

# Unaccompanied Asylum Seeking Children

## RELATED LEGISLATION

Modern Slavery Act 2015

## RELATED GUIDANCE

Care of unaccompanied migrant children and child victims of modern slavery – statutory guidance for local authorities (DfE, 2017)

Securing British Citizenship for looked After Children - NRPF Network

## AMENDMENT

In February 2018, Section 3, Assessment was updated. In advance of undertaking an age assessment for an unaccompanied asylum seeking child, local authorities must seek Home Office assistance with verifying the authenticity of identity documents e.g. travel documents or a birth certificate. A link to the relevant contact details for local authorities was added. The statutory guidance was updated to link to the DfE 2017 Care of unaccompanied migrant children and child victims of modern slavery – statutory guidance for local authorities. The Modern Slavery Act 2015 is referenced in relation to age assessments.

A link was added to Securing British Citizenship for looked After Children - NRPF Network.

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### **1. Scope of this Chapter**

For the purposes of this chapter, a young unaccompanied asylum seeker is a child who is applying for asylum in their own right and is separated from both parents and is not being cared for by an adult who in law has responsibility to do so.

This chapter describes the particular issues arising in referrals involving young unaccompanied asylum seekers.

In all such referrals, the Procedures in relation to Assessments will apply as set out in Assessments Procedure.

Where a young unaccompanied asylum seeker becomes Looked After, the procedures in this manual relating to Looked After Children apply. Independent Reviewing Officers need to be aware of local authority duties to take regard of the child's needs as an unaccompanied or trafficked child when planning and providing for care. They must also have an awareness of the particular needs and issues children may face as a result of being an unaccompanied or trafficked child so that they can provide appropriate challenge at review. Foster or residential care providers need to be aware of appropriate steps to reduce the risk of trafficked children returning to their traffickers.

## **2. Eligibility for Service**

To be eligible for a service, a young unaccompanied asylum-seeker must be seeking asylum in the UK and have no relative/supporting adult willing to take responsibility for him or her. Where such young people are provided with services, they will continue to be eligible for a service from the local authority where they are granted refugee status, humanitarian protection or unaccompanied asylum seeking children leave to remain, which may continue up to their 18th birthday. In relation to all new referrals, the duty worker in the relevant Team must complete a Referral Form, and check all Home Office documentation and evidence that the young person has resided in or has a local connection to the local authority area.

## **3. Assessment**

In all cases where a referral is received concerning an unaccompanied young asylum-seeker, the relevant Team will carry out an Assessment in accordance with the Assessment Procedure, to determine whether he or she is a Child in Need. The Assessment will take account of:

- a. The immigration status of the young person;
- b. The young person's accommodation arrangements and needs;
- c. The young person's local connection with the local authority area;
- d. The young person's financial and other support;
- e. The young person's ethnicity and religion;
- f. 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
- g. 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;
- h. Any issues that may indicate that the child is or has been trafficked or a victim of compulsory labour, servitude and slavery.

In determining an unaccompanied young person's accommodation needs, the Assessment must have regard to his or her age and independent living skills, and consider the intensity of service required. This may range between independent accommodation, semi-independent accommodation and foster placements.

An interpreter will be used to assist in all assessments.

The caseworker must complete an Assessment Record in all cases.

Care of unaccompanied migrant children and child victims of modern slavery – statutory guidance for local authorities (DfE, 2017) 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 Section 51 of the Modern Slavery Act 2015. 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 usually involves a face-to-face meeting and often relies on professional judgement and discretion. Such assessment may be compounded by issues of disability. 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.

In advance of undertaking an age assessment for an unaccompanied asylum seeking child, local authorities must seek Home Office assistance with verifying the authenticity of identity documents

e.g. travel documents or a birth certificate. See further information and contact details for local authorities at ADCS, Age Assessment Guidance and Information Sharing Guidance for UASC.

The ADCS Asylum Task Force has worked with the Home Office to provide a set of jointly agreed good practice documents. These documents are offered as practice guidance, by way of assistance to local authorities and their partners. The use of the proforma 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.

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.

#### **4. Children in Need Criteria**

Where it is established that the referral concerns a young unaccompanied asylum-seeker, this will always satisfy the criteria for services to a Child in Need.

Where there are concerns that a young person has suffered or is at risk of suffering Significant Harm, for example as a result of trafficking and/or sexual exploitation, the social worker must discuss the case with the manager and consider whether the circumstances warrant a Strategy Discussion/Meeting and Section 47 Enquiry.

#### **5. Provision of Services**

Where a Referral / Assessment identifies that a young unaccompanied asylum seeker is in need of services, the young person 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. An interpreter should be booked to accompany the young person to appointments with the GP, where 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.

Where the Assessment identifies that an unaccompanied young asylum-seeker 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. See Decision to Look After and Care Planning Procedure.

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 detailed financial procedures.

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

## **6. Refusal of Services**

A family or young person may be refused a service where, for example:

- The young person has provided documentation believed to be fraudulent or tampered with in any way;
- There is an age dispute and an unaccompanied young asylum-seeker presents as over the age of 18.

Where an Assessment identifies that a young unaccompanied asylum-seeker 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 Services, the Refugee Council, UK Visas and Immigration and/or an appropriate voluntary agency.

In such circumstances, the duty worker should make an appointment for the young person and advise him or her 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 his or her 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.

## **7. Withdrawal of a Service**

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

Services to an unaccompanied young person may be withdrawn, for example, where another adult wishes to assume Parental Responsibility and this is considered appropriate.

The service should not be withdrawn without 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 Young Asylum Seekers Reaching 18**

Where an unaccompanied young asylum-seeker reaches the age of 18, and the young person's legal status remains unresolved, a referral to UK Visas and Immigration should be made.

Where the young person is Looked After, the case will remain with the Leaving Care Team on the young person's 18th birthday and the Leaving Care Team will be responsible for implementing the procedures in relation to Eligible Young People and Relevant Young People, as appropriate, in accordance with Leaving Care Procedure.

Pathway planning should address any additional needs arising from the young person's immigration issues.

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 grant 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 his or her 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.

## **9. Review of Services**

Where a young person is Looked After, his or her 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 prepare involving all services working with the young person including 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.

Where a Review confirms the plan as appropriate all actions should be undertaken as directed and this should include clearly any financial support the young person is able to access.

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