. Any appeal or further application should be submitted where appropriate by the child's legal adviser.

Although the above are the four main types of outcomes for an unaccompanied child, there may be others. For example, a child may be granted discretionary leave depending on whether they meet other criteria such as needing to stay in the UK to help police with their enquires after being conclusively identified as a victim of trafficking. Other examples include: leave as a stateless person; limited or discretionary leave for compassionate reasons; and limited leave on the basis of family or private life.

## 11. Further Information

### Legislation, Statutory Guidance and Government Non-Statutory Guidance

[Statutory Guidance Modern Slavery: How to Identify and Support Victims](#)



**Care of Unaccompanied Migrant Children and Child Victims of Modern Slavery: Statutory Guidance for Local Authorities, November 2017**

**Safeguarding Children who May Have Been Trafficked (Home Office, 2011)** - non-statutory government good practice guidance.

**Interim Guidance for Independent Child Trafficking Guardians**

**Independent Child Trafficked Guardians Referral Form** - in areas where the ICTG service has been implemented, if the first responder considers a child to be a potential victim of modern slavery, they should refer them to the ICTG service by completing the online referral form.

**Modern Slavery Victims: Referral** - guidance on referring potential victims of modern slavery/human trafficking to the National Referral Mechanism.

**Modern Slavery Act 2015**

**National Transfer Scheme Protocol for Unaccompanied Asylum Seeking Children** - national transfer procedure on transferring unaccompanied asylum seeking children (UASC).

**Revised Advice on Suitable Accommodation for Unaccompanied Asylum Seeking Children (April 2018)**

**Cross-border child protection cases: the 1996 Hague Convention (DfE)** - guidance for local authorities dealing with international child protection cases.

**Guidance on Processing Children's Asylum Claims** - sets out the process which immigration officials follow in determining an asylum claim from a child and the possible outcomes for the child.

## **Good Practice Guidance**

**Refugee and Unaccompanied Asylum Seeking Children and Young People: Guidance for Paediatricians (Royal College of Paediatrics and Child Health)**

## **Useful Websites**

**Refugee Council - Children's Panel** - national remit to offer advice and support to unaccompanied children, and advise other professionals who are involved in their care.

**Local Government Association - Council Support: Refugees, Asylum Seekers and Unaccompanied Children** - resource for council staff, designed to answer questions about supporting refugees, asylum seekers and unaccompanied children.

**UK Modern Slavery Helpline and Resource Centre - Unseen** (Registered Charity)