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**THE IMMIGRATION PROCESS FOR UNACCOMPANIED ASYLUM-SEEKING CHILDREN AND IMMIGRATION PROCESS GUIDANCE FOR SOCIAL WORKERS**

1. **THE IMMIGRATION PROCESS FOR UNACCOMPANIED ASYLUM-SEEKING CHILDREN**

**The Initial Screening Interview**

This will last between 30 minutes and one hour. The child should be accompanied an appropriate adult, this can be a foster carer, support worker, family support worker, social worker, or a solicitor. An interpreter will be provided by the Home Office.

The Home Office will then confirm a date for the Substantive Interview

The child’s social worker and foster carer must identify a solicitor for the child *within one week (or as soon as practicably possible)* and meet with the child as soon as possible. The solicitor will arrange for an interpreter to be present.

**For Young People referred from a police station** - On arrival to the country, the child’s allocated social worker must e-mail Child.ASUappointment@homeoffice.gsi.gov.uk, with the child’s details to request a screening appointment. This should be completed *within 1 working day*.

The Home Office will respond with a date for the child’s Initial Screening Interview.

*(For Young People coming to us from the National Transfer Scheme (NTS) and hotels, they would have already applied for asylum and therefore the social worker does not need to send this e-mail. The Young Person will already have registered with the Home Office as an asylum seeker and will have a port reference number and an ARC card. We need to refer them to an immigration solicitor as soon as possible).*

The young person will then receive an Asylum Registration Card (ARC card) within 3 working days which they can use to demonstrate their identity and status as an asylum seeker.

**The Substantive Interview**

This will last between two and four hours. The child should again be accompanied by an appropriate adult this can be a foster carer, support worker, family support worker or social worker. The Young Person’s solicitor will attend this interview. The Home Office will provide an interpreter for this interview.

A decision will be made by the Home Office as to whether the child should be granted leave to remain. in the UK. The four outcomes from this interview are:

**Discretionary Leave for Unaccompanied Asylum-Seeking Children** - for 30 months or until the age of 17.5.

**Humanitarian Protection** - for 5 years

**Child refused asylum** and not granted discretionary leave

**Refugee Status** - for 5 years

**B. IMMIGRATION PROCESS GUIDANCE FOR SOCIAL WORKERS**

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| **Asylum Process** | **What should solicitor be doing?** | **What can I do?** |
| Screening / welfare interview | * Ideally should have already met with YP and have a basic understanding of case
* Be present at screening interview
* Get authority from the YP to liaise with SS
 | * Where possible YP should have already been referred to a solicitor and initial instructions taken
* Raise concerns / complain if solicitor not present at interview
* Contact Home Office if an ARC has not been received
 |
| Preparing witness statement and submitting SEF | * Take a detailed witness statement in the YP’s own voice, at the earliest possible stage and over a number of meetings (good solicitors usually take around 6-10 hours to get a good statement)
* Engage with and potentially gather evidence from any network of professionals supporting the YP
* Submit the witness statement to the Home Office in a timely manner (taking into account the time it takes to prepare the statement)
* In some cases it may not be appropriate to submit the full statement prior to the interview (for instance if the YP has difficulties with recalling specific details, which could be caused by trauma, age etc.). The statement should still be completed and the solicitor should advise the YP about the advisability of submitting the statement prior to the interview. The decision should ultimately be for the YP to make.
* If the YP has mental health issues this may be the appropriate time to consider making referrals for treatment and to consider obtaining a medico-legal report, which should address the appropriateness of attending the substantive interview and/or measures that can be put in place at the interview to minimise the risk of harm.
 | * Support YP to create a file to keep a record of any letters from Home Office and solicitor
* Liaise with solicitor about possible need for specialist mental health support based on YP’s account. If YP does not want solicitor to share any details with LA ask solicitor to make referrals.
* Provide any relevant documentary evidence (including statements) which may assist. Particularly on points of vulnerability (especially mental health and potential learning difficulties), social care needs and best interest assessments.
* Raise concerns / complain if -
	+ The witness statement feels rushed or isn’t sufficiently detailed
	+ The solicitor hasn’t submitted the SEF in a reasonable timeframe
 |
| Substantive interview | * Contact the Home Office to request an interview if there is a delay
* Meet with the YP prior to the interview to ensure that they understand the procedure, the likely issues which will arise, and that they have had the chance to read through their witness statement
* Considers whether it is in the child’s best interest to undergo a substantive interview if particularly young (usually under 12) and/or is particularly traumatised and there is adequate documentary information which can be provided
* Be present at the substantive interview
* Have their own interpreter present
* Following the interview, assists the YP to go through the interview transcript to submit any clarifications or corrections within the 5 day deadline
 | * Encourage solicitor to challenge delays and raise concerns / complain if unwilling
* Contact the Home Office yourself to challenge delay (with advice and support of solicitor)
* Attend interview or support young person to arrange a responsible adult he/she is comfortable with.
* Raise concerns / complain if –
	+ The solicitor isn’t willing to meet with the YP prior to the interview
	+ Isn’t present at the interview
	+ Is resistant to meeting with the YP to go through the transcript in the 5 days following the interview
 |
| Home office decision | Prior to decision* Write to the Home Office if no decision within 6 months
* Consider challenging any significant delay through pre-action and if necessary judicial review (JR) proceedings. Bearing in mind that in some cases this may not be appropriate, the solicitor should at least be advising the client why they do not think that it is in their best interests to challenge the delay in this case.

Following negative asylum/HP (Humanitarian Protection) decision* Advises on limitations of UASC leave and right of appeal on asylum/HP decision
* Advises of merits of appealing, and ability to act, within reasonable timeframe so that YP can get a second opinion and instruct another solicitor within 14 day deadline if necessary
* Submits appeal within 14 days from date on decision letter

**In most cases it will be in the YP’s best interests to appeal the negative decision even where they have been given UASC leave. The merits in appealing would have to be poor (less than 45%) to outweigh this. Even then the YP has the right to appeal a refusal of CLR funding (legal aid for the appeal) to an independent funding adjudicator and the solicitor must assist them in completing the appeal form (CW4)\_and send it to the LAA on their behalf.** **It is critical at this stage that the Solicitor makes clear to the YP that they must apply for further leave to remain one month before they UASC leave runs out, and the consequences of submitting an out of time application (loss of recourse to public funds / impact on long residence)** | Prior to decision * Encourage solicitor to challenge delays and raise concerns / complain if unwilling
* Contact the Home Office yourself to challenge delay (with advice and support of solicitor)
* Provide statement commenting on negative impact of delay on YP (e.g. on education, mental health, ability to access full range of support from social services)

Following negative asylum/HP (Humanitarian Protection) decision* Support young person to access advice in timely manner, in particular if YP wants to change solicitor or if solicitor’s advice on merits is negative.

**It is possible to change legal aid solicitors at this stage because a new legal aid file must be opened for appeal work. However, if the YP wishes to do this they must be supported to do so very quickly to ensure they are able to submit the appeal within the 14 day deadline.*** Raise concerns / complain if –
	+ Solicitor isn’t acting in timely manner given 14 day deadline to appeal
	+ Solicitor fails to advise on appealing UASC leave
	+ Fails a case on merits but then offers to act privately and submit appeal for a fee

**Make a record of the date that the UASC leave will run out and support the YP to find a solicitor to support them with the extension application 6 months in advance** |
| Appeal to First Tier Tribunal | * Consider obtaining a country expert report
* Consider obtaining medical expert reports (e.g. if the YP has very poor mental health)
* Consider whether the YP should give oral evidence (e.g. if the YP is particularly traumatised or too mentally unwell to give reliable account)
* Meet with the YP before the hearing to go over witness statements and explain what the procedure will be on the day
* If needed arrange for the YP to meet their barrister prior to the hearing
* Gather evidence from any professionals supporting the YP and where appropriate take witness statements / ask them to attend the hearing to give oral evidence
* Arrange for their interpreter to be present at the hearing
 | * Raise concerns / complain if –
	+ Solicitor refusing to explore/consider getting expert evidence
	+ The witness statement feels rushed or isn’t sufficiently detailed
* Provide any relevant documentary evidence (including statements) which may assist. Particularly on points of vulnerability (especially mental health and potential learning difficulties), social care needs and best interest assessments.
* Attend hearing (even if not giving oral evidence, judges often place a lot of weight on a visible professional support network)
 |
| Appeal to Upper Tribunal | If the appeal if refused –* Advises of merits of applying to FTT for permission to appeal to Upper Tribunal, and ability to act, within reasonable timeframe so that YP can get a second opinion and instruct another solicitor within 14 day deadline if necessary
* Submits appeal within 14 days from date on decision letter

If permission is refused by FTT –* Advises of merits of applying directly to UT for permission to appeal to Upper Tribunal, and ability to act, within reasonable timeframe so that YP can get a second opinion and instruct another solicitor within 14 day deadline if necessary
* Submits appeal within 14 days from date on decision letter

 If permission is refused by UT* Advises on merits of applying for permission to appeal to Court of Appeal and then Supreme Court

**If solicitor gives negative advice on merits of appealing any further at any stage, they should advise the YP on the consequences and risks associated with being Appeal Rights Exhausted (ARE)** | * If there are concerns about the quality of the solicitor, support YP to get a second opinion from a recommended solicitor
* Raise concerns / complain if –
	+ Solicitor isn’t acting in timely manner given 14 day deadlines to appeal
	+ Fails a case on merits but then offers to act privately and submit appeal for a fee
 |
| YP becomes Appeal Rights Exhausted (ARE) | * Assess merits of making a fresh asylum application (including consideration of any change in the country situation or new evidence relating to YP’s vulnerabilities)
* Consider merits of making any other types of applications, including;
	+ Family and private life

If YP still under 18 years old -* + Home Office policy on granting limited leave to remain for children in care
	+ Applying to register as a British Citizen under the Home Office’s discretionary powers
 | * If there were any concerns about previous solicitor’s handling of YP’s initial asylum claim, support YP to get advice from alternative solicitor on merits of any further applications. This will be a new matter so the YP can instruct a new legal aid solicitor at this stage.
* Gather any supporting evidence which may be relevant. Particularly on points of vulnerability (especially mental health and potential learning difficulties), social care needs and best interest assessments
 |

**C. ASYLUM PROCESS GUIDANCE – TEMPLATE AND EXAMPLE E-MAILS**

**Asylum process guidance for social workers – templates and example emails**

**Booking welfare (screening) interviews**

For ’walk-ins’ you will need to email the child.asuappointment@homeoffice.gsi.gov.uk or call 03001234193

**Requesting ARCs**

If no ARC has been received within a few weeks of interview, if the date of birth is incorrect, or if an old ARC has expired you can submit Home Office online ARC enquiry form at; <https://www.homeofficesurveys.homeoffice.gov.uk/s/3H7CUS/>

Make sure the address is correct (including flat number), and that you use a secure address where there is likely to be someone in who can sign for the card. If there is no response (i.e. if no ARC received) within 28 days, report to Migrant Help (who will then report to the Home Office), using ASCorrespondence@migranthelpuk.org.

**Challenging delay**

Secretary of State’s duties set out in Section 55 of the Borders, Citizenship and Immigration Act 2009 which require that she carry out immigration and asylum functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK.

Notably, S.55 makes clear that best interests of a child should be given primary consideration at every stage.

Section 1(2) of the Children’s Act 1989 makes clear that delays in process can prejudice the welfare of the child:

*In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.*

**Example email**

**\*\*PLEASE DO NOT COPY THE CONTENT OF THE EMAIL. THIS SHOULD BE USED FOR GUIDANCE ONLY IN THE TYPE OF INFORMATION WHICH WILL BE RELEVANT\*\***

**From:**
**To:** LSE Asylum Operations - Workflow <LSEASYLUMworkflow@homeoffice.gov.uk>
**Subject:** Request for interview HO REF XXX

Good afternoon,

As the social worker for XXX, I am writing again to express my concern about the delay in his being invited for their substantive interview. It has now XXX months since XXX attended his screening interview at the Home Office.

XXX continues to live with a great deal of uncertainty and worry about his future, which can affect his mood and causes him to feel stressed and anxious. I am concerned that further delay will exacerbate XXX’s feelings of anxiety and be detrimental to his emotional wellbeing. XXX has been referred to counselling but currently feels unable even to attend this as he is preoccupied with wanting his immigration status to be resolved, and feels he cannot progress with other areas of his life.

XXX has now turned 17 and my work with him should now move on to focus on planning for his independence and transition to adulthood. Due to the uncertainty around his asylum claim, it is not possible to plan clearly for XXX’s next steps as these are so dependent on the outcome of his interview. Until we can plan definitively for XXX’s transition to adulthood, this will remain another area of uncertainty for him.

Due to XXX’s age, vulnerability and the amount of time that has already passed since his initial interview, I am writing to request that his case be dealt with as soon as possible and he be offered a substantive interview date. Please could you provide me with an update on the progress to interview at your earliest possible convenience.

Yours sincerely,

XXX

In recent emails/letters (since resumption of interviews after first lockdown), we have also been suggesting that social workers add the following:

* Why it is safe for the young person to be interviewed straight away, in accordance with Covid regulations/recommendations, e.g.:
	+ ‘P lives in Mitcham, a short journey by bus to Lunar House’ (N.B. other remote interviewing sites will soon be in use for those placed further from Croydon – we’ll make you aware of these as we become aware of them ourselves).
	+ ‘Remote interviewing arrangements have been discussed with P, and she is comfortable to interviewed remotely (with interviewer and interpreter appearing by video link), if the alternative is to wait an indefinite time to be provided with an interview’.

**Current Circumstances (CCF1) forms**

CCF1 form that the Home Office sends to a young person’s social worker to complete between the young person’s screening and substantive interviews.

When filling out a CCF1 form please remember…

* The focus of any information provided should be the current, factual circumstances where you have first-hand information
* You do not need to repeat information relating to the young person’s asylum claim, as this will already be in their witness statement / Statement of Evidence Form submitted to the Home Office by their solicitor.
* Therefore, in relation to the question about information about risk of persecution or serious harm in their own country writing “please refer to X’s witness statement” will suffice
* Under emotional and behavioural development you can list current concerns and any referrals. However if there has been a history of mental health then it might be helpful to make a simple statement saying that you understand from the young person that the issues predate arrival in the UK
* Regarding questions about the reasonableness of family tracing and safe arrangements, given that these relate to return and would require an extremely in depth assessment, then a statement to the effect of this requiring a fuller assessment than you can provide at the time of filling in the form should suffice
* Once an initial draft of the CCF1 form has been completed, it should be read back to the young person with an interpreter, before sending it to the solicitor to give them time to say if they believe there has been an error, and then finally to the Home Office with any corrections

**Providing supporting statements**

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Reviewed by: Smithin George

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