

Response to Request for Information

Reference FOI 002082
Date 16 March 2018

Children Transferred to the UK under the Dublin III Regulation

Request:

Please provide a copy of any internal policies, published or unpublished, prepared by your authority, or any central Government guidance, or other policies relating to:

1. Assessment of need of children transferred to the UK under the Dublin III regulation, including the threshold for triggering an assessment of need;
2. Provision of support for children transferred to the UK under the Dublin III regulation;
3. Liaison with the Home Office regarding children who are being assessed for transfer, or have been transferred, to the UK under the Dublin III regulation.

[With reference to your above questions, please see attached document starting from page 2. This is the only policy we have.](#)

Children & Young People

Working with Unaccompanied Asylum Seeking Children

Procedure

Purpose:

The Purpose of this Policy is to provide guidance to staff working with unaccompanied asylum seeking children. The Policy is applicable to all UASC up to the age of 18 years. This document sets out a process for best practice to assist the child or young person to access services.

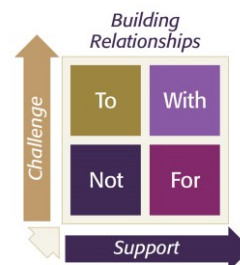
Approved by – Children & Young People Management Team (05.10.17)

Published – October 2017

Review Date – October 2019

RESTORATIVE PRACTICE

All contact and work received by families from the City of Wolverhampton Council within the City will be based around restorative practice principles. This is to ensure we improve the life outcomes for all children, young people and families we work with. In Wolverhampton we intend to use restorative principles and behaviours with colleagues as well as children and families, to help develop positive working relationships.



REVIEW LOG			
Date	Version	Comments	Approved by
July 2017	1.0	New procedure produced.	Children & Young People Management Team
Sept 2017	1.1	Procedure for UASC amended to reflect role of LAC Service	Children & Young People Management Team (05.10.17)
This system of recording review dates is designed to ensure staff at all times use the correct version of the up to date Policy. This system is used on all Wolverhampton City Council – Children & Young People Policies and Procedures.			

CONSULTATION
<p>The following people have been consulted on this policy:</p> <ul style="list-style-type: none"> - Legal Services - Children and Young People Management Team

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1.0 **LEGISLATIVE FRAMEWORK**

The following legislation underpins this Policy:

- Human Rights Act 2000
- Children (Leaving Care) Act 2000
- Framework for the Assessment of Children in Need and their Families DOH 2000
- Local Authority Circular (2003) Guidance & Hillingdon Judgement 2003
- The United Nations Convention on the Status of Refugees (UNHCR) of 1951, amended by the 1967 Protocol
- UNHCR Refugee Children: Guidance of protection and care. Geneva 1994
- Children Act Regulations and Guidance April 2011
- Care of Unaccompanied and Trafficked Children: Statutory Guidance for Local Authorities on the Care of Unaccompanied Asylum Seeking and Trafficked Child (2014)
- Immigration and Nationality Policy for Asylum Seekers
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1.1 **Dublin III Regulation**

European Union Regulation 604/2013, commonly known as Dublin III, establishes a method for deciding which country amongst the signatories (all EU member states plus four non-EU signatories to the regulation) should process a claim for asylum.

The first time such an agreement was made was through the Dublin Convention in 1997. This was replaced in 2003 by the Dublin II regulation, as part of endeavours by the European Union to establish a common European asylum system. The Refugee Council was critical of this regulation, on the basis that its focus was on transferring asylum seekers from one member state to another and placed much more responsibility on those member states at Europe's borders. There was little attention to family unity.

The Dublin III regulation (EU No 604/2013) ii applies to asylum applications made on or after 1st January 2014. It contains many more opportunities for family members to request that they are transferred to other Member States (or countries that are signatories to the regulation) in order to be together and have their asylum claims dealt with by the same authorities.

2.0 **INTRODUCTION**

The changing pattern of wars, conflicts and persecution tends to dictate where asylum seekers originate. For each of them there are reasons why they started their journey and their experiences on the way. Social care staff may be one of the first people they meet on arrival. For many their experiences, prior and up to leaving their homes will have been traumatic, complicated. They may have experienced the loss of significant family members and community, and for many their journey into the country may also have been traumatic.

Asylum seekers may arrive in Wolverhampton in several ways and this will dictate where they are in the immigration process. They may be new in-country applicants who have

found their way to Wolverhampton and are not known to the Immigration and Nationality Directorate of the Home Office. In other words, they have not been identified at a point of entry. An interview with the Immigration and Nationality Directorate (IND) is the first step. For unaccompanied minors this is important as the IND will assess their age, although the Local Authority is responsible for making its own assessment of age. The Local Authority where an unaccompanied minor first arrives is responsible for them under the Children Act 1989.

Unaccompanied minors are then awaiting a decision about their leave to remain. It is important to bear in mind that their status may change on their eighteenth birthday and to ensure that they have active legal representation.

3.0 POLICY

It is the Policy in Wolverhampton that irrespective of any other label they may be assigned, these are children first and foremost.

Under the Equality Act 2010, public authorities have a responsibility to have due regard to the need to eliminate discrimination and promote equality of opportunity. This applies across the board, including in the process of undertaking assessment and identifying needs. As stated in the statutory guidance, '[n]o child or group of children must be treated any less favourably than others in being able to access effective services which meet their particular needs'. An unaccompanied asylum-seeking child should not face any disadvantage compared to any other child.

All UASC must receive a full assessment in line with the Department of Health's National Framework for Assessment of Children in Need and their Families.

When carrying out an age assessment and having concluded that the person is a child, we have a duty to accommodate under Section 20 of the Children Act 1989. Unaccompanied children and young people are an extremely vulnerable group and as such should be given the maximum provision of care and support under the Children Act until they reach the age of 18. Therefore, it is the policy not to discharge any young person from care until they reach the age of 18. This does not mean that they are required to be accommodated in LA accommodation, they could be supported with their accommodation needs and assisted to begin to learn to live independently with the support of the Local Authority.

Exceptions to the provision of support under Section 20 could arise where older asylum seeking young people may refuse to be 'Looked After' but because of their immigration status the Children Act provides their only lawful means of support in this country. The Local Authority after taking account of the child's wishes under Section 20(6) might judge that the young person is competent to look after him or herself. In these cases, section 17 may be used for support including accommodation, without making the young person 'Looked After'. It is vital however that the young person has been assessed as understanding the full implications of being supported under section 17 rather than Section 20.

The majority of unaccompanied children and young people will be entitled to leaving care services under the Children (Leaving Care) Act 2000, to ensure that:

- Young people do not leave care until they are ready;
- They receive more effective support once they have left

Young people are entitled to this support up to the age of 21 at least, as long as they were previously supported under Section 20 of the Children Act 1989 for at least 13 weeks subsequent to their 14th birthday and either continue to be 'looked after' up to age 18 or have been 'looked after' at some time while 16 or 17. They are known as 'former relevant children'. Local Authority support will continue for as long as the young person has a right to public services. For those young people who are refused asylum, this right to public services may end after they reach 18 years. See section relating to transitions post 18.

Young people who arrive within 13 weeks of their 18th birthday will not qualify for full leaving care services even if they have been provided with Section 20 or 23 support under the Children Act 1989 for the weeks leading up to their 18th birthday, as they have not been 'looked after' for 13 weeks or more. They are known as 'qualifying children' and although they are not entitled to the main leaving care entitlements, they are entitled to advice, assistance and befriending. For children & young people living with family / extended family in the UK see the placement with parents & unable to live with birth parents policy.

Where a young unaccompanied asylum seeker becomes Looked After, the procedures 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.

4.0 PROCEDURE FOR UASC

In all cases where a referral is received concerning an unaccompanied asylum seeking child, the Multi Agency Safeguarding Hub (MASH)/relevant Social Work Unit will determine whether he or she is a child in Need. The MASH will undertake an assessment which will take account of the following:

- The age assessment of the young person where the age is disputed (a city wide age assessor rota is in place/ the age assessor will be allocated by the Senior Social Work Manager in LAC Transitions)
- Ethnicity, religion, gender and language and how these will impact on immediate needs
- Available information regarding how the young person arrived in the UK, how long they may have been here, possible family or friends that they may be intending to meet
- The young persons, health and any factors which may increase their vulnerability
- The young person's accommodation and financial needs

All unaccompanied asylum seeking children are by the nature of their circumstances potential children in need. Services should be provided in line with the needs identified using Section 20 and section 17 of the Children Act 1989. The section of the Children Act that the separated child or young person is supported under is very important, as it not only determines the level of support they are provided with as a child under 18 but also affects whether they are entitled to leaving care support once they reach 18.

Consideration should always be given to the child being seen on its own with an interpreter if needed. The Local Safeguarding Children Board Practice Guidance for all Agencies titled Safeguarding Children from Abroad also addresses this issue. Unless they are fluent in English it is not possible to conduct an assessment without an interpreter.

The Refugee and Migrant Centre should be utilised in relation to connecting children & young people with local groups and where possible voluntary groups to support translation.

The threshold of eligibility and priority for services are the same for unaccompanied asylum seeking children as any other child. The same thresholds for child protection responsibilities also apply. The entitlement to allowances or financial support is based on assessed need. Where a child is accompanied, consideration needs to be given as to their relationship with that adult and whether private fostering duties and responsibilities apply (see Private Fostering Policy).

All UASC children and young people once assessed and within 10 working days from the point of referral will be transferred:

Under 14 years – LAC Social Work Team

14 years and over – LAC Transitions Team.

5.0 CHILD TRAFFICKING

5.1 Definition

A child has been trafficked if they have been the victim of an action of “recruitment, transportation, transfer, harbouring or receipt...for the purpose of exploitation”. Exploitation is interpreted broadly to include sexual exploitation, forced labour (including forced criminality and forced begging), servitude, slavery like practices and organ removal.

Trafficked children may have been trafficked internally within the United Kingdom as well as national borders. Human trafficking is distinct from ‘smuggling’ which may involve the clandestine entry of a child across national borders, but does not involve their exploitation.

Consent to exploitation is irrelevant. Child victims of trafficking are deemed not to have the legal capacity to ‘consent’ to their trafficking and so if they have been the victim of a relevant ‘action’ (recruitment, transportation, transfer, harbouring or receipt) for the purpose of ‘exploitation’ then any apparent acceptance of this on the part of the child is irrelevant.

Children are trafficked to the United Kingdom for a number of reasons, including sexual exploitation, forced labour, domestic servitude, criminal activities, begging, benefit fraud and illegal adoption. Criminal activities can include drug trafficking, cannabis cultivation, petty theft, fraud and selling counterfeit goods.

5.2 Identifying victims of trafficking

Children and young people who have been trafficked are very vulnerable. They are likely to be scared of their traffickers, who may have subjected them to psychological abuse,

threats of or actual physical or neglect. They may have been told that they are to pay off a debt to their traffickers or have been told that their family will be at risk if they disobey.

Their ability to escape from the situation may be impeded by not being able to speak to anyone in their own language, or by being afraid of coming to the attention of the authorities.

Even when they do come to the attention of statutory or voluntary sector service providers, children and young people who have been trafficked may disclose what has happened to them and may deny that they have been exploited, or disclosure may take a long time. Children do not often self-identify as victims of human trafficking and a child or young person may have been coached by their traffickers as to what to say about their identity and their circumstances.

It is therefore very important that professionals are able to recognise indicators that a child or young person may have been trafficked. Identification as a victim of trafficking is the gateway to protection and support, and may also impact on their immigration or asylum case. Trafficked children may face criminal prosecution for illegal activities that were carried out under orders or for immigration offences. In addition, without identification as victims of trafficking, children may not be given adequate protection and inappropriately accommodated and remain in contact with their traffickers.

Trafficked children from abroad are at particular risk of having their needs ignored, and/or going missing from care, because authorities view child trafficking as an immigration control issue.

Trafficking victims may be identified by immigration officers at a port of entry. If the child has a visa, immigration officers should check that a child arriving in the United Kingdom is travelling with the adult named in the child's visa. Victims may also come to the attention of the authorities in police or immigration operations and raids, or they may come to the attention of other agencies, professionals or service providers, or members of the public. All agencies working with children should be alert to signs of trafficking routes and arrangements, and the types of control exercised by traffickers.

5.3 The National Referral Mechanism

The National Referral Mechanism is a process set up by the Government to identify and support victims of trafficking in the UK. It was born out of the Government's obligation to identify victims under the [Council of Europe Convention on Action against Human Trafficking](#), which came into force on 1 February 2008.

The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking and ensuring they receive the appropriate protection and support.

The NRM is also the mechanism through which the [UK Human Trafficking Centre](#) (UKHTC) collects data about victims. This information aims to help build a clearer picture about the scope of human trafficking in the UK

Referring children into the NRM encourages the sharing of information between agencies and can help to ensure an appropriate safeguarding response.

It also helps the UK to collect evidence and build an understanding of the patterns of child trafficking. This helps to shape policy and can aid police investigations into trafficking.

First responders

To be referred to the NRM, potential victims of trafficking must first be referred to one of the UK's two competent authorities - the UKHTC or UK Border Agency. This initial referral will generally be handled by an authorised agency, such as a police force, the UKBA, Social Services or some NGOs. The referring authority is known as the 'first responder'.

For more information on the National Referral Mechanism see:
<http://www.ecpat.org.uk/content/national-referral-mechanism>

6.0 AGE ASSESSMENTS

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 no documentary evidence of the child's age.

Determining a person's age between fourteen and eighteen years of age is not an exact science and there is no statutory procedure or guidance on how to conduct an assessment of a person claiming to be a minor. However, in *R(B) v Merton LBC* [2003] EWHC 1689 (Admin), Justice Burton issued 'guidance as to the requirements of a lawful assessment by a Local Authority of the age of a young asylum seeker claiming to be under the age of eighteen.' Other than in clear cases, it states that age cannot be determined on appearance alone, an assessment must be carried out based on personal history as well as ethnic and cultural information, social services must not simply adopt the decision of the BIA (Border and Immigration Agency) and the decision maker must give adequate reasons for a decision that an applicant claiming to be a child is not a child.

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. (Please refer to ADCS – Leading Children's Services Age Assessment Guidance Oct 2015).

Officers who undertake assessments should assess from a holistic perspective, and in light of the information available. It is a process of professional judgement and a particularly sensitive issue involving many variables; not least the fieldworker's ability to understand the cross-cultural issues that might apply.

Decisions on age assessments are sometimes required quickly. Where there is uncertainty, the benefit of doubt should always be given to the young person. In completing the assessment the professional should be mindful that the child or young person has the right to legally challenge the conclusion. If a young person is assessed as being over 18, they should be given a copy of the assessment and advised to seek independent legal advice. The age assessment will form part of the Social Work Assessment.

Two suitable, competent & experienced social workers will undertake the age assessment of an UASC. Assessing social workers should explain their role clearly to the child or young person. Attention should be paid to tiredness, trauma, bewilderment and anxiety of the UASC. It is important to be mindful of the 'coaching' that the UASC may have had prior to arrival in how to behave and what to say. It is important to engage with the UASC and establish as much rapport as possible.

Assessing social workers should inform the child or young person that they will have to answer many questions and that it may be difficult and distressing to answer some of the questions. Social workers should use open-ended, non leading questions. The use of circular questioning is a useful method, as it is less obvious to the person being assessed that the questions relate directly to age, and hence may reveal a clear picture of age related issues.

In determining age, note should be made that some societies do not place a high level of importance on age and may calculate it in different ways. Some children will genuinely not know their age, and this can be misread as lack of co-operation. Levels of competence in some areas or tasks might not mirror our expectations of a child of the same age. It is essential to feed back to the young person the conclusion of this assessment.

7.0 AGE DISPUTES

If the young person wishes to contest any of the issues raised within the age assessment, this could be done initially in discussion with their worker and if necessary with the worker's manager. If the young person continues to be unhappy they should be given information about the complaints procedure. Complaints leaflets should be given to child or young person and where possible in their own language.

If doubts arise regarding a child or young person's age then there should be a comprehensive review.

It is vital that the agreed age of the young person is entered on all appropriate records.

If two professionals agree the young person is older than stated and the young person is unhappy about this assessment, the social worker should explain to the young person the reasoning for this decision. If they are still not happy, a 'resolution meeting' chaired by a Senior Social Work Manager where the young person is present should be held. The young person will have access to the normal complaints procedure and can seek advice and support from other agencies.

A resolution meeting would be held to determine the level of need of the UASC and how it could be appropriately met. If this is from an alternative service, the social worker will make a referral.

8.0 PLACEMENT AND ALLOCATED WORKERS

The Hillingdon Judgement and subsequent guidance (LAC (2003) 13) makes clear that all UASC fall within the scope of s.20 of the 1989 Children Act. All placements should reflect the assessed needs of the child or young person, although it is acknowledged that needs may change as the assessment progresses and an alternative placement may need to be found. The department will strive to match the assessed or perceived need as follows:

- All UASC will be accommodated under s.20 – in a suitable placement in accordance with their age and assessed needs
- In very exceptional circumstances, children over the age of 16 may be supported under S17, this decision must be endorsed by a Social Work Unit Manager
- If not accommodated under S20: Young people are not entitled to care leaver status
- If granted Refugee status/Further leave to remain, the young person will be entitled to access the welfare benefits system post 18 years

Following assessment by the Social Worker, the completed assessment will inform the UASC's Care Plan:

- All children under 18 years old will be allocated a qualified social worker; In order to facilitate a smooth transfer all basic tasks (financial, legal, and administrative) and LAC paperwork must be completed - please refer to checklist. The initial Looked After Child Review must be booked at the earliest opportunity so that an Independent Reviewing Officer can be assigned to the child.

Where there is a dispute/uncertainty about the young person's age, a risk assessment should be undertaken to minimise the potential dangers to vulnerable others already in placement, and the welfare and emotional wellbeing of the young person to be placed. Immigration Officers can refer the child or young person to a doctor if there is a doubt about age. In practice Immigration Offices most often record 'age' claimed and date of birth 'claimed' on their paperwork.

9.0 PLACEMENT OPTIONS FOR UASC

A careful evaluation of the young person's needs and wishes will need to be undertaken in order to identify a suitable placement. A full and considered assessment may not be possible at the initial meeting with the young person, yet it is likely that a placement will need to be identified.

It may be necessary, therefore, to place the young person temporarily pending further assessment and identification of a suitable placement. The young person and carers should be made aware of this and further assessment undertaken at the earliest opportunity. The temporary nature of the accommodation should be recorded on the LAC papers and the service manager notified if the young person is still placed in the accommodation after four weeks.

Bed and breakfast accommodation is not suitable and should not be used without senior management agreement.

Foster carers will need to be carefully and accurately briefed about the young person's cultural, religious and ethnic needs and about the situation/their experience in the home country and during the journey to the UK. Any particular dietary needs will need to be identified and discussed with carers.

The young person should, at the point of placement, be given the name and contact number of a social worker who s/he can contact and, where the placement is made by a duty social worker, a social worker should be allocated without undue delay.

The young person should also be provided with the Emergency Duty Team (EDT) details.

The expectations and rules of the placement should be carefully explained to the young person, together with any financial arrangements that will apply. It should be borne in mind that the young person's primary needs are likely to be for food and shelter, a bath, clean clothes and caring adults. The physical appearance of the placement, its location and who lives there should be explained to the young person before s/he is taken to the placement. An orientation with the local area will need to be organised to include relevant points of contact with the young person's community, support agencies and religion.

N.B. If any young person goes missing from placement then the PPG entitled 'Children Missing from Care' (Chapter 4.149) must be followed in all cases.

10.0 SOCIAL WORK ASSESSMENT, PLANNING AND REVIEW

The Social Work Assessment informs more appropriate care planning. It must be managed sensitively to reduce fear, anxiety or confusion. Ethnic origin and life experiences before arrival in this country will influence personal development and may impact on visual or emotional presentation.

Enabling the UASC to be part of the assessment process is extremely important as in most cases they will be the major source of information. Consideration must therefore be given to securing an interpreter with the level of skill and experience necessary to support the individual to understand why an assessment is necessary, and what will happen. Consent to gather or share information with another agency must be obtained.

Education and training

As far as admission to school or college is concerned, the child or young person has the same rights as any other Looked After Child in Wolverhampton.

When a young person is admitted to care or moves care placement, a Personal Educational Plan should be completed.

Assessment Planning and Review Specific Issues

- The majority of these young people will feel isolated without family or friends in this country
- The potential for making contact with birth family in country of origin
- Educational attainment will vary greatly, depending on their country of origin, previous formal education and fluency in speaking and comprehension of English, Health problems may not have been diagnosed due to limited health services in their country of origin
- Experience of prejudice against asylum seekers
- Feelings of uncertainty and anxiety whilst their claim for asylum is considered
- The young person may have suffered torture and be traumatised by this abuse
- It is useful to have background information about the young person's country of origin
- Planning and preparation for possible return to country of origin

All children looked after may experience difficulties because of their situation, the combination of the above factors can only compound the specific vulnerability of UASC.

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.

11.0 TRANSITION AT 18 YEARS

We need to plan for three possible outcomes for those turning 18. As their asylum status will determine their right to public services as adults. This is known as triple planning and should be part of the statutory planning through the care plan, pathway plan and review process. Planning for three possible outcomes at 18 includes:

1. Equipping the young person to have a future in the UK if they receive some form of leave to remain in the UK past their 18th birthday, via pathway planning;
2. Preparing the young person to be returned to their country of origin if they are refused an extension to remain in the UK and are being returned to their country of origin, or if they decide to return of their own accord;
3. Supporting young people who are refused leave to remain in the UK and who have exhausted all appeals but have not yet been removed. These young people are referred to as 'end of line' or Appeal Rights Exhausted.

In all instances, the young person's immigration status and implications post 18 need to be recorded comprehensively in the Pathway Plan, with contingencies should the immigration status change.

The law relating to asylum seekers who no longer have leave to remain can be complex and terminology can cause confusion. Broadly, the position is as follows;

11.1 Unlawfully in the UK

The law on the withdrawal of Local Authority support to young people is included in the Schedule 3 of the Nationality, Immigration and Asylum Act 2002 which prevents certain groups of migrants from accessing "leaving care" and other types of support. Most "end of line" young people looked after will fall under paragraph 7 of this Schedule which outlines the category of people "unlawfully in the UK".

11.2 Failed Asylum Seeker

The law states that young people who are considered to be 'failed asylum seekers' are entitled to continue to receive leaving care support from social services up to the point where they fail to comply with the removals directions set by the immigration service (a removal direction details the time and place of removal from the UK). Being a failed asylum seeker is not sufficient cause on its own to withdraw or withhold social services support. They must have in addition, have failed to comply with the removal directions issued in respect of them (Schedule 3 of the Nationality, Immigration and Asylum Act 2002). These young people will be those who applied for asylum at the port of arrival and at no time received a grant of leave to enter the UK. It is unlikely that any young people in

the care of NCC will fall into this category as they are usually “in country” applicants. If there is any uncertainty about the status of a young person, this will need to be established by the UKVI caseholder.

11.3 Withdrawal of Leaving Care Services

Most young people provided with care as UASC will fall under category 3.1 Therefore at or after age 18, their asylum may have been determined and subsequent appeals concluded. For those young people who gain indefinite leave to remain or Refugee status, they will continue to receive services under the Children Leaving Care Act.

Those who have failed in their asylum application and who are appeal rights exhausted and who are unlawfully in the UK will need to be assessed for any continued right to services. The purpose of this assessment is to identify whether the withdrawal of services would lead to a breach of article 3 or article 8 of the Human Rights Act.

The young person should be informed in writing of the Local Authority’s intention to conduct the assessment, how it will be done and who will be consulted and a reasonable timescale should be set. This would usually be achieved within four weeks. If the outcome of the assessment is that the withdrawal of services will not lead to a breach of a young person’s human rights, a reasonable notice period (usually four weeks) will be given to advise the young person of the withdrawal of support. Existing support with accommodation and allowances will continue throughout this period and the young person will be advised regarding alternative avenues of advice and support such as the Refugee Council.

Asylum Support through UKVI (formally the National Asylum Support Service).
Young people who are entitled to Asylum Support when they turn 18 include:

- Young people who do not have a decision on their initial asylum application (usually affects those who have arrived within 2 months of their 18th birthday);
- Young people who have an outstanding appeal against an outright refusal of asylum but only if they have not been granted any other form of leave, such as a period of discretionary leave;

Young people who have applied for an extension of leave to remain ‘out of time’, i.e. after their leave has expired, and their asylum claim is being treated as a ‘fresh application’ by the Home Office.

Young people who have refugee status, humanitarian protection or discretionary leave (including those who are applying for an extension in-time or are appealing a refusal of extension) will be entitled to apply for mainstream benefits.

If the young person is not receiving leaving care support because they were previously supported under section 17 of the Children Act 1989 and/or they arrive within 13 weeks of turning 18, they will be transferred from Social Care Services support to Asylum Support on their 18th birthday - if they fit the Asylum Support criteria and receive subsistence and accommodation directly from Asylum Support. These young people may be dispersed by Asylum Support. However, if they are receiving some support from social services as ‘qualifying children’, then it should be possible to argue for the young person to remain in the area where they are receiving this support.

12.0 FINANCIAL PROCEDURES TO BE FOLLOWED

Returns are completed by Finance with a deadline of the 15th of each month.

The basis of the return is information provided by Business Intelligence and therefore, it is essential that the UASC are recorded correctly on Care First to enable to accurate claims. Incorrect recordings on Care First could result in essential funding not being claimed.

There are no cost centres specific for UASC. All spend must be allocated against the individual young person in the cost centre that the spend would usually be coded to for a non UASC young person.

When a UASC reaches the age of 18, providing the latest Home Office criteria is met, claims can continue to be made, though the rates are less than for a UASC.

12.1 Eligible Expenditure

Only board and lodgings costs are classed as eligible expenditure - everything else is ineligible. We are able to use our discretion to a certain extent e.g. initial clothing costs however managers need to monitor this.

Alternative budget resources from mainstream LAC budgets must be identified for any ineligible expenditure.

Please refer to attached practice guidance and checklist (Appendices A and B)

Appendix A: UASC Matrix

Action	Date Planned/Completed	Comments
UASC information sent to Departmental Accounting and Budgeting		
Screening Interview		
Asylum application made and Temporary Leave to Remain status issued		
Provision of IS 96		
Arrangements made to support young person in the completion of the Statement of Evidence Form (SEF)		
CSM Agreement to accommodation with authorisation of costs		
Assessment		
LAC Information Essential Information Part 1 and 2		
Care Plan		
Initial Placement Notifications		
Arrangements made for LAC medical Consent to medical signed		
Arrange 1st LAC review including interpreters		
Other important information		

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Appendix B: UASC Checklist - Actions needed before 1st LAC Review

In order to support the prompt transfer of UASC cases between the Social Work Units and Throughcare at the first **LAC Review**, the following checklist is a guide to actions that should be completed within the first month by the Social Work staff. Failure to complete the essential tasks may delay case transfer.

This Checklist does not replace existing Policies and Procedures with regard to the responsibilities of staff when providing accommodation to young people under **Section 20 CA1989**.

All documents relating to the young person's asylum claim should be clearly recorded.

UASC Checklist

- Unaccompanied Asylum Seeking Children (UASC);
- Asylum and Further Leave;
- Information / Reference Pack;
- Claiming Asylum;
- Refer to a Solicitor.

Preferably you should refer the UASC to a solicitor prior to or at the time of claiming asylum with the Home Office. However, there should never be a delay in claiming asylum.

A solicitor should be contacted in order to represent the UASC as they will be needed in completing the Statement of Evidence Form (SEF).

There are only 28 days for the SEF to be sent to the Home Office. A solicitor should be the person to complete this. (see SEF section below)

Under 18's are taken to the Immigration at East Midlands Immigration (Loughborough Reporting Centre) in order to claim asylum.

Screening Interview by the Home Office

The UASC will be asked basic questions regarding family members, route of entry to the UK, possession of passport etc. Child is asked to confirm they wish to asylum - it is essential that they are informed that this is the purpose that they have been taken to immigration, and understand that they **ARE** asking for international protection.

They will be asked to give a brief statement as to why they want to claim Asylum. The contents of this interview can be used in evidence against the claimant, for example, if they fail to state a reason why they are claiming asylum, but later want to rely on that reason.

Child will be given a copy of the screening interview records. The solicitor will need this in order to complete the SEF, therefore please provide this on or just after the referral to the solicitor.

Age Assessment made if UASC is under 18

If the UASC age is disputed by the Home Office, but the Children's Social Care provide an age assessment that the UASC is under 18, then the Home Office will "normally" accept the decision by Children's Social Care.

Age assessments are now being asked for routinely by the Home Office, even in cases where the Home Office are not disputing an age. Care needs to be taken when referring to the historical account of why the applicant has come to the UK. Remember that the child may not have met with a solicitor in the presence of an interpreter and therefore may not have been able to give a full and detailed account.

Any discrepancy between accounts given to Children's Social Care and the Witness Statement can be held to negatively affect the UASC credibility. The age assessment should then refer to briefly, if at all, to reason why claiming asylum and focus on age assessment alone.

Issued with Statement of Evidence Form (SEF)

This must be returned to the Home Office within 28 days. The Children's Social Care should ensure that it is given to the solicitor.

Children's Social Care **must** notify a solicitor immediately upon receipt of the SEF as it takes time to get an appointment and witness statements need to be prepared. It will take at least 2 - 3 appointments to complete this and get it sent to the Home Office within the 28 day period.

Failure to comply results in a "non-compliance decision" and Leave to Remain will be refused. The UASC can appeal against this decision with help from Children's Social Care, however it would have to proven that there was not enough time to complete the SEF. This can severely delay the application process and have an impact on future status for the young person.

The solicitor will then complete the SEF with the young person. It is recommended that a social worker should accompany a young person to the solicitor's appointment to support the young person in completing their statement, but also to gain more information and insight to the young person and their background.

Substantive Interview - Solihull

Previously these interviews did not happen regularly, however they are now a more regular occurrence. The interview will be at Solihull Immigration and is a question and answer session where the UASC will be interviewed and full details of why the young person is claiming asylum will be asked.

A solicitor can and should attend. It can last 2 - 3 hours and is quite daunting. The interview can and should be recorded. You can ask that the solicitor requests this.

Reporting Centre - Loughborough

From 1st April 2007 the Home Office started to ask UASC who have applied for leave and returned their SEF, but not received a decision from the Home Office to attend a Reporting Centre. The Reporting Centre for the East Midlands is in Loughborough, Leicestershire.

The UASC would be expected to attend the centre every 2 weeks in order to report where they are living and what they are doing. They only need to continue attending whilst a decision has not been received from the Home Office.

If the UASC is under 17 years of age then the Children's Social Care can negotiate with the Reporting Centre Manager that they do not have to attend and the Children's Social Care will report any address changes etc. However, the Home Office have the right to make anyone attend no matter what age they are.

Once a decision on the UASC application for Leave to Remain is given then they no longer have to report at the Reporting Centre unless otherwise stated.

However, they may need to attend one last time in order to show the Reporting Centre the Immigration / Asylum documentation.

Accommodation for New Asylum UASC still Awaiting Decision at 18

The New Asylum Model is designed so that UASC will receive a decision on their application prior to their 18th birthday, however if the UASC has not received a decision minimum of 4 weeks prior to their 18th birthday then a NASS application form needs to be completed and sent. Support needs, actions and financial arrangements need to be clearly outlined in a Pathway Plan and Needs Assessment. Please contact the Aftercare Team for support and guidance.

Communication with NASS via the Initial Accommodation Centre needs to take place and arrangements made for Children's Social Care to receive £140 weekly payment from NASS to

continue to accommodate the UASC. If that amount does not cover the full weekly accommodation costs then Children's Social Care have a duty to pay the outstanding amount until the asylum application decision is made.

This is in accordance with NASS Policy Bulletin 29 - please refer to this if there are any concerns or queries.

If the initial asylum application has been refused by the Home Office then the UASC will need to contact a solicitor to appeal within 10 working days.

Please seek guidance from your appropriate manager regarding accommodation costs and weekly payments from the Children's Social Care.

Outcomes

Grant of Asylum - Indefinite Leave to Remain (ILR)

Recognised as a refugee under the Refugee Convention (1951) applying due to issues of race, religion, nationality, political opinion, social group, no state protection (unable to live safely in ANY part of their country of origin).

Indefinite Leave to Remain (ILR) is no longer granted and all asylum is limited to 5 years.

Applicant will then have to make a further application for ILR at the end of the first 5 years. However, this is likely to be granted again unless involvement in criminal activity or a significant change in the country of origin.

Grant of Humanitarian Protection (HP)

This does not mean that the UASC is recognised as a refugee. Humanitarian Protection is granted on grounds of risk of unlawful killing, death penalty, or breach of article 3 of the European Court of Human Rights Act (right not to be subjected to torture, inhumane or degrading treatment or punishment).

Limited to 5 years, however an application can be made of ILR at the end of the 5 years. This is likely to be granted again unless involvement in criminal activity or a significant change in the country of origin.

Discretionary Leave to Remain (DLR)

If the UASC is refused Indefinite Leave to Remain (ILR) and Humanitarian Protection (HP) it means that the claim for asylum is not successful or that the UASC is not considered at risk to return to the country of origin.

This is the most common outcome of application on asylum.

This Leave is granted only up to the age of 17.5yrs or for 3 years, whichever is the shortest period.

If the applicant is over 17.5yrs when the application is made then they will not be granted any Discretionary Leave to Remain (DLR) but will not be removed from the UK whilst they are under 18 yrs.

If DLR is granted and the UASC has more than 1yrs DLR issued then an appeal on the decision can be lodged to the Asylum and Immigration Tribunal.

The UASC has an automatic right to appeal however a solicitor may not be able to represent the UASC if the appeal does not meet the specific merits under the Legal Aid criteria.

If there are merits for appeal then it should be made immediately and not wait until the UASC is approaching 17.5yrs.

Main Rights if Discretionary Leave to Remain (DLR) is Granted

- Right to work subject to employment legislation;
- Right to continue to access support for the Children and Young People's Department;
- Right to claim benefits and accommodation (via Local Authority and housing providers);
- Right to travel - travel documentation required if the UASC has no passport. Application form and fee will be required. However, the UASC should NOT travel to their country of origin.

Applications for Further Leave to Remain

Check the date for expiry on the UASC leave papers and make an appointment with a solicitor at least one month prior to the end date. (You can book a few months in advance).

For those granted Discretionary Leave to Remain on or after 1st April 2007 then they must make an application for Further Leave to Remain before they reach 17.5 years of age. It is likely that a decision on this application will be made prior to the UASC turning 18 years. Therefore Article 8 under the European Court of Human Rights Act is limited.

The application form should be completed by a solicitor and must be returned to the Home Office by the last day stated on the Leave to Remain documentation. Failure to do so will mean that the applicant is an “illegal overstayer”.

If an application for Further Leave to Remain is made then the applicant has rights under the previous leave that they were granted. Therefore if previously granted Discretionary Leave to Remain then the UASC can still claim benefits, accommodation etc post 18th birthday. This is stated under the Immigration Act (1971).

There is no fee for the application for Further Leave to Remain, however 4 passport sized photographs need to be provided with the application.

Asylum and Human Rights grounds can be raised again; however Home Office will continue to rely on any contents of previous refusal letters. Reasons for the first refusal therefore must be addressed via the solicitor.

Character references can help. These can show to the Home Office that the UASC has settled into life within the UK and has made a social contribution. However, it is also positive to identify current vulnerabilities for the young person.

Reference should always include:

- Name and occupation of the referee;
- Length of time the applicant has been known;
- What role you know the applicant;
- How you have observed the applicant integrating into society;
- Whether the applicant is of good character and reasons why (attendance at college, work, helpful, politeness, attending appointments);
- Issues of applicant’s vulnerability which would demonstrate continuous need for dependency on external organisations / affect of trauma etc.

A total of 6 years of Discretionary Leave needs to be granted in order for ILR to then be granted.

If Leave is not granted then the applicant has 10 days in which to lodge an appeal with the Asylum and Immigration Tribunal (AIT).

Interaction between the Children’s Social Care and Solicitors.

Workers for the Children's Social Care should never be expected to complete any Home Office forms. If documentation is received by the Children's Social Care then it should be forwarded to the UASC's solicitor.

Do not delay with this as there are specific deadlines in which the solicitor will need to respond.

Refer clients to specialised agencies and if this happens then ensure that the solicitor is aware of this when completing the SEF or Leave to Remain documentation as this evidence of support leads to a stronger application.

Other Issues

If a child has been trafficked to the UK then a referral to the police needs to be made.

The Red Cross can help trace family members, Children's Social Care can make referrals on behalf of the UASC if requested.

Any criminal activity must be made aware to the Home Office via the solicitor as it needs to be identified on the Leave to Remain applications. Even minor offences can be held to negatively affect an applicant's reliability.