

CHILDREN FROM ABROAD

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1. DEFINITION

This procedure is concerned with children arriving into the UK:

- In the care of adults who, whilst they may be their carers, have no Parental Responsibility for them.
- In the care of adults who have no documents to demonstrate a relationship with the child.
- Alone.
- In the care of agents.

Evidence shows that unaccompanied children or those accompanied by someone, who is not their parent are particularly vulnerable. The children and many of their carers will need assistance to ensure that the child receives adequate care and accesses health and education services.

Immigration legislation impacts significantly on work to safeguard and promote the welfare of children and young people from abroad. It is important to note that regulations and legislation in this area of work are complex and subject to constant change through legal challenge. This guidance, therefore, intends only to reflect broadly the additional issues faced by families operating also within the context of immigration law. All practitioners need to be aware of this context to their contact with such families. Legal advice about individual cases will usually be required by Children's social care.

A small number of children may be exposed to the additional risk of commercial, sexual or domestic exploitation. See also the chapters for Child Sexual Exploitation and Trafficked Children.

2. RISKS

The Children who arrive in the UK alone or who are left at a port of entry by an agent invariably have no right of entry and are unlawfully present.

They are likely to be in a position to claim asylum and this should be arranged as soon as possible if appropriate. They are the responsibility of Children's Social Care to support until they are 18 years of age, (under Section 17 or Section 20 of the Children Act 1989) and if they have been looked after for a minimum of 13 weeks see Section 23(6) of the **Children (Leaving Care) Act 2000**).

Children who arrive in the UK with or to be with carers without Parental Responsibility may have leave to enter the country or visas or they may be in the UK unlawfully. Children's Social Care will have responsibilities towards them if they are assessed to be In Need. If that is the case support and accommodation can be provided by Children's Social Care for the child, and may also be provided for the family, if otherwise the family would be destitute. In addition, Children's Social Care will have responsibilities towards the child if he or she is Privately Fostered.

It is important that practitioners never lose sight of the fact that children from abroad are children first - this can often be forgotten in the face of legal and cultural complexities.

Children arriving from abroad who are unaccompanied or accompanied by someone who is not their parent should be assumed to be a Child in Need unless assessment indicates that this is not the case. The assessment of need should include a separate discussion with the child in a setting where, as far as possible, they feel able to talk freely.

Assessing the needs of these children is only possible if their legal status, background experiences and culture are understood, including the culture shock of arrival in this country.

3. INDICATORS

Whenever any professional comes across a child who they believe has recently moved into this country the following basic information should be sought:

- Confirmation of the child's identity and immigration status.
- Confirmation of the carer's relationship with the child and immigration status.
- Confirmation of the child's health and education arrangements in this country.
- Confirmation of the child's health and education arrangements in the country of origin and any other country that the child has travelled through.

This should be done in a way which is as unthreatening to the child and carer as possible.

If this information indicates that the child has come from overseas and is being cared for by an unrelated adult or one whose relationship is uncertain, Children's Social Care should be notified in order that an assessment can be undertaken.

The immigration status of a child and his/her family has implications for the statutory responsibilities towards the family. It governs what help, if any, can be provided to the family and how help can be offered to the child.

Where families are subject to immigration legislation which precludes support to the family, many will disappear into the community and wait until benefits can be awarded to them. During this interim period the children may suffer particular hardship - e.g. live in overcrowded and unsuitable conditions with no access to health or educational services. They are particularly vulnerable to exploitation because of their circumstances.

Children who disappear, where there are concerns about the child's welfare should be co considered to be missing and Children and Families that go missing (Including Unborn Children) should be followed.

4. PROTECTION AND ACTION TO BE TAKEN

When an unaccompanied child or child accompanied by someone who does not have Parental Responsibility comes to the attention of any practitioner a referral should be made to Children's Social Care in accordance with the Referrals Procedure. An Assessment will be undertaken in order to determine whether they are a Child in Need of services, including the need for protection.

Such children should be assessed as a matter of urgency as they may be very geographically mobile and their vulnerabilities may be greater. All agencies should enable the child to be quickly linked into universal services, which can begin to address educational and health needs.

The assessment has to address not only the barriers which arise from cultural, linguistic and religious differences, but also the particular sensitivities which come from the experiences of many such children and families.

The needs of the child have to be considered, based on an account given by the child or family about a situation, which the professional has neither witnessed nor experienced. In addition, it is often presented in a language, and about a culture and way of life with which the professional is unfamiliar.

NORTH EAST LINCOLNSHIRE SAFEGUARDING CHILDREN PARTNERSHIP

It is vital that the services of an interpreter are employed in the child's first language and that care is taken to ensure that the interpreter knows the correct dialect. Agencies should ensure that the interpreter shares a common language with the child, is professionally trained and has been screened through a DBS check.

The child should be offered an Independent Visitor and, if they decline, their reasons should be recorded. Any Independent Visitor appointed should have appropriate training and demonstrate an understanding of the needs faced by unaccompanied or trafficked children.

In addition, unaccompanied children should be informed of the availability of the Assisted Voluntary Return Scheme.

The first contact with the child and carers is crucial to the engagement with the family and the promotion of trust which underpins the future support, advice and services. Particular sensitivities which may be present include:

- Concerns around immigration status.
- Fear of repatriation.
- Anxiety raised by yet another professional asking similar question to ones previously asked.
- Lack of understanding of the separate role of Children's Social Care, and that it is not an extension of the police.
- Lack of understanding of why an assessment needs to be carried out.
- Previous experience of being asked questions under threat or torture or seeing that happen to someone else.
- Past Trauma - past regime/experiences can impact upon the child's mental and physical health. This experience can make concerns from the Authorities about minor injury or poor living conditions seem trivial and this mismatch may add to the fear and uncertainty.
- The journey itself as well as the previous living situation may have been the source of trauma.
- The shock of arrival - the alien culture, system and language can cause shock and uncertainty, and can affect mood, behaviour and presentation.

In such circumstances, reluctance to divulge information, fear, confusion or memory loss can easily be mistaken for lack of cooperation, deliberate withholding of information or untruthfulness.

Professionals should ensure that the engagement with the family is planned and thought through. This will provide opportunities to expand on the initial contact. The ethnicity, culture, customs and identity of this child must be a focus whilst keeping this child central to the assessment.

The assessment should take account of 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.

Seeking information from abroad should be a routine part of assessing the situation of an unaccompanied child. Practitioners from all key agencies - Health, Education, Children's Social Care and the Police - should all be prepared to request information from their equivalent agencies in the country or countries in which a child has lived, in order to gain as full as possible a picture of the child's preceding circumstances.

Other factors to consider are:

- a) The Child's Developmental Needs.
- b) Parenting Capacity.
- c) Family and Environmental Factors.

CHILDREN IN NEED OF SAFEGUARDING

Where the Assessment indicates that a child may have suffered, or is likely to suffer, Significant Harm, the child's welfare must be safeguarded.

During the assessments, additional factors need to be taken into account.

- Perceptions of authority, the role of the Police in particular.
- The additional implications for a family where deportation is a real threat of deciding to prosecute.
- Balancing the impact of separation on a child with the likely history of separation/disruption.

Judgements about child care practices in the context of such different cultural backgrounds and experiences.

5. ISSUES

Immigration legislation impacts significantly on work to safeguard and promote the welfare of children and young people from abroad.

Age is central to the assessment and affects the child's rights to services and the response by agencies. In addition it is important to establish age so that services are age and developmentally appropriate.

Unaccompanied children very rarely have possession of any documents to confirm their identity or even to substantiate that they are a child. Their physical appearance may not necessarily reflect his/her age.

Care of unaccompanied and trafficked children: Statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children (2014) provides that where the age of a person is uncertain and there are reasons to believe that they are a child, they are presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with Article 10(3) of the European Convention on action Against Trafficking in Human Beings. Age assessments should only be carried out where there is significant reason to doubt that the claimant is a child. Age assessments should not be a routine part of a local authority's assessment of unaccompanied or trafficked children. Where age assessments are conducted, they must be Merton Compliant.

The assessment of age is a complex task, which often relies on professional judgement and discretion. Such assessment may be compounded by issues of disability. Moreover, many societies do not place a high level of importance upon age and it may also be calculated in different ways. Some young people may genuinely not know their age and this can be misread as lack of co-operation. Levels of competence in some areas or tasks may exceed or fall short of our expectations of a child of the same age in this country.

As the issue of age assessment in social work with asylum seeking young people remains controversial the ADCS (Association of Directors of Children's Services) **Asylum Task Force has worked with the Home Office to provide good practice guidance on age assessment.** These documents are offered as practice guidance, by way of assistance to local authorities and their partners. The use of the pro-forma and consent form is voluntary. The content does not, nor does it seek to, be binding on local authorities. It is simply a recommended approach.

The advice of a paediatrician with experience in considering age may be needed to assist in this, in the context of a holistic assessment. However, the High Court has ruled that, unless a paediatrician's report can add something specific to an assessment of age undertaken by an experienced social worker, it will not be necessary.

In some cultures child rearing is a shared responsibility between relatives and members of the community. Adults may bring to this country children for whom they have cared for most of their lives, but who may be unrelated or "distantly" related.

An adult whose own immigration status is unresolved cannot apply for a Child Arrangements Order to secure a child for whom he/she is caring.

Children whose parents' whereabouts are not known have no access to their parents for consent when making important choices about their life. Children who do not have someone with parental responsibility caring for them can still attend school, and schools should be pragmatic in allowing the carer to make most decisions normally made by the parent.

Such children are entitled to health care and have a right to be registered with a General Practitioner (GP). If there are difficulties in accessing a GP, the local Patient's Services should be contacted to assist.

Emergency life-saving treatment should be given if required. However, should the child need medical treatment such as surgery or invasive treatment in a non-life-threatening situation, the need for consent will become an issue and legal advice will be required.

INDEPENDENT FAMILY RETURNS PANEL

Under s. 54A Borders, Citizenship and Immigration Act 2009 (inserted by s.3 Immigration Act 2014), the Secretary of State must consult the Independent Family Returns Panel in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.

A family returns case is a case where a child who is living in the United Kingdom is to be removed from or required to leave the United Kingdom, together with their parent/carer.

Pre-departure accommodation is a secure facility designed to be used as a last resort where families fail to cooperate with other options to leave the UK, such as the offer of assisted voluntary return.

The Panel may request information in order that any return plan for a particular family has taken into account any information held by other agencies that relates to safeguarding, welfare or child protection. In particular a social worker or manager from Children's social care may be invited to contribute to the Panel.

THE NATIONAL REFERRAL MECHANISM

If there are concerns that a child is a victim of trafficking the practitioners will need to inform the National Referral Mechanism, which is a framework for identifying victims of human trafficking or modern slavery and ensuring they receive the appropriate support. The child's details should be provided using the forms available on the **NCA National Referral Mechanism website**. (The tick box matrix in section C has been designed to save time in completing the form by providing recognised child trafficking indicators which can be marked quickly and expanded upon in Section D). Click here to view the relevant forms on **GOV.UK website**.

Since the 31st July 2015, all UK referrals, to the NRM Competent Authority (trained decision makers) must consider whether the person is a victim of human trafficking. In England and Wales, if someone is found not to be a victim of trafficking, the Competent Authority must go on to consider whether they are the victim of another form of modern slavery, which includes slavery, servitude and forced or compulsory labour. This relates to the Modern Slavery Act 2015.

6. FURTHER INFORMATION

UK Visas and Immigration - formerly UK Border Agency.

Response to Unaccompanied Asylum-seeking Children Report, 31 October 2013, Policy paper, Home Office, UKVI: A response to the inspection report by the Independent Chief Inspector of Borders and Immigration into the handling of asylum applications made by unaccompanied children.

Response to an inspection of how the Home Office considers the "best interest" of an unaccompanied asylum seeking children

Immigration Rules Part 11: Asylum, 25 February, 2016, Policy paper, Home Office, UKVI: Rules for people applying for asylum in the UK (paragraphs 326A to 352H).

Care of unaccompanied and trafficked children: Statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children (2014)

Unaccompanied Asylum-seeking Children (UASC): Funding Instructions, 2019-20, Guidance, UKVI: Instructions to local authorities about the UASC funding for the support and care of unaccompanied asylum-seeking children.