

PROCESSING AN ASYLUM APPLICATION FROM A CHILD

1. Introduction

1.1 Purpose of instruction and intended audience

1.2 United Nations Convention on the Rights of the Child (UNCRC)

ARTICLE 2 – Non-discrimination

ARTICLE 3 – Best Interests of the Child

ARTICLE 12 – Child’s Views

ARTICLE 22 – Refugee Children

ARTICLE 37 - Deprivation of Liberty

ARTICLE 39 - Rehabilitation of Victims

1.3 Best Interests

2. Immigration Rules Relating to Children

3. Policy Relating to Dependent Children

3.1 Family members of principal applicants

3.2 Where a dependent child lodges a separate claim

3.3 A child as the dependant of another child

4. Definitions

4.1 Accompanied asylum seeking child (AASC)

4.2 Unaccompanied asylum seeking child (UASC)

4.3 Responsible Adult

5. Support for Children Applying for Asylum

5.1 Children’s Services/ Social Services

5.2 Role of UKBA in asylum support for children

5.3 Refugee Council’s Panel of Advisers

5.4 Legal representation

6. Screening

6.1 Welfare proforma for children encountered at ports, LITs and LEOs

6.2 General principles

6.3 Fingerprints

6.4 Screening process

6.5 Children attending screening with an adult

6.6 Fingerprints and referrals to the Third Country Unit

7. Trafficking

7.1 General principles

7.2 Signs of trafficking

7.3 Handling and considering an asylum application from a child who may have been trafficked

8. Handling Applications

8.1 Allocation and handling of case files

8.2 Outstanding actions from screening

- 8.3 Actions prior to the First Reporting Event (FRE)**
- 9. Referrals to Local Authorities**
- 10. Procedure to Follow in the Event of a Missing Child**
- 11. First Reporting Event (FRE)**
 - 11.1 General principles**
- 12. Contact Management**
- 13. Collecting Evidence from an Asylum Seeking Child**
 - 13.1 General principles**
 - 13.2 Interviewing accompanied or unaccompanied children**
 - 13.3 Prior to the interview**
 - 13.4 The interview**
 - 13.5 Additional information**
 - 13.6 Requesting case files of family members or other cases related to the child**
- 14. Visa Application Form (VAF) Checks**
- 15. Family Tracing & Reunification**
 - 15.1 Family tracing and contact**
- 16. Assessing an Asylum Application from a Child**
 - 16.1 General principles**
 - 16.2 Age and maturity**
 - 16.3 Family circumstances**
 - 16.4 Assessing credibility**
 - 16.5 Child specific persecution**
 - 16.5.1 Fear**
 - 16.5.2 Well-Foundedness**
 - 16.5.3 Persecution**
 - 16.6 Harmful traditional practices**
 - 16.7 Child soldiers**
 - 16.8 Religion**
 - 16.9 Political opinion**
 - 16.10 Membership of a particular social group**
 - 16.11 Agents of persecution and access to protection**
 - 16.12 Internal relocation**
 - 16.13 Child abuse**
- 17. Possible Outcomes of Applications**
 - 17.1 Non-Compliance**
 - 17.2 Withdrawals**
 - 17.3 Article 1F Exclusion**
 - 17.4 Refugee status and the grant of asylum**
 - 17.5 Humanitarian Protection**
 - 17.6 Discretionary Leave - general policy**

- 17.7 Discretionary Leave under UASC Policy**
 - 17.8 Best interests and duty under section 55 of the Borders, Citizenship and Immigration Act 2009.**
 - 17.8.1 Working with Local Authorities**
 - 17.8.2 Overall Assessment of Best Interests**
 - 17.9 Outright Refusal**
 - (a) UASC**
 - (b) Accompanied child**
 - 17.10 Drafting reasons for refusal letters**
 - 18. Decision Service Event**
 - 19. Appeals**
 - 20. Implementing the Decision to Return – the section 55 duty**
 - 20.1 Implementing the decision to return – Best Interests**
 - 21. Integration**
 - 22. Curtailing a Child’s Leave to Enter or Remain**
 - 22.1 Definition of curtailment**
 - 22.2 Cessation, cancellation or revocation of refugee status**
 - 22.3 Curtailment of leave granted under HP or general DL policy**
 - 22.4 Curtailment of DL granted under UASC Policy**
 - 22.5 Deception**
 - 22.5.1 For EEA nationals only**
 - 22.6 Where it is discovered that a child was 18 or over at the time of the application**
 - 23. Handling Applications for Leave to be Granted in Line**
- Process Map**
- Glossary**
- Document Control**

1. Introduction

1.1 Purpose of instruction and intended audience

This instruction sets out the policy and procedures to follow when dealing with an asylum application from a child. An asylum application can be made by, or on behalf of, a child whether accompanied or unaccompanied and must only be processed by a specially trained case owner who has received the requisite children's training.

This instruction is intended to provide guidance for case owners, Case Resolution Directorate (CRD) case workers, Chief Immigration Officers, Senior Case Workers and Presenting Officers as well as staff in the Asylum Screening Unit (ASU), ports, Local Immigration Teams (LIT) and Local Enforcement Offices (LEO).

Within these instructions the terms "child" or "children" refer to persons under 18 years of age.

Where the age of the applicant (and their status as a child) is in doubt, reference should be made to the detailed guidance provided in the Asylum Instruction on Assessing Age. Please note that where the person's age is in doubt he/she should be treated as a child unless and until a full age assessment shows him to be an adult.

1.2 United Nations Convention on the Rights of the Child (UNCRC)

The UK is a signatory to the UN Convention on the Rights of the Child (UNCRC) and its text includes key commitments that UKBA has to meet when handling asylum applications from children. Case owners should familiarise themselves with the UNCRC with particular regard to the following articles:

ARTICLE 2 – Non-discrimination

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's, or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

ARTICLE 3 – Best Interests of the Child

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary

consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision

ARTICLE 12 – Child’s Views

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall, in particular, be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

ARTICLE 22 – Refugee Children

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or nongovernmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

ARTICLE 37 - Deprivation of Liberty

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults, unless it is considered in the child's best interest not to do so, and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

ARTICLE 39 - Rehabilitation of Victims

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

The obligation to ensure that in all actions concerning children, the best interests of the child shall be a primary consideration can be demonstrated by adherence to section 55 of the Borders, Citizen and Immigration Act 2009.

1.3 Best Interests

Article 3 of the UNCRC obligates the UKBA to ensure that the best interests of the child are a primary consideration in all actions concerning the child. This guidance must be read with this principle clearly in mind and the understanding that Best Interests is a continuous assessment that starts from the moment the child is encountered and continues until such time as a durable solution has been reached.

1.4 The new statutory duty to safeguard and promote the welfare of children in the UK

Case owners also need to be aware that, effective from 2 November 2009, **Section 55 of the Borders, Citizen and Immigration Act 2009** (hereafter "the section 55 duty") introduced a statutory duty on the Home Secretary to make arrangements to ensure that UKBA functions (and services carried out

by third parties on UKBA's behalf) *are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom*. This statutory duty extends to all UKBA staff and those acting on behalf of UKBA when carrying out immigration functions in relation to children within the UK (as a matter of policy, UKBA staff working overseas are also expected to act in accordance with the duty, albeit that the basis is not statutory). Therefore those dealing with asylum applications from children (or from those whose claimed age is doubtful but are being treated as children) must have regard to the detailed guidance provided in this instruction and elsewhere as part of these arrangements.

Case owners dealing with children should therefore check they are familiar with the general approach (summarised below) described in the separate guidance - *Arrangements to Safeguard and Promote the Welfare of Children for those Exercising UK Border Agency Functions*. The new general guidance replaces the *Code of Practice for Keeping Children Safe from Harm* and describes the relationship between carrying out UKBA's chief functions - including immigration control and achieving the departure of those with no legal basis of stay - and the new statutory duty.

The Statutory Guidance to the UKBA on making arrangements to safeguard and promote the welfare of children, issued under section 55, sets out the key arrangements for safeguarding and promoting the welfare of children as they apply both generally to public bodies who deal with children (Part 1) and specifically to the UKBA (Part 2). Any person exercising immigration, asylum, nationality and customs functions are required to have regard to this guidance. The guidance indicates that UKBA must act in accordance with the following principles :

- Every child matters, even if they are someone subject to immigration control.
- The best interests of the child will be a primary consideration when making decisions affecting children.
- Ethnic identity, language, religion, faith, gender and disability are taken into account when working with a child and their family.
- Children should be consulted and the wishes and feelings of children taken into account, wherever practicable, when decisions affecting them are made. Where parents and carers are present, they will have primary responsibility for the children's concerns.
- Children should have their applications dealt with in a way that minimises the uncertainty that they may experience.

The detailed guidance that follows in this instruction has been revised to reflect the section 55 duty and consideration of the best interests of the child. Being familiar with and applying the detailed guidance that follows in this instruction will enable immigration officers, case owners and other UKBA staff

to demonstrate that the child's welfare has been taken account of in the processing of their case.

1.5 Other guidance

Case owners may also wish to refer to the following documents which primarily reflect obligations of agencies and especially local authorities with respect to safeguarding and promoting the welfare of children: Every Child Matters ;in Scotland, Getting it right for every child ; and in Wales, Child and Young People: Rights to Action. Case owners may also find it helpful to read UNHCR's Guidelines on International Protection: Child Claims under Article 1(A)2 and 1F of the 1951 and/or 19667 Protocol relating to the Status of Refugees.

[Back to contents](#)

2. Immigration Rules Relating to Children

The Immigration Rules make specific provision for asylum-seeking children and the safeguarding and promotion of their welfare during key parts of the asylum process:

- Paragraph 349 of HC 395 (as amended) defines a child for the purpose of an asylum application, as a person, who is under the age of 18 or, in the absence of any documentary evidence, appears to be under that age
- Paragraph 350 provides for unaccompanied children wishing to apply for asylum and, in view of their potential vulnerability, requires that particular priority and care be given to the handling of their cases
- Paragraph 351 explains that a person of any age may qualify for refugee status under the 1951 UN Convention relating to the Status of Refugees. However, account should be taken of the applicant's maturity and in assessing the application of a child more weight should be given to objective indications of risk than to the child's state of mind and understanding of their situation. An asylum application made on behalf of a child should not be refused solely because the child is too young to understand his situation or to have formed a well founded fear of persecution. Close attention should be given to the welfare of the child at all times
- Paragraph 352 requires that an accompanied or unaccompanied child (over the age of 12) who has applied for asylum in their own right be interviewed about the substance of their application unless the child is unfit or unable to be interviewed. This paragraph also requires that when a child is subject to a substantive asylum interview:
 - the interview should be conducted in the presence of a Responsible Adult (i.e. a parent, guardian, representative or another adult who has responsibility for the child but is independent of the Secretary of State)
 - the interviewer should have specialist training in the interviewing of children and have particular regard to the possibility that the child feels inhibited or alarmed
 - the child shall be allowed to express himself in his own way and at his own speed. If he appears tired or distressed, the interview will be suspended. The interviewer should then consider whether it would be appropriate for the interview to be resumed the same day or on another day.
- Para 352ZA stipulates that as soon as possible after an asylum claim is made, measures are taken by the Secretary Of State (i.e. case owners) to ensure that:
 - a representative represents or assists the unaccompanied child with respect to the examination of the application

- the representative is given the opportunity to inform the unaccompanied child about the meaning and possible consequences of the interview and, where appropriate, how to prepare himself for the interview.
- The representative also has the right to be present at the interview and ask questions and make comments in the interview, within the framework set by the interviewer.
- Para 352ZB requires that the decision on the asylum claim is also taken by a person trained to deal with asylum claims from children

[Back to contents](#)

3. Policy Relating to Dependent Children

3.1 Family members of principal applicants

i.e. their spouse and/or minor children, will normally be considered as their dependants. A dependent child who reaches the age of 18 prior to the decision on the principal applicant's application must continue to be treated as a dependant for the purposes of the application. At this point they can also make an application for asylum in their own right if they wish to do so.

3.2 Where a dependent child lodges a separate claim

A dependent child can also lodge a claim for asylum in their own right but where the child has previously been served with a one-stop notice as a dependant, and failed to raise asylum in a statement of additional grounds, consideration should be given to issuing a certificate under section 96 of the 2002 Act, after exploring all possible legitimate reasons for not doing so.

Parents of a child applying for asylum cannot be considered as dependent on their child's claim.

3.3 A child as the dependant of another child

For the purposes of claiming asylum, a child cannot normally be regarded as the dependant in a sibling's claim. They would need to make their own claim and their files should be blue-taped together to ensure that the files travel together until the action or decision required has been completed and the cases concluded. Siblings may provide useful evidence relating to each others claims in some cases and it may be appropriate, in keeping with the Immigration Rules and section 55 duty to ensure case owners proactively seek to consider this issue in their decision making.

The only circumstances in which a child may be treated as a dependant on another child's application is where they are married to each other, in a civil partnership or in a same sex or unmarried relationship which has subsisted for two years or more, or where the principal applicant is the parent of the younger (dependent) child. Evidence of the relationship, e.g. a valid and genuine marriage certificate or birth certificate, is required. Other documentary evidence can be submitted and should be considered on a case-by-case basis, taking into account all the circumstances of the case including conditions in the child's country of origin the child's country of origin.

[Back to contents](#)

4. Definitions

4.1 Accompanied asylum seeking child (AASC)

An accompanied asylum seeking child is a child who:

- is applying for asylum in their own right; and
- forms part of a family group; or
- is separated from both parents and is being cared for by an adult who by law has responsibility to do so or is in a private fostering arrangement.

The accompanying adult will be asked to provide evidence of the above relationship, e.g. a genuine birth certificate or guardianship papers.

A private fostering arrangement is defined when an adult (aside from the child's parent) is looking after a child for duration of more than 28 days. A referral to the Local Authority must be carried out to assess the appropriateness of the placement.

[Back to contents](#)

4.2 Unaccompanied asylum seeking child (UASC)

An unaccompanied asylum seeking child 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 by law has responsibility to do so

A child may move between the unaccompanied and accompanied categories whilst their applications are under consideration, e.g. where a child arrives alone but is later united with other family members in the UK, or a child arrives with their parents or close relatives but is later abandoned, or a trafficked child, or one brought in on false papers with an adult claiming to be a relative.

[Back to contents](#)

4.3 Responsible Adult

Suitable people to perform this role:

- Social worker, Local Authority key worker, relative, or foster carer would be suitable people. However, other people/persons who are independent of the Secretary of State and have responsibility for the child could also assume this role, such as a doctor, priest, vicar, teacher, charity worker or Refugee Council representative.

In some cases and only with the consent of the child the legal representative may act additionally in the capacity of responsible adult. The child must be asked prior to the interview to confirm whether he/she is happy with the person acting as their Responsible Adult and the Responsible Adult must be content to act within the scope of their duties as described by the case owner in the asylum interview preamble.

The main roles of a Responsible Adult include the following:

- to be present at the substantive asylum interview and to ensure that the child is not unduly inhibited or alarmed by the interview process
- to ensure that the child understands the interview process
- to give moral support and reassurance as necessary to the child
- to facilitate communication between the child and the interviewing officer where necessary
- to ensure that all welfare needs relating to the child are sufficiently provided for e.g. adequate breaks, refreshments, etc.
- to offer any additional information to the interviewing officer which may have a bearing on the child's emotional wellbeing and fitness for interview (eg. bringing to the case owner's attention that the child is fasting or mentioning that they have had a long journey and an early morning start to attend the interview.)

In some cases the Responsible Adult may also accompany the child during the screening interview. A Responsible Adult does need to be present when fingerprints are taken from a child of less than 16 years of age.

What falls outside the Responsible Adult's remit:

- The Responsible Adult is not present to answer questions on behalf of the child but may intervene if it is clear to him/her that the child is becoming distressed or tired and a break is required.

At the conclusion of the substantive asylum interview the interviewing officer will confirm that the child has understood all the questions and will give the child an opportunity to add any information that they would like to be considered. The Responsible Adult and legal representative will also have an opportunity to add any comments relating to the conduct of the interview process.

If it is clear to the interviewing officer that the responsible adult is not fulfilling his/her role they should consider suspending the interview.

[Back to contents](#)

5. Support for Children Applying for Asylum

This section provides guidance on authorities that provide support for children applying for asylum.

5.1 Children's Services/ Social Services

Local Authorities in England and Wales have a duty under Sections 17 and 20 of the Children Act 1989 (s22 & s93 of the Children (Scotland) Act 1995 in Scotland) to provide support for unaccompanied asylum seeking children, Section 17 places a general duty on every Local Authority to safeguard and promote the welfare of children in need within their area by providing services appropriate to those children's needs. Section 20 requires every Local Authority to provide accommodation for children in need within their area who require accommodation if:

- there is no person who has parental responsibility for them;
- the children have been lost or abandoned; or
- the person who has been caring for them has not been able to provide them with suitable accommodation.

The local authority's assessment of the individual's needs will be the basis on which the authority will provide them with suitable accommodation and related support. In England, this assessment and support will be the responsibility of the Children's Services departments within a Local Authority and in Wales and Scotland, within the Local Authorities' Social Services departments.

5.2 Role of UKBA in asylum support for children

The only circumstance in which UKBA provides support for asylum seeking children is when they form part of a UKBA-supported asylum-seeking family.

5.3 Refugee Council's Panel of Advisers

The role of the Panel of Advisers is to advise and assist an unaccompanied child in their dealings with UKBA and other central and local government agencies (e.g. Local Authorities) while their application is outstanding. The adviser will not offer legal advice.

All children must be referred to the Refugee Panel within 24 hours of the application being made. Referrals which include details of the child are usually carried out by case owners via fax. Contact details for the Panel of Advisers are as follows: -

240 – 250 Ferndale Road,
London
SW9 8BB
Tel: 02073461134
Fax: 02073461140

5.4 Legal representation

All children are eligible to receive legal aid to help them with their asylum application and the Legal Services Commission (LSC) will fund a legal representative's attendance at a screening event and a substantive interview. However, funding is not available for the 'First Reporting Event' or other 'Reporting Event'.

[Back to contents](#)

6. Screening

This section provides an overview of the screening process that should be followed by staff in the Asylum Screening Unit (ASU), ports and Local Immigration Teams (LITs).

6.1 Welfare pro-forma for children encountered at ASU, ports and LITs

Children who attend ASU, or who are encountered at ports or by LIT enforcement officers may sometimes have travelled extensively before arriving at their final destination in the UK. Officers should take this into account and offer children refreshments, access to toilet facilities and if required, an adequate amount of rest prior to the commencement of any immigration interview.

The Welfare Pro-Forma (ASL.4261 - available on DOCGEN) should be completed to ensure the child is fit to be interviewed. Its purpose should be clearly stated to the child, all the questions asked and all answers recorded. The answers should then be attached to the applicant's file. Once completed, please refer to the guidance on the full screening process below.

6.2 General principles

The purpose of the screening process is to register an application for asylum. An application which can be understood as a request for international protection will be presumed to be an application for asylum. **Screening is not the place to explore the claim for asylum.**

The screening process for child applicants is designed to obtain details about: the child's identity, country of origin and family, the history of how they arrived in the UK and their documentation; any previous claims for asylum; their health and any special needs; security-related information; and, the identity of anyone accompanying the child or acting as their Responsible Adult. Additionally, the applicant's photograph and fingerprints are taken.

Screening officers must deal with children as a priority in view of their vulnerability.

It is a requirement of the immigration rules (paragraph 352) that a Responsible Adult be present where an unaccompanied child is interviewed about the substance of their claim i.e. when they are subject to a substantive asylum interview. There is no requirement for a Responsible Adult to be present when the child is being interviewed initially (for example at first contact) or at their screening interview and it is in the interest of the child that these interviews are not delayed unnecessarily e.g. while arrangements are made for the Responsible Adult to be present. However, the child may prefer to be screened in the presence of a legal representative. When this is the case, every opportunity should be taken to accommodate the child's wishes though these need to be balanced against operational needs and the likely delay in re-booking the screening interview.

Where there is no Responsible Adult or legal representative present, particular care is required to ensure that the approach in the screening or other non-substantive interview does not go beyond inviting a response that verifies that asylum is being claimed. So, in the process of registering their asylum application, an interviewer may ask a child “*Are you saying that you are afraid to return to your home country?*” An initial interview or screening interview without a Responsible Adult or legal representative present should not however involve a child being asked to explain or elaborate on why they are afraid to return to their home country. However, it should be explained to the child that they will have an opportunity to explain these details at a later date.

It may be that details or information relating to the substance of their asylum claim are nevertheless volunteered by an unaccompanied child in the course of verifying that they are applying for asylum in the UK. Asylum decision makers should not rely on details or information obtained from an interview where no Responsible Adult or legal representative was present unless these details or information have been explored and raised with the applicant during the substantive asylum interview - in the presence of a Responsible Adult or legal representative - and the applicant has been given an opportunity to explain any related issues or inconsistencies. But case owners must always bear in mind that the purpose of the screening interview is not to go into details of the asylum claim itself regardless of whether a Responsible Adult is present or not.

Screening staff should be alert to the possibility and to any signs that the child is at risk of harm or abuse or may have been trafficked. See section 7. below and further guidance (including making referrals to the local authority) contained in the *Victims of Trafficking* instruction.

6.3 Fingerprints

The presence of a parent, guardian or a Responsible Adult (i.e. “a person who for the time being takes responsibility for the child” (s.141(3), IAA Act 1999) when the fingerprints of a person under 16 years of age are being taken is a legal requirement. This person must be entirely independent of UKBA. It may therefore be appropriate to conduct the screening interview with minimum delay and then make arrangements for the child’s fingerprints to be taken as soon as possible after that – possibly the next day – when a Responsible Adult can be present.

The fingerprints of all minors aged 14 and above will be entered and cross referenced against the Eurodac database. Further information on this can be found at 6.5.

For children encountered by a Local Immigration Team or Local Enforcement Office staff should refer to local instructions when determining when to conduct the screening interview. However, if the child is transferred to social services before their screening interview has been conducted then the screening interview should be conducted by the end of day 2.

[Back to contents](#)

6.4 Screening process

All children should usually be screened; however this can vary depending on a child's maturity and individual circumstances.

The child's details must be entered onto CID. **For a child a special condition flag must be activated.** If the child's status changes, the special flag condition must be closed. For example, the child is later joined by his/her parents, or the "child" is later assessed as an adult.

Where two or more unaccompanied children are seeking asylum and are related, they must each be treated as an individual applicant. The case files, once created, must be blue-taped together and considered at the same time.

Should the child not be in the care of a Local Authority it is the responsibility of the ASU or other screening officer to notify the relevant Local Authority, who will arrange for the child to be collected. The referral must be made by both phone and fax and must be recorded in the Home Office file and on CID. The screening officer must follow this up to make sure the information has been acted on by the Local Authority. The Notes field on CID must be updated with the contact details of whoever from the Local Authority has taken responsibility for the child. Unaccompanied children should not be permitted to leave the ASU alone.

If the child provides any information that raises concern (e.g. about trafficking or exploitation issues), a more detailed screening interview should be arranged. If the information relates to criminal activity, the officer must contact the police as a matter of urgency. For further information see Section 7 within this AI. In such cases the child should be assured that the information will be treated confidentially.

Before children leave the ASU or other screening location the following should be issued to them:-

- An IS.96 form which grants temporary admission to the UK
- Children aged 12 or over must be issued with a letter to report to a case owner in 10 working days, for the First Reporting Event (FRE letter ICD.3391)
- A Self-Evidence Form (Self-Completion) (ASL.1957) should be issued which should be completed and returned to case owners within 20 working days
- An Application Registration Card (ARC), however, should the screening location not be ARC-enabled a time limited Standard Acknowledgement Letter (SAL) should be issued
- Applicants under the age of five should be issued with an ARC which bears the reference 'CUF' (child under five).

If the child claiming asylum is part of a family whose appeal rights are exhausted (ARE) and they are currently detained and awaiting removal, any subsequent asylum application made by the child in their own right should be

dealt with expeditiously. All aspects of the claim should be taken into account and the claim considered on its own individual merits. The following factors should be considered:

- does it amount to a claim? A mere assertion which cannot be particularised is not a claim
- further details should be requested- a response for a deadline should be reasonable in light of particular facts of claim
- if further information is not forthcoming a letter should be issued to the child detailing the reasons why their application is not being considered as a claim
- however, if, the claim is particularised (which gives details on who the risk is from or why they are at risk) the claim must be considered
- **no certification under section 94 or 96 can be carried out unless and until the claim has been considered and rejected.**
- if the child's particulars are very vague or similar to the parent's claim and there is no element of different fear being claimed it may not be appropriate to issue the child with a SEF; however this will vary on a case-by –case basis
- cases can be certified by case workers or OSCU as long as the family has been through the one-stop process
- if the one stop notice was served the claim can, if appropriate be refused and certified under section 96
- if no one-stop notice was given the claim can, if appropriate, be refused and certified under section 94
- a one stop notice should be issued.

On receipt of the case the case owner **must** check the file for a referral notice to ensure that a referral to the relevant Children's Services or Social Work Department has been made. Case owners must also check that the reasons for referral have been addressed, if it appears there has been no action after referral. This information must be recorded on CID within the notes field.

[Back to contents](#)

6.5 Children attending screening with an adult

There may be occasions where a child attends the screening unit accompanied by an adult. It will be necessary to verify the identity of the adult. Once the identity of the adult has been established (eg. Passport, Photographic Drivers Licence) the following checks should be carried out. Prior to the screening interview.

If relevant information is obtained from the checks the case should be referred to Local Authority Social Services (see section 9) and other appropriate units including the Paladin team and UKBA Office of the Children's Champion. The screening interview should not be proceed unless the case owner is advised otherwise by their manager.

In all cases where the child is under 16 and the accompanying adult is not a parent or relative but is providing accommodation and care to the child for

more than 28 days then this “private fostering arrangement” must be referred to the local authority for approval in line with the guidance accompanying section 55.

Consent should be sought from the accompanying adult for a set of fingerprints and their photograph. Their response should be noted by the screening officer. If the accompanying adult refuses to give their consent UKBA has no legal power to enforce the taking of their biometrics.

Details of all referrals made must be attached to the HO file and minuted accordingly on CID.

[Back to contents](#)

6.6 Fingerprints and referrals to the Third Country Unit

All children aged five or over should have their fingerprints taken. Children under the age of five should not be fingerprinted; however their photographs should always be taken.

As stated above, the fingerprints of a child under 16 can only be taken if they are accompanied by parent, guardian or a Responsible Adult (i.e. “*a person who for the time being takes responsibility for the child*” (s.141(3), IAA Act 1999).

All fingerprints of those aged 14 and above need to be checked as quickly as possible against the Eurodac database. If there is a Eurodac match, a referral must be made to Third Country Unit (TCU) who will inform the screening unit or routing team if they are assuming responsibility for the case and liaise over accommodation, care etc.

[Back to contents](#)

7. Trafficking

7.1 General principles

This section provides guidance on the process that should be followed by case owners when they encounter an asylum seeking child who may be a victim of trafficking. Please note that section 9, provides detailed guidance on situations where case owners must make a referral to Local Authorities as part of their safeguarding duty.

Broadly speaking, a child is a victim of trafficking if they have been moved into a situation where they are exploited. Children may be trafficked for a variety of different reasons. For further information <http://www.crimereduction.gov.uk/toolkits/>.

For further information please refer to the paper on “Safeguarding Child who may have been trafficked” available on [Every Child Matters](#).

[Back to contents](#)

7.2 Signs of trafficking

In having a regard to the need to safeguard and promote the welfare of children, case owners and others encountering children in the course of their work should be sensitive to possible indicators that a child may have been trafficked, such as:

- at port of entry the child may have entered the country illegally; either with no travel documents or on false documents
- the child has a prepared story very similar to that which other children have given
- unable to confirm the name and address of the person meeting them on arrival
- the child’s journey or visa has been arranged by someone other than themselves or their family
- he/she is accompanied by an adult who insists on remaining with them at all times
- the child may appear withdrawn and refuses to talk or appears afraid to talk to a person in authority.
- the sponsor has previously made multiple visa applications for other children and/or has acted as the guarantor for other children’s visa applications. They may have/or known to have acted as the guarantor on the visa applications for other visitors who have not returned to their countries of origin on the expiry of those visas.
- a child currently residing in the UK goes missing from local authority care
 - a poor relationship exists between the child and their adult carers
 - the child may be one among a number of unrelated children found at the same address
 - the child is not enrolled/or attending school.

Case owners should also be aware that children may also be internally trafficked within the UK. For further guidance please see “*Working Together to Safeguard Children*” (2010), “*What to do if you suspect a child is being abused*” (2006) and *Arrangements to Safeguard and Promote the Welfare of Children for those Exercising UK Border Agency Functions* .

In cases where a child appears to have been trafficked, case owners should immediately speak to their senior caseworker, and make a referral to the local authority social worker or local police for the area in which the child is currently residing and complete a [Children Intel Referral form](#). For further information contact the NSPCC National Child Trafficking Advice and Information Line tel. 0800 107 7057, or the United Kingdom Human Trafficking Centre (UKHTC www.ukhtc.org) on 0114 252 3891.

[Back to contents](#)

7.3 Handling and considering an asylum application from a child who may have been trafficked

This section provides guidance on how to handle and consider an asylum application from a child who may have been trafficked. Each case should be considered on its individual merits and in the context of the country on which it is based. Some victims of trafficking may be able to establish a 1951 Convention reason (such as membership of a particular social group) and have valid claims to refugee status. Section 16.5-16.7 also refer to some child-specific forms of persecution.

Among the factors to consider is the risk of him or her being re-trafficked and therefore the risk of future harm through exploitation and abuse. When considering the child’s application it will be important to gather information about the child’s family, community and general conditions in the country of origin before considering the decision.

The UNHCR have produced guidance on the application of Article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked.

There may be some instances where the child may come to the attention of Local Enforcement Officers or police as victims of trafficking in the first instances rather than asylum applicants. However, case owners should ensure that in keeping with paragraph 327 of the Immigration Rules, any application for international protection is treated as an asylum claim.

[Back to contents](#)

8. Handling Applications

8.1 Allocation and handling of case files

The case is referred by phone to the Asylum Routing Team who will allocate the file to an Asylum Team in the region that the applicant is to reside.

8.2 Outstanding actions from screening

- check for any outstanding referrals
- telephone the Local Authority to check whether they are aware of the case.

Note - For port, or local enforcement office cases, there may be a delay between the taking of the fingerprints and the results being checked against Eurodac. The asylum interview must not be arranged until the results of the fingerprint match have been received on file. In the event of a match, guidance must be taken from TCU on how to proceed with the asylum claim.

If there are outstanding actions

- liaise with the screening officer and agree how the outstanding actions will be completed.
- ensure that this information has been recorded in the notes field on CID.

If it is unclear whether the actions have been completed

- all actions must be undertaken
- any changes in the child's circumstances eg age, address are accurately recorded on CID.

8.3 Actions prior to the First Reporting Event (FRE)

A FRE must be completed for all unaccompanied children who register an asylum application. This should always be a face-to-face meeting unless the child is in the care of Social Services, in which case it can be agreed between the case owner and social worker for the FRE to be conducted by telephone.

- FRE to be set up by the Asylum Routing and Initial Accommodation Team if aged 12 and over
- inform the child when and where the FRE is to take place (FRE letter ICD.3391)
Action to be arranged by case owner
- enquire whether a Responsible Adult is attending the FRE with the child
- if no Responsible Adult is available case owners can serve the relevant documents to the legal representative
- the Invitation to Interview letter must be posted and/or faxed to the legal representative, the social worker and/or legal guardian as soon as it is clear that a FRE cannot go ahead.

[Back to contents](#)

9. Referrals to Local Authorities

If a child has been referred to a Local Authority because of concerns about the accompanying adult/sponsor, the case owner must check with the Local Authority as to what action is being taken, and agree a timeframe for the Local Authority to complete their checks.

A letter/fax from the Local Authority stating that they are satisfied with the child's living arrangements must be submitted to the case owner in advance of or at the time of the First Reporting Event. If this is not received, the case owner must speak to the Local Authority and ensure that action is being taken.

Further types of situation in which case owners must make a referral to the Local Authority or to other agencies with child protection responsibilities, are as follows:

- Where there are concerns about the current or future abuse of child for example:
 - Neglect
 - Physical abuse
 - Emotional abuse
 - Sexual abuse
- Where there are concerns about the lack or poor level of support a child may be receiving
- When the child is in a private fostering arrangement
- Where there are concerns that a family or care provider is not meeting a child's developmental needs
- Trafficking

If a child is identified as falling into one of the above categories, case owners must follow the procedure below:

- collect as much information as is necessary about the accompanying adult/sponsor. They must find out their full name, address, immigration status, relationship to the child and any other relevant information
- should there be a change of circumstances e.g. transfer of caring responsibilities, case owners should ensure the appropriate checks are conducted on the accompanying adult/sponsor/
- any concerns must immediately be flagged up to a senior caseworker who is appropriately qualified to deal with Local Authorities.
- details of the problem, what information has been gathered and any recommendations should be clearly minuted in the file notes.
- it will not normally be appropriate for case owners to inform the child or their parents or carers that they intend to make a referral to the Local Authority in such cases. Case owners must consult a senior caseworker if they are in doubt.

- where the child is believed to be at imminent risk, the referral to the Local Authority, police and UKBA Office of the Children's Champion (OCC) should be made immediately. The child will not be allowed to leave UKBA premises until a placement in a safe situation has been arranged and agreed.

In addition:

- the case must be faxed to the relevant Local Authority. Case owners must call the Local Authority and verify if they have received the information sent
- the officer must fax a Children Services Referral Form containing all of the relevant information to the Local Authority, and update the electronic social services referral log. Case owners must telephone to confirm the fax has been received and is being acted on
- case owners must seek advice from a senior caseworker if they encounter any difficulties during the course of making such a referral
- referrals should usually be made within 1 working day. If the child is perceived to be ill at ease or shows fear of their guardian/sponsor or is perceived to be in immediate danger, an immediate referral must be made to the Duty Social Work Team or Duty Children's Team for the relevant Local Authority. It may also be appropriate for the police to be contacted
- the Border Control Central Intelligence Unit must be contacted by the screening officer or case owner if there is evidence that the child has been trafficked
- all actions must be clearly minuted on the file as well as recorded in the person notes section on CID.

If, following a referral in these circumstances the Local Authority is or remains satisfied that the child should still be looked after by the guardian/sponsor, case owners must seek advice from a senior case worker before following the advice of the Local Authority.

If the senior caseworker is not in agreement with the Local Authority, the case must be referred again to the UK Border Agency Children's Protection Officer. Case owners must keep a record of the action agreed.

Annex A Referral form to Local Authority
Annex B Instruction on referring a child in need

[Back to contents](#)

10. Procedure to Follow in the Event of a Missing Child

When a child goes missing, case owners **must** complete a missing children's pro forma. Also please refer to section 6.1 of the Absconders AI which contains a flow chart detailing various actions for case owners to initiate in the event of a missing child.

[Back to contents](#)

11. First Reporting Event (FRE)

11.1 General principles

A FRE should be conducted by the child's allocated case owner or a UK Border Agency member of staff who has received the requisite children's training.

However, it may be more appropriate for unaccompanied children under the care of the social services to have their FRE conducted over the telephone with their social worker present and then have all the required documentation and information sent to them. This may be in cases where the case owner is unable to attend the FRE personally or when the time taken for the child to get to the reporting event is considered unreasonable. Depending on the age and maturity of the child, s/he may have views on how the FRE is arranged and where possible these views should be taken into account.

Where a face-to-face FRE is going ahead, a suitable location for the FRE should be decided by the case owner in consultation with the social worker and/or accompanying adult/sponsor or the legal representative. Case owners must also consider whether it is necessary for an interpreter to attend the FRE and if so arrange for one to attend. The case owner should also check and consider whether the child has any particular needs and how these might be addressed. Where the child is legally represented, any information should be sent to that legal representative.

The following documents must be produced in preparation for the FRE:

- invitation to Interview Letter
- covering letter to legal representative – Invitation to Interview Letter
- an amended IS96 or IS248

If the FRE goes ahead as planned, the case owner must take the following actions prior to the event:

- verify that the Local Authority has been contacted.
- verify that the applicant has been fingerprinted and issued with an ARC.

The purpose of the FRE is:

- to establish contact with the child, develop a rapport and, as far as possible, to put the child at ease with the person who will be undertaking the asylum interview and handling their application
- to explain - in child friendly language - the asylum process and that the substance of the asylum application will be discussed at the asylum interview
- to check on progress in completing the SEF
- to ensure the child has legal representation
- issue any relevant paperwork

- to advise children of the existence of the assisted voluntary return programme (AVR) and provide them with a leaflet. It is important to stress that AVR is an option at any time for the child to consider if he/she would like to return home to his/her family and certainly not an indication that his/her claim will not be taken seriously.
- to stress the importance to the child, social worker and/or guardian with regards to complying with the asylum process, including any contact management requirements

The FRE should also be used to ascertain whether the child is still in contact with their family, if this is unclear from the information already provided. This is not limited to the parents, and should include other close family members such as siblings, aunts and uncles.

If the child is not in contact with their family then, if appropriate, the child should be informed that in order to protect the child's best interests, UKBA is committed to doing what it can to trace the members of his or her family as soon as possible. In cases where there may be a danger or a threat to the child or their close relatives, particularly if they have remained in the country of origin, the tracing process may not be appropriate. In every case tracing must be undertaken with due care to avoid jeopardising the safety of all concerned (see section 15).

Child applicants should also be informed of the family tracing services available through the British Red Cross and International Social Services. Their postal address is:

Children & Families Across Borders (CFAB)
Canterbury Court, Unit 1.03
1 - 3 Brixton Road
London
SW9 6DE

Advice Line: 020 7735 8941
Reception: 020 3176 0253
Fax: 020 7582 0696
e-mail: info@cfab.uk.net

Both organisations can provide family tracing services and should be signposted to the child for him/her to make an informed choice. Instances where this signposting may not be appropriate include cases where the child has expressed a fear of certain close family members, or where the child becomes distressed at the idea of contact with the family.

For further information see the Asylum Instruction on First Reporting Event (FRE) doc.

[Back to contents](#)

12. Contact Management

Case owners must ensure that they establish an appropriate contact management strategy, which will be agreed with the children's social worker and/or their accompanying adult/sponsor at the various milestones and in accordance with the child's age and level of understanding, which are as follows:

- FRE
- interview
- the decision service event
- if an appeal is lodged, at the determination service event
- continue beyond any grant of DL under the UASC policy
- this may involve telephone contact and/or visits or meetings at regular intervals.

When deciding on the contact management regime, the personal circumstances of the child which may influence the nature and frequency of the contact, e.g. their age, level of understanding, area of residence, the amount of leave (DL) the child has been granted and any other relevant factors should be taken into account. It is essential that any actions taken or decisions made and the reasons for them are recorded by case owners on the case notes field on CID.

[Back to contents](#)

13. Collecting Evidence from an Asylum Seeking Child

13.1 General principles

At all stages of the process, but with particular emphasis when obtaining, and then assessing evidence from a child, case owners must have a regard to the best interests of the child which is encapsulated in the section 55 duty to safeguard and promote the welfare of the applicant. The following general principles must also be applied:

- be aware that children do not often provide as much detail as adults in recalling abusive experiences and may often manifest their fears differently from adults
- assess evidence provided by a child in the light of their age and degree of mental development and maturity currently and at all material times in the past, together with any available knowledge of their personal, family, cultural and educational background
- be proactive in identifying, pursuing and considering objective factors and information that may be relevant to the child's asylum claim

consider evidence from a range of other sources such as information from other family members, accompanying adults or social workers.

- consider evidence from other agencies involved with the child which they are able to share and that may be relevant to the application
- consult a senior caseworker who has received specialist training in assessing children's claims with regards to the appropriateness of information from other agencies, and the relevant policy unit as to whether the information and/or the source can be relied upon. All issues discussed should be recorded and minuted in the case file. The note field should also be updated on A-CID
- consider objective country information available in the Country of Origin Information (COI) Reports which can be used in conjunction with the Operational Guidance Notes (OGN) accessible internally on Horizon and publicly at:

http://rds.homeoffice.gov.uk/rds/country_reports.html

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/>

- take account of factors which may affect consideration of the child's credibility (Rules para. 351 and para.16.4 below, refer)

[Back to contents](#)

13.2 Interviewing accompanied or unaccompanied children

Children aged twelve and over must be interviewed about the substance of their asylum application unless they are unfit or unable to be interviewed. Discretion should be used on whether to interview in cases where the child is younger especially if the child is mature and, if given the option, is willing to be interviewed. It may be appropriate in these cases to seek the advice of the social worker/accompanying adult or legal representative before proceeding.

Physical and mental health considerations also need to be taken into account when considering whether going ahead with an interview is in the child's best interests.

Case owners may decide in consultation with the social worker, accompanying adult or other responsible adult, and the legal representative, a suitable non-UKBA location for the substantive interview. E.g. Local Authority facility with which the child is familiar and comfortable.

[Back to contents](#)

13.3 Prior to the interview

- case owners should use the Statement of Evidence Form (SEF) to thoroughly prepare for the interview, consulting any subjective or objective evidence considered appropriate. Case owners should consider the level of detail and the language used in the witness statement. This will help the case owner understand the education, maturity and general background of the child, thus indicating what is reasonable to ask at interview.
- If the child's claim is gender specific or there are other reasons to believe the child would prefer a female or male interviewing officer, this should be accommodated when possible.
- where it appears the child has not been able to secure legal representation the interview should usually be suspended to allow time for this to be arranged (unless the child has expressly stated that they do not want legal representation).

At the beginning of the substantive asylum interview case owners must confirm:

- the identity of the child, checking against the IFB photographic records attached to the file, and the ARC card
- check that a Responsible Adult is available. A Responsible Adult must be present for the interview to go ahead
- check at the beginning that the child feels comfortable, and that any specific health and emotional needs are acknowledged and addressed
- in cases where an interpreter is present, that the interpreter and the child understand one another and that the interpreter's manner is appropriate.

[Back to contents](#)

13.4 The interview

Particular care is required at the substantive interview of a child applicant. Case owners should ensure that they:

- interview in a sensitive manner using appropriate tone, body language and eye contact with the child during the interview and using a vocabulary that is appropriate to the child's age, level of understanding and to their personal situation and ensuring the child is addressed rather than the interpreter.
- take time to establish a rapport with the child (e.g. by means of a short informal conversation with the child on a topic unrelated to their claim) before starting the substantive interview. This will help the child to relax and is likely to increase the chances that the child will be open and disclose relevant information to the interviewing officer.
- introduce each individual in the room (including themselves) to ensure the child is clear on who is present and their role(s) at the interview
- explain the asylum process including that it is permissible for the child to:
 - speak to their legal representative and/or Responsible Adult at any time in the interview
 - say where they don't understand a question
 - say if they need a break
- set the framework in which child's legal representative and/or Responsible Adult may ask questions and make comments in the interview
- are aware of the cultural sensitivity issues and acknowledge the fact that the child is giving information in an alien environment and may fear/distrust someone in authority
- check that the child is not hungry, thirsty or in any other physical discomfort or distress during the interview and that regular breaks are factored within the interview
- check at intervals throughout the interview that the child feels comfortable and where necessary consult with the Responsible Adult.
- during the course of the interview, if the child is perceived to be upset, which could affect their ability to provide information in a coherent manner case owners must stop the interview and assess the situation. If the child is unable to continue the interview, arrangements must be made to reschedule the interview for another date. In these circumstances consultation with the Responsible Adult will be appropriate.
- sensitively, put all inconsistencies in the child's subjective evidence or between the subjective and objective evidence to the child at the interview, to allow them an opportunity to explain further

[Back to contents](#)

13.5 Additional information

Consideration should also be given to interviewing relatives of children and also any other persons who have had sustained contact with the child (social workers, carers) if there is an indication they could elaborate on elements of

the child's claim which the child themselves appears to have had difficulty in getting across.

It may also be possible for the relatives to corroborate parts of the child's claim when they are interviewed. The child should be made aware of any additional interviews and the legal representative should be permitted to comment.

Where it has not been possible to interview a child and the Statement of Evidence Form (Self-completion) (ASL.1957) does not contain sufficient information, case owners should:

- write to the child via their representative and ask them to provide further information within an appropriate timescale
- consider visiting the child in the legal representative's presence, to gather the necessary details to make a decision or contact individuals who have had sustained contact with the child and may be able to elaborate on elements of the child's claim – e.g. carers, social services.

[Back to contents](#)

13.6 Requesting case files of family members or other cases related to the child

In all cases it is good practice to call for the files of any accompanying siblings, accompanying adults or family members who may have made an asylum application in their own right and in the circumstances below:

- if a child is accompanied and the accompanying parent or other accompanying adult has an outstanding asylum application in their own right, case owners must call for their files to serve the decisions together
- a sub-file must be set up for accompanied children using the same file reference as the parent's or accompanying adult's.
- the relationship and dependency would need to be clearly established and the case files must be white-taped together
- if the child's asylum application is refused on asylum and human rights grounds, and the parent's or accompanying adult's application is also refused, UKBA will seek to remove the child together with the parent or accompanying adult once all appeal rights have been exhausted
- if the child has a brother or sister whose application for asylum has not yet been considered, their file must be requested and blue-taped together so the cases can be looked at together. Caseowners should investigate whether there is corroborative information contained within the separate files in order to make positive credibility findings. Conversely it may be the case that the files reveal significant differences that should be reflected appropriately in the decision letter. All actions relating to the blue taped files should happen at the same time until the cases are concluded.
- If the case files of the child's family members cannot be obtained, case owners must contact the relevant department and request that the relevant details be faxed over.

[Back to contents](#)

14. Visa Application Form (VAF) Checks

In all asylum seeking children's cases, case owners must check visa application forms (VAF) on the Central Reference System (CRS).

The CRS is a web-based application and read-only system used to store information about visa applications. Such information includes:

- Personal details of the child
- Type of visa applied for
- Sponsor's details
- Photograph of the child
- Details page from the child's passport
- Q&A interview notes or refusal notices associated with the application.

Photograph matches help to tackle the abuse of children being brought into the UK on false pretences. It may also assist in tracing the child's family in the country of origin; help to determine whether or not the child came to the UK with a parent or accompanying adult; or assist case owners to determine whether the child's parents or relatives are in the UK. It is also important to note that in some cases, children may not know that a visa has been applied for on their behalf. It is therefore important that any visa related evidence is presented to children in a sensitive manner.

[Back to contents](#)

15. Family Tracing & Reunification

15.1 Family tracing and contact

Regulation 6 of the [Asylum Seekers \(Reception Conditions\) Regulations 2005](#) states that:

(1) So as to protect an unaccompanied minor's best interests, the Secretary of State shall endeavour to trace the members of the minor's family as soon as possible after the minor makes his claim for asylum.

(2) In cases where there may be a threat to the life or integrity of the minor or the minor's close family, the Secretary of State shall take care to ensure that the collection, processing and circulation of information concerning the minor or his close family is undertaken on a confidential basis so as not to jeopardise his or their safety.

There is therefore a general principle that family tracing should take place as soon as possible, and not necessarily be suspended until the asylum claim is finally determined. However this must be qualified by the need to protect the child's safety and the safety of his/her family that have remained in the country of origin. It will not therefore be appropriate to commence tracing until the case owner understands the nature of the asylum claim and is able to gauge the risk to the child or his/her family.

The practical arrangement through which contact can be made with the family will be relevant to the assessment of when to begin tracing efforts. Each case should be considered on its merits depending on the particular circumstances. In some cases a direct telephone call to parents may be appropriate when it is clear that this would not place either the parent or child at risk. An example of this could be when the child is in regular telephone contact with his family. In other cases when the child has expressed a fear of the authorities, tracing efforts that will draw attention to the child's family will not be appropriate.

Any tracing that is undertaken must consider the UKBA's section 55 duty to have regard to the need to safeguard and promote the welfare of children in the UK and whether it is in the children's best interests to return them to their family or extended family, if reunification is possible.

The main purpose of such contact with the family is:

- to obtain information as to the family's current location and circumstances, and
- to obtain information relevant to an assessment of whether there is a prospect of reuniting the child safely with their family in the event of return.

The child may have been separated from their family through no fault of their own, and may want to return to their family. However, this may not always be the case, and any tracing undertaken by the UK Border Agency needs to be

balanced against the duty of confidentiality towards the child, especially before the case has been concluded. Any tracing must be reasonable and proportionate, with careful consideration of whether there is reason to believe that such enquiries might compromise the safety of the child or their family. In particular, case owners must take into account any child protection issues that need to be considered, that may make contacting the family inappropriate. Though normally regarded as being in the best interests of the child, family reunification could, in certain circumstances, not be in his or her best interests. This would be the case when it exposes or is likely to expose the child to harm.

In all cases case owners must act carefully and communicate their intentions to the child. In some cases, British Embassies/High Commissions may be able to help with family tracing in the relevant country. The post must be given as much information as possible to help them with their enquiries such as details of any visas that the child may have been issued in the past, or information about any school the child attended, etc. The case owner may request a copy of the VAF from the overseas post. Contact details for British Embassies abroad can be obtained from the [Foreign & Commonwealth Office's website](#).

Family tracing can be a lengthy process, and contact with the family is only one aspect of the overall consideration.

Any information obtained from the child at interview about the relationship ties with their family and their contact details and as well as information gathered from the family should be considered in the round with the other evidence available. Case owners should not defer making an initial decision pending the outcome of a tracing request, particularly if the decision is to afford international protection to the child. All tracing efforts should be minuted on CID and on the HO file and updated as necessary. Results of the tracing process can be forwarded as additional information within the appeal bundle in the event of a refusal and can be used at appeal even though it was not included in the decision letter.

There may be an option for family reunification in a third country, where close or extended family of the child reside. In such circumstances caseowners should explore the possibility of reuniting the child there. This could be considered if the child's claim is either successful or unsuccessful.

[Back to contents](#)

16. Assessing an Asylum Application from a Child

16.1 General principles

In addition to the requirements set out in the UN Convention Rights of the Child (UNCRC) and the duty under section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of children in the UK, the following are general principles which need to be observed when assessing a child's claim:

- consider applications within the framework set out at paragraphs 349 to 352 of the Immigration Rules and any other public commitments made on children
- every applicant, regardless of age, has to show to the same standard (a reasonable degree of likelihood) that they have a well-founded fear of persecution for a Convention reason – while taking into account child-specific considerations and other factors that may impact upon the interpretation of these concepts.
- consider the factors that would affect a child's demeanour such as age, education, maturity, gender, the standing of the child's family in the community, their general life experience, trauma experienced and the cultural expectations and attributes of children in their country of origin.
- assess the credibility taking into account additional child specific factors
- allow for a different degree of understanding compared to what one would expect from an adult claimant
- when assessing claims from children, case owners may need to be proactive in their pursuit and consideration of objective factors and information relating to the child's claim
- child-specific Country of Origin Information should be obtained and referred to, wherever available
- where there are clear discrepancies in an account given by a child, case owners will need to consider the ability of a child to be able to clarify these discrepancies and how far these should be pursued during the interview. This can only be decided on a case-by-case basis and it may help to discuss complex case issues with an appropriately qualified senior caseworker.
- full consideration of the child's asylum claim should take place before case owners consider their eligibility for any other forms of leave (e.g. Humanitarian Protection or Discretionary Leave)

- a specific best interests consideration which satisfies the requirements of Article 3 of the UN Convention on the Rights of the Child and the section 55 duty must also be abided in every case.

[Back to contents](#)

In assessing applications from a child, case owners must consider the following:

16.2 Age and maturity

More weight may need to be given to objective indications of risk than to the child's state of mind. Other factors to consider might include: documentary evidence, objective country evidence, evidence from people with knowledge of the child – including post arrival in the UK.

Any child psychological and physical health and development reports or information from welfare and health support professionals to whom the child may have disclosed relevant evidence, (such as rape) which he/she may not have felt able to disclose to other should also be considered as part of the decision making process.

In young or less mature children a different degree in their knowledge and information is to be expected and the benefit of the doubt must be applied more liberally.

An asylum application made by a child must not be refused solely because the child is too young to understand their situation or to have formed a well-founded fear of persecution.

[Back to contents](#)

16.3 Family circumstances

The circumstances of family members may be central to a child's asylum application. Whilst the child may have personally feared persecution, they may also fear, or are affected by, the experiences of other family members even though no harm may have come to the child and their fear is based upon what treatment family members have received.

[Back to contents](#)

16.4 Assessing credibility

A case owner must not draw an adverse credibility inference from omissions in the child's knowledge or account if it is likely that their age or maturity is factor or if there are logical or other reasons for those omissions.

The benefit of the doubt will need to be applied more generously when dealing with a child, particularly where a child is unable to provide detail on a particular element of their claim.

There needs to be an awareness of the increased burden on case owners to ascertain and evaluate the facts of a child's asylum claim, including the need to be proactive in obtaining relevant objective information and evidence relevant to the child's claim (including COI and statements from relevant parties).

Case owners must take account of what is "reasonable" to expect a child to know in his/her given set of circumstances and in doing so taking account of his/her age, maturity, education and other relevant factors.

Case owners should demonstrate explicit consideration of any mitigating circumstances (as per the Credibility AI) that should be taken into account when assessing credibility in a child's claim. This will also apply to behaviours that fall within Section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, including:

- the child's age and maturity
- mental or emotional trauma experienced by the child
- educational level
- fear or mistrust of authorities
- feelings of shame
- painful memories, particularly those of a sexual nature

A case-by-case approach will be required and if there is doubt, case owners must discuss the case with a senior caseworker. For further information on assessing credibility, see AI on Considering the Asylum Claim and UNHCR Handbook -Part One paragraphs 41 & 219.

[Back to contents](#)

16.5 Child specific persecution

In determining any asylum application, case owners must consider whether the applicant meets the definition of a refugee as set out within the Refugee Convention. For further information on well founded fear of being persecuted see UNHCR Handbook -Part One Paragraph 42. Special care is required when assessing a child's claim for asylum and account taken of the possibility that a child may not be able to make explicit reference to potentially applicable 1951 Convention reasons in the same way that an adult applicant, that an adult applicant could, when explaining their case. When considering whether the child's claim qualifies them under the definition of a refugee, case owners must consider the following:

16.5.1 Fear

A child may have little or no concept of fear as, it may be common for parents not to share experiences or fears with their children. They may have been sent to safety by a parent or other family member before having experienced any ill-treatment or without their understanding why they were being sent away. Children may also be too young to comprehend what constitutes a risk, and what does not. For issues related to this awareness of 'fear' and the reasons for it, a child's individual level of maturity and understanding will be relevant.

The child may have difficulties articulating their fear in an interview therefore, case owners should look at other sources of information in order to investigate the child's claim such as teachers or social workers who may be able to provide pertinent information specific to the child and also refer to objective country information.

16.5.2 Well-Foundedness

A child may be less able to produce objective evidence to corroborate their claim, and may in fact have very limited life experience. Case owners must also be aware that a child may find it difficult to describe details extraneous to their direct experience, such as names of places, persons, or organisations. When considering the objective evidence in support of a child's case, it is important for case owners to refer to up-to-date relevant country of origin information.

16.5.3 Persecution

Forms of, or reasons for, persecution may be directly influenced by age factors. The range of potential claims with an age dimension is varied, such as forcible or underage recruitment into military service, family or domestic violence, infanticide, forced or underage marriages, discrimination against street children, female genital mutilation, forced labour, forced prostitution, child pornography, trafficking, and children born outside of strict family planning laws and policies.

While a child may suffer similar forms of persecution to adults, they may also experience different forms or ways of persecution from adults. It is important to recognise that, due to the variations in the psychological make-up of individuals, fear of persecution includes a subjective factor. Actions that might be considered mere harassment in the case of an adult could cause serious physical or psychological harm amounting to persecution in the case of a child.

[Back to contents](#)

16.6 Harmful traditional practices

In some countries harmful traditional practices exist such as female genital mutilation ('FGM') or forced/underage marriages, and these may be carried out at the request of, or even arranged by family members. The fact that such harm may result from widespread social customs or conventions does not mean that it cannot amount to persecution. In such cases a State's efforts and its ability to protect a child against these harmful practices, as well as the actions taken towards its eradication, need to be carefully evaluated. Even though a particular State may have prohibited such a persecutory practice, the State may nevertheless continue to condone, tolerate or ignore the practice and may be unable to stop it effectively. In such cases the practice might still amount to persecution (ie because there is insufficiency of protection) and there might still be a link to one of the five Refugee Convention grounds.

[Back to contents](#)

16.7 Child soldiers

The forced conscription of a child into armed forces under the age of 18 is inconsistent with international law (ILO Convention on the Worst Forms of Child or Labour 1999 (Article 3); CRC Optional Protocol on the Involvement of Children in Armed Conflict (Article 2). A child recruited by *non-state* armed groups may also fall within this category. The serious long-term physical and psychological effects on the child's development and welfare mean that the use of children in hostilities constitutes a serious form of persecution. For further information see Section 3.2.1 of [UNICEF](#) and [Children and armed conflict](#).

Conscription of a child under 15 years is considered a war crime and this is irrespective of whether the child was forcibly conscripted or they volunteered. Where the 'voluntary' recruitment of children aged 15-18 years is encountered, consideration needs to be given to the extent to which other factors may also have been involved, such as where there was vulnerability to recruitment due to poverty or separation from family.

Case owners should consider the likely treatment of former child soldiers on return to their country of origin as a relevant factor in their asylum claim. They may be in danger of re-recruitment or military punishment, or may be subject to stigmatization, harassment, or ill-treatment by their community because of their past activities. Reference to the relevant Country Report or OGN for further country specific information should be carried out or a referral made to the War Crimes Unit. The state of mind of former child soldiers needs careful considering. Characteristics of this vulnerable group of children may include distrust of adults, guilt and fear of reprisal.

[Back to contents](#)

16.8 Religion

In some States, a person's religion assigns particular roles or behavioural codes to all, including a child. If a child does not fulfil their assigned role or refuses to abide by the codes, such as a female refusing to wear the veil or refusing to obey prescriptive gender roles, there may have a well-founded fear of being persecuted for reasons of religion.

There is frequently an overlap between the grounds of religion and political opinion in age-related applications, especially regarding imputed political opinion. Religious tenets may require certain kinds of behaviour and contrary behaviour which may be perceived as evidence of an unacceptable political opinion that threatens the basic structure of power. This is particularly true in societies where there is little separation between religious and State institutions and laws and doctrines.

[Back to contents](#)

16.9 Political opinion

Imputed or perceived political opinion may be relevant for a child, as they may be targeted as a member of a politically-active tribe, community or family. Or the persecutor wants to extract information or co-operation from politically active family-members, or to punish them. In such cases the child might not even know what the adults' political activities or opinion are.

A child can be politically active and/or hold particular political opinions independently of adults for which he or she may fear being persecuted. For example, children may be involved in the distribution of pamphlets, participation in demonstrations, acting as couriers, or engagement in subversive activities. These activities may be considered politically active in other countries but not in the UK.

[Back to contents](#)

16.10 Membership of a particular social group

Age groupings such as 'children' or 'young men', or 'young girls' may constitute a particular social group; depending on the specific country context and the treatment of this group and how they are perceived within that society and the laws of the relevant country. Case owners should bear in mind that at any given point, a child's age may be considered an immutable characteristic (i.e. notwithstanding the fact that the child will ultimately grow out of his/her present age grouping).

Although it should be possible to identify the group independently of the persecution, discrimination or persecution may be a relevant factor in determining the visibility of the group within a particular context. Case owners should also be aware that other particular social groups may be identifiable, such as street children, HIV / AIDS-affected children, children in armed forces or lesbian, gay, bi-sexual and transgender children.

[Back to contents](#)

16.11 Agents of persecution and access to protection

The need for international protection only arises where a state is either unable or unwilling to provide protection for a child. This may result from the fact that there is no effective means of legal recourse to prevent, investigate, or punish the form of persecution feared. Some persecutory practices are condoned or tolerated by the state, as can be the case with Female Genital Mutilation and other forms of child abuse. In these cases, it is important to remember that a child's relationship with the state is normally mediated through parents or other adults, who may condone the harm, providing active encouragement, participate directly in it or threaten the child with the negative repercussions of non-cooperation.

If the State authorities do not condone the mistreatment, case owners must consider whether a child is likely to be able to understand or know how to initiate contact with appropriate state agencies. Cultural beliefs about the appropriate behaviour of children may prevent them from seeking the protection of the state, or may lead to them not being taken seriously when

they do so. Simply put, a child may have the knowledge of how to contact state agencies whilst lacking the means or power to seek their assistance.

[Back to contents](#)

16.12 Internal relocation

Case owners are reminded that when considering asylum claims from children, the issue of internal relocation must be based on the country situation alongside the child's age and maturity at the time of the decision. Cases will be determined on a case-by-case basis. For further information regarding Internal relocation please refer to the UNHCR Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees – paras 55-57 (<http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>) as well as the AI on Internal Relocation.

[Back to contents](#)

16.13 Child abuse

A child's application may include allegations of abuse. Such applications must be handled sensitively at all times.

Where the alleged abuse is central to the application for asylum or Humanitarian Protection, case owners need to consider the following:

- are the alleged abusers family members or those who could be state or non state agents
- is the child at future risk of abuse for a Convention reason e.g. political opinion
- are there adequate child protection safeguards in place i.e. sufficiency of protection
- if the child or is returned would there be a future risk or can they be returned to a safe environment

Any allegations of abuse disclosed by a child must be referred to the local authority and/or police in all circumstances (see section 9). Case owners should also be vigilant and aware of the possibility that where there has been abuse by family members, this may be on-going in the UK. Case owners must discuss any doubts with a senior case worker.

[Back to contents](#)

17. Possible Outcomes of Applications

In making any decision about a child/young person there must be a proper consideration of their “best interests” in accordance with our responsibility under Article 3 of the UN Convention of the Rights of the Child and section 55 of the Borders, Citizenship and Immigration Act 2009. Best Interests must be taken into account as a primary (but not the sole) consideration in every decision affecting the child. It is important that case owners demonstrate and record how they have considered best interests and the section 55 duty as well as the outcome.

17.1 Non-Compliance

If a child fails to submit information when requested without reasonable explanation or submits the information late, case owners must make every effort to investigate the reasons for the non-compliance. Case owners must contact the Local Authority and, if necessary, the police if all attempts to locate the child prove futile.

[Back to contents](#)

17.2 Withdrawals

If a child fails to attend their personal interview their application may be treated as implicitly withdrawn as provided in paragraph 333C of the immigration rules. Case owners should, however, exercise extreme caution in handling occurrences of non-attendance of personal interviews in the case of children, taking in account their level of maturity and best interests. Every effort should be made to establish why the child failed to attend the interview as well as providing his/her legal representative to address this question and any reasons why the claim should not be treated as withdrawn.

[Back to contents](#)

17.3 Article 1F Exclusion

Children are not exempt from the Exclusion Clauses. However, it is important that case owners carefully consider the specific context of each case, for example the child’s age and maturity, when considering how far the individual should be deemed liable for their actions. It is always important to treat each case on its merit. Personal circumstances, such as age or psychological functioning, may be relevant when investigating the level of knowledge a person had of what they were participating in as well as the child’s ability or power to take alternative action.

[Back to contents](#)

17.4 Refugee status and the grant of asylum

A child who fulfils the criteria set out in the 1951 Convention or 1967 Protocol is a refugee and the requirements of paragraph 334 of the Immigration Rules. In granting asylum the United Kingdom is recognising the refugee's status and extending the protection required under its international obligations. In cases

where the child is found to be a refugee it will usually be clear that their best interests are served by remaining in the United Kingdom. Case owners should ensure that Local Authorities are aware of the outcome, so that social workers can ensure that the child's pathway plan reflects the likelihood of long term residency. There may be some cases where because the child has siblings or other family who are settled in a third country and would like to be reunited with these relatives it is in the child's best interests to join them. Case owners should discuss with social worker the possibility for the child to be resettled.

[Back to contents](#)

17.5 Humanitarian Protection

When a child's claim does not qualify for refugee status, case owners must consider whether they qualify for a grant of Humanitarian Protection (HP).

Under paragraphs 339C and D of the Immigration Rules, Humanitarian Protection may be granted to a person who is in the United Kingdom and is not a refugee. In considering cases that do not come within the 1951 Refugee Convention, but where there might nonetheless be substantial grounds for believing that the child faces a real risk of harm in the country of return, case owners should consider credibility factors in the way described at paragraph 16.4 above. As with a grant of asylum, it will generally be the case that the child's best interests are to remain in the United Kingdom. Case owners should liaise with the child's local authority social worker in the same way as described in paragraph 17.4.

[Back to contents](#)

17.6 Discretionary Leave - general policy

Children who do not fulfil the criteria for asylum or HP should be granted Discretionary Leave (DL) if they meet any of the criteria set out in the AI on Discretionary Leave. In addition, if they meet the criteria for a grant of HP, but fall into one of the exclusion categories, they may still qualify for a grant of DL. In cases where Article 8 of the European Convention on Human Rights is engaged (for example because the child has established a family or private life in the United Kingdom) case owners should take into account the best interests of the child as part the balancing exercise that needs to be conducted under Article 8(2) of the Convention. Further guidance on the consideration of best interests is provided below.

[Back to contents](#)

17.7 Discretionary Leave under UASC Policy

The UK Border Agency has a policy commitment that **no unaccompanied child will be removed from the United Kingdom unless the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be removed.**

Where:-

- the child does not qualify for asylum or HP or otherwise under the general DL general policy, and;
- we are not satisfied that the child will be able to access adequate reception arrangements in the country to which they will be removed;

the child should normally be granted DL **for three years or, with effect from 1 April 2007, until they are 17.5 years of age**, whichever is the shorter period. This applies in all cases except where stated otherwise in country specific operational guidance notes (OGN).

It should be noted that those who qualify for DL under both the general DL policy and the UASC policy must benefit from the more generous grant.

The case owner must minute the case file and clearly state on what grounds the child has been granted leave. This will assist in the process of any future application for further leave to remain.

In considering the grant of discretionary leave under the UASC policy the starting point should be whether the child can be returned to his/her family. Family reunification should generally be regarded as being in the best interests of the child. Guidance on procedures for tracing family is provided at chapter 15.

There may, however, be instances where family reunification is not in the child's best interest. This may be when the material facts of the claim for protection involve persecution or ill treatment at the hands of family.

Where returns to family or extended family cannot take place (for example because the family cannot be traced) the case owner should consider if the child can be returned to alternative safe reception arrangements as a last resort.

Information regarding the availability of safe and adequate reception arrangements can be found within the Country of Origin Information (COI) reports for each country under the section on children. In addition to this resource, further general guidance on current policy for dealing with claims from children can be found in each country's Operational Guidance Note (OGN).

It is not possible to draw an exhaustive list as each case must be considered on its individual merits. However the following examples could be considered adequate reception arrangements:

- Family home where the child was cared for and lived previously
- Home of a relative where the child was cared for and lived previously
- Family or relative in a third country to whom the child would like to be reunited and whom are willing and able to receive and care for the child

In other cases where the reception arrangements do not involve return to family, case owners should consult the country specific guidance. Where UKBA has made arrangements with NGOs or other organisations overseas to provide specific assistance on return, it can of course be assumed that these

arrangements are adequate. However, case owners should nevertheless go on to consider whether return is appropriate to the individual child according to the guidance set out later in this section, taking particular account of his/her best interests.

Careful consideration should be given to how the reception arrangements that need to be in place to enable return will be accessed on arrival, taking into account the child's age, vulnerability and overall best interests. In most cases (and in all cases where the child is under 16) the child will need to be met at the airport by a suitable person in order to be safely transported to the longer term reception arrangements – for example the family home or alternative accommodation arrangement. In order to come to a view on the sort of reception arrangements that need to be in place the case owner may need to draw on information from other sources i.e. the local authority. See section 17.8 below.

There may be occasions when older children do not need to be met on arrival, for example because they are quite capable of independent travel and can safely return to the family home by themselves by taxi or other public transport without difficulty. In such cases, a careful assessment needs to be made of the child's level of vulnerability and maturity, the safety of unaccompanied travel by public transport in that particular country and area as well as consultation with the child's local authority social worker.

17.8 Best interests and duty under section 55 of the Borders, Citizenship and Immigration Act 2009.

The availability of safe and adequate reception arrangements is only one factor to consider in deciding on whether the person should be granted Discretionary Leave under the UASC policy. Full account also needs to be given to the following:

- the best interests of the child must be taken into account as a primary consideration in the decision; and
- the duty to have regard to the need to safeguard and promote the welfare of the child in accordance with section 55 of the Borders, Citizenship and Immigration Act 2009 and the statutory guidance that accompanies it (“Every Child Matters” – Change For Children).

The 1989 Convention on the Rights of the Child (UNCRC) is the main legal instrument on the protection of children. While the UNCRC neither offers a precise definition, nor explicitly outlines common factors of the best interests of the child, it stipulates that:

- the best interests must be the determining factor for specific actions, notably adoption (Article 21) and separation of a child from parents against their will (Article 9);
- the best interests must be taken into account as a primary consideration for all other actions affecting children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies (Article 3).

Section 55 of the Borders, Citizenship and Immigration Act 2009 places an important statutory safeguarding duty on the UK Border Agency:

“To ensure that immigration, asylum, nationality and customs functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK”

Safeguarding and promoting the welfare of children is defined in Part 1, Paragraph 1.4 of the statutory guidance to section 55 as:

- protecting children from mistreatment;
- preventing impairment of children’s health or development (where health means “physical or mental health” and development means “physical, intellectual, emotional, social or behavioural development”);
- ensuring that children are growing up in circumstances consistent with the provision of safe and effective care; and
- undertaking that role so as to enable those children to have optimum life chances and to enter adulthood successfully.

The best interests of the child, whilst a primary consideration, is not the sole consideration when considering whether a child should be granted leave to remain or return to the country of origin. Other factors, including the need to control immigration, are also relevant.

In some cases, it may be reasonably clear that the child’s best interests may be served by returning to the country of origin – for example where the family has been traced and it is clear that the return arrangements can be made direct to parents.

In other cases, the decision on whether to return will be a matter of making a careful assessment of the child’s best interests and balancing those interests against the wider public interest of controlling immigration. It is not possible to give an exhaustive list of all of the factors that might be relevant to the balancing exercise in a particular case, but the following are examples:

- physical and mental health & medical needs
- level of education
- emotional and behavioural development
- family and social relationships
- self-care skills
- the child’s views
- the child’s age and maturity;
- experience of mental or emotional trauma;
- compassionate factors
- the duration of absence from the home country and level of integration in the UK;
- whether the child is settled in education in the United Kingdom and the disruption caused to those arrangements by a decision to refuse outright.

- the desirability of continuity in the child's upbringing and to the child's ethnic, religious, cultural and linguistic background;
- the child's right to preserve their identity, including nationality, name and family relations
- the availability of care arrangements, the safety and security of the living arrangements, and the socio-economic conditions;
- the availability of education, work or training opportunities in the country of return.

17.8.1 Working with Local Authorities

Information and expertise relevant to the consideration of the factors listed above may be held by other agencies. For example, a local authority social worker will usually be in a better position to provide an assessment of the child's degree of maturity and self care skills.

When considering the issue of return, case owners should always seek information from the child's social worker or the social worker's assessment of the factors listed above – in order to assist in the overall assessment of the child's best interests. The degree of contact and interaction will depend upon the particular circumstances and complexity of the case, but as a minimum case owners should discuss the case with social worker and ask him/her to complete the attached pro forma within an agreed timeframe. It should be noted that in some cases, especially where the child is a recent arrival in the UK, the social worker may need further time in order to assess the relevant factors. Caseowners should also discuss with the social worker whether a meeting with all the relevant agencies/parties would be helpful to understand fully the best interests of an individual child. Such meetings will be necessary in complex cases, or cases where the best interests are likely to be finely balanced.

Case owners should encourage the child's social worker to complete the Best Interests Consideration Pro forma (ASL.4262 available on DOC GEN) as soon as possible in order to make a timely decision.

The child must be informed about the exchange of information and depending on age and maturity openly consulted by the social worker on his/her views. The completed pro forma should be copied to the child's legal representative.

17.8.2 Overall Assessment of Best Interests

The overall assessment of the child's best interests will generally be a matter of considering the child's individual circumstances and experiences in the United Kingdom alongside information about the conditions the child would face in the country of return.

When sufficient information is available to make an overall assessment of the child's best interests, the assessment should be balanced against the need to provide effective immigration control.

There is a positive duty in section 55 to safeguard and promote the welfare of children, so any balancing act must account for this heightened test

Only if it is decided that the child's best interests are outweighed by the need to uphold immigration control, should the child be refused outright. In all other cases, the child should be granted discretionary leave in line with the time periods set out in paragraph 17.7 above.

17.9 Outright Refusal

(a) UASC

A decision to refuse outright should only be made if the child does not qualify for leave under the categories set out above.

A decision to refuse outright must follow a detailed consideration of the above factors, including how best interests and the section 55 duty has been assessed. The assessment of these factors must be reflected in the decision letter and the decision approved by a senior caseworker.

Children who are refused outright because they are over 17 and a half, but under 18 years of age should have their removal deferred until their eighteenth birthday, unless the safe and adequate reception arrangements test has been met. This undertaking should be made clear in the reasons for refusal letter.

[Back to contents](#)

(b) Accompanied child

Where an accompanied child does not meet the criteria for a grant of asylum, HP or DL and the case owner is satisfied that the child can be returned together with a parent, other adult relative or accompanying adult, the child must be refused leave outright following approval from a senior caseworker.

[Back to contents](#)

17.10 Drafting reasons for refusal letters

Where a child is to be refused asylum, the Reasons For Refusal Letter (ASL.0015) must contain the relevant child-related paragraphs which is stored on DOC GEN in the UASC folder, as well as how best interests has been determined.

[Back to contents](#)

18. Decision Service Event

When an application has been decided case owners should, serve the decision on the child in person with the child's legal representative or Responsible Adult present. However, regional variations may apply and some regions may serve the decision by post or fax. Case owners must ensure they:

- notify the child
- notify the Local Authority
- notify the legal representative of the decision

Where the decision is a refusal, case owners must:

- consider reminding the child that the option of AVR is still an ongoing choice to bear in mind alongside any decision to challenge the refusal in the tribunal.
- discuss and agree the ongoing contact management strategy with the child and their social worker and/or accompanying adult.

In cases of non-compliance, the Refugee Council Panel of Advisors must also be notified.

[Back to contents](#)

19. Appeals

Once a decision to refuse asylum and HP (and in some cases DL or UASC DL) has been served on the child, case owners must:

- Update CID.
- Check whether an appeal is being lodged.
- Carry out data quality checks of PF1.

If an appeal is lodged

- prepare the full bundle – refer to the Minute Sheet
- send the bundle to the Asylum and Immigration Tribunal (AIT) (with a covering letter) and to the child's representative.

The AI on Rights of Appeal in Asylum Claims gives guidance on rights of appeal arising from decisions made on asylum cases.

Once the final outcome of the appeals process is reached for any child or former relevant child supported by a local authority, the appropriate letter should be prepared using ASL.1950 on DOGEN and sent out immediately to the local authority.

[Back to contents](#)

20. Implementing the Decision to Return – the section 55 duty

20.1 Implementing the decision to return – Best Interests

If the AIT decide to dismiss any appeal and the minor exhausts any remaining appeal rights it will be important to liaise with the local authority (in cases where the child is in care) in order to make sure that the child's social worker is aware of the decision and the consequences. All agencies working with children have contributions to make towards safeguarding and promoting the welfare of children and that includes a collaborative approach to making sure the child's return to the country of origin is handled in a dignified and humane manner.

The case owner should also at this stage review the case to see if any new factors have arisen since the date of the original decision, or whether important new information or findings of fact have emerged through the appeal proceedings.

An example may be that the decision was based on a finding that the return arrangements would not be to the family home. New information revealed at appeal may, however, show return could be made direct to parents. Since that will generally be the preferable option the case will need to be assessed to see if return direct to family is in the child's best interests and can be achieved.

Depending on the particular circumstances, the handling of the case after the appeal may take different forms. But it will usually be necessary for the case owner to arrange a meeting with the child, his/her social worker and in complex cases, a representative from the UKBA Office of the Children's Champion (OCC).

It will always be necessary to discuss the case with the social worker – with the overall purpose of preparing the child for departure and managing the process as humanely as possible.

Issues that will need to be addressed, in partnership with the social worker, could include but should not be limited to:

- An exploration of voluntary return options;
- An explanation of the reception arrangements that will be in place in the country of return (especially if return is not to parents);
- An explanation of the reintegration assistance available in the country of origin.

The child should be openly consulted and his/her wishes and feelings taken into account wherever practicable on a range of matters that will affect the timing of the departure and how the return arrangements will be managed. These could include, but should not be limited to:

- The need to complete medical treatment;
- The fact that academic/vocational courses underway may be ending soon,

- The need to gather together certificates of achievement, local authority care plans or other documents that may be of assistance in the country of return and to enable continuity;
- The wish to say good bye to friends;
- The need to close bank accounts or settle other personal matters;

The social worker's views and advice on these matters should be given significant weight. Equally, the social worker should be actively consulted on pre-departure planning generally up to and including liaison about the timing of the setting of removal directions and appropriate contact management strategy including the possibility of reporting – with a view to minimising the risk that the child will go missing from his/her care placement and ensuring that the child's welfare is safeguarded and promoted.

[Back to contents](#)

21. Integration

When a decision is made to grant the child some form of leave, case owners must liaise closely with the child's social worker where they have one, to ensure that this is reflected in their pathway plan.

The pathway plan should be prepared in accordance with the Children (Leaving Care) Act 2000, which came into force on 1 October 2001. The Act places a responsibility on Local Authorities to support care leavers until they reach the age of 21 or beyond if they remain in an approved programme of education or training. The agreed pathway plan will include the assessed or identified needs, identified timescales, action plan to meet these needs and the responsible person which assist the child to make the transition from care to the responsibilities of adulthood. It should be flexible and regularly updated.

Case owners should close the case if refugee or HP status is granted, until the case is brought forward in five years to see whether an application for Indefinite Leave to Remain or further leave to remain has been made.

However, in cases that have been granted DL under the UASC policy, case owners must seek to agree an on-going contact management strategy (discussed in the contact management section) with the child and their social worker.

[Back to contents](#)

22. Curtailing a Child's Leave to Enter or Remain

22.1 Definition of curtailment

"Curtailment" refers to the variation of a person's limited leave to enter or remain such that they no longer have leave. Varying a person's leave in this way is an immigration decision (under section 82(2) of the 2002 Act) and thus attracts a right of appeal. The power to curtail limited leave is contained in section 3(3) (a) of the Immigration Act 1971. For further information, including the important procedural steps for the necessary liaison with UNHCR see the guidance on Curtailment.

[Back to contents](#)

22.2 Cessation, cancellation or revocation of refugee status

Although rare, a child granted refugee status may have their leave cancelled or revoked where there is evidence to suggest that the refugee status was obtained by deception, or where it becomes known that the child committed crime or acts which fall within the scope of Article 1F.

Cancellation, Cessation or Revocation is a serious matter and must not be undertaken lightly. All cases must be considered by a senior case worker, and all decisions must be agreed at G7 level.

[Back to contents](#)

22.3 Curtailment of leave granted under HP or general DL policy

A child granted HP under the Immigration Rules or DL under general policy (i.e. not under UASC policy) may have their leave curtailed where there is evidence that the leave was obtained by deception. Case owners must refer any such case to a senior case worker.

[Back to contents](#)

22.4 Curtailment of DL granted under UASC Policy

Below is a list of some situations where curtailment of DL granted under UASC policy should be considered:

1. if the leave was obtained by deception; or
2. adequate reception arrangements are in place in the child's country of origin or
3. if there is a change in the child's circumstances, such as:
 - the child previously granted DL under UASC policy has been joined in the UK by a parent, an adult sibling or other close family member, and can be returned to the home country with that person or
 - a child previously granted DL on the basis that removal would breach Article 8 of the ECHR (right to respect for private and family life) on the basis of established family life in the UK,

- however, the existing relationship ends or the person for whom the child had a family life subsequently leaves the UK
- attempts at family tracing have been successful, and the child can be returned to his/her parents or other suitable family members.

In all cases that are considered for curtailment, the case owner must have specific regard to section 55 and the associated guidance before making a decision, because such a decision is part of UKBA's exercise of immigration functions.

Case owners should use their discretion when considering in what circumstances it may be appropriate to curtail leave, and refer any such cases to a senior caseworker. When curtailing leave case owners should issue an ASL.3566 available on DOC GEN.

Case owners must consider any representation received to contest the intention to curtail leave and make a decision on whether it is appropriate to continue curtailment action in the light of the information submitted. If no appeal is lodged or if the appeal is dismissed, case owners must initiate removal action.

[Back to contents](#)

22.5 Deception

In cases where a child is found to have obtained leave to enter under the UASC policy by deception, and it is decided to take illegal entry action against that child (under Schedule 2 of the Immigration Act 1971), their leave is no longer valid. Where children have obtained leave to remain under the UASC policy by deception, they are liable to removal under section 10 of the Immigration and Asylum Act 1999. A decision to remove under this section will invalidate the leave that has been given previously.

Separate action to vary leave will be required only where a decision to remove cannot be made and removal directions set.

[Back to contents](#)

22.5.1 For EEA nationals only

EEA regulations in 2006 state that a national from an EEA country does not require leave to enter or remain in the UK. However, should the child be economically inactive or in full time education, the case owners can decide to curtail the DL on the grounds no further basis of stay in the UK.

Case owners are reminded that applications made by children who are nationals of the European Union, or of one of the European Economic Area states, must be considered by NSA accredited case owners.

EU nationals' children who are refused asylum and HP must not be granted DL under UASC policy.

[Back to contents](#)

22.6 Where it is discovered that a child was 18 or over at the time of the application

If it can be firmly established that a child was aged 18 or over at the time of the asylum application, and had therefore used deception to obtain leave, the case owners should arrange for the child to be interviewed by an Immigration Officer under caution with a view to determining if there has been deception.

[Back to contents](#)

23. Handling Applications for Leave to be Granted in Line

A child may apply to be granted leave in line with other family members when they form part of a pre-existing family unit who have leave to enter/remain, rather than applying for asylum.

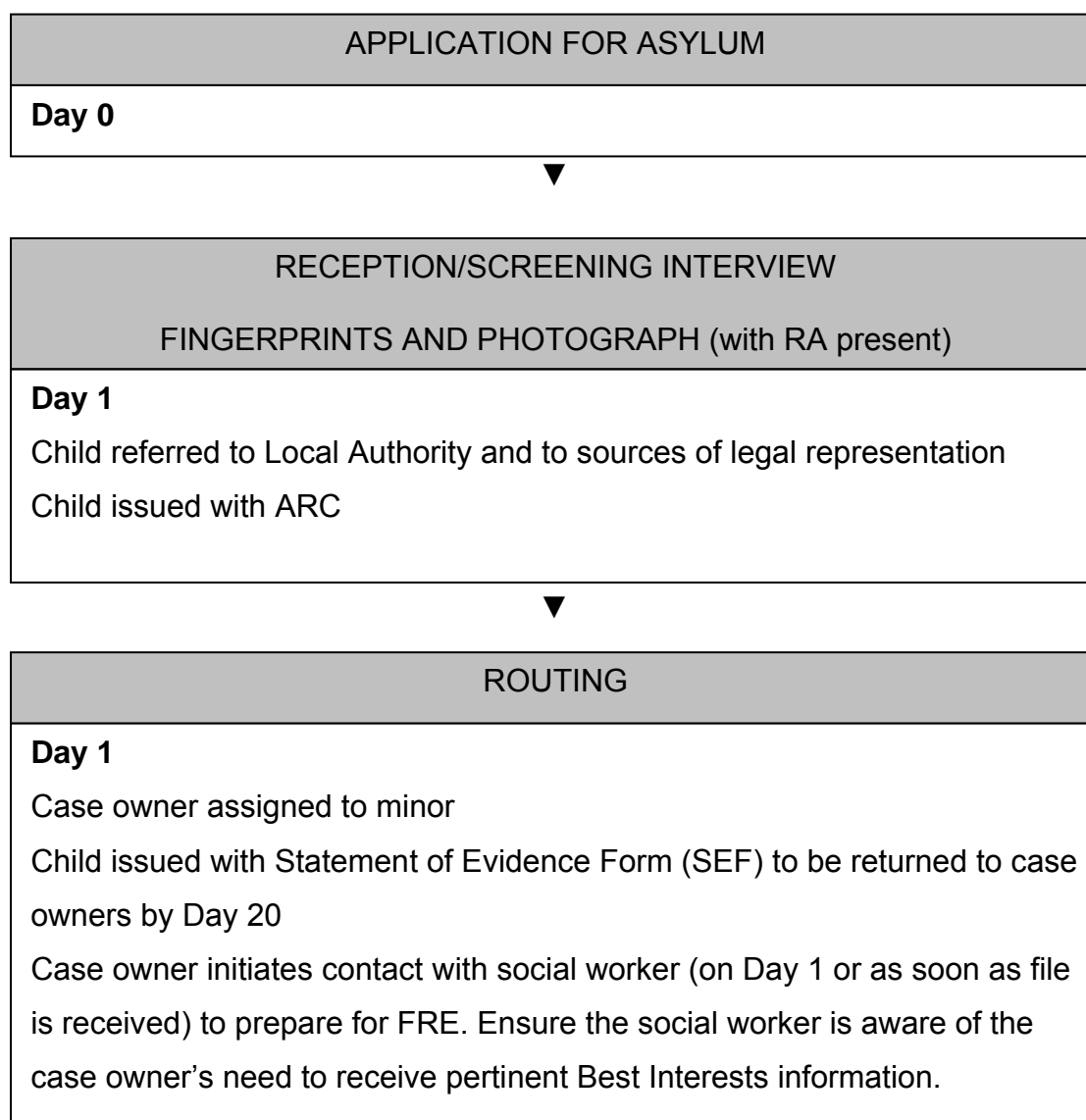
Case owners must ensure that family links are established by conducting an interview with relatives to check whether they know the circumstances of the child before any leave is granted.

[Back to contents](#)

Process Map

The timescales in the process map below should be taken as indicative of best practice, i.e. the way in which UKBA aims to deal with asylum applications from children. Fluctuations in intake and the operational resources available make it inevitable that, in practice, the timescales applicable to a particular case differ from those proposed.

ASYLUM PROCESS FOR CHILD



FIRST REPORTING EVENT (FRE)

Day 10

Case owner meets child in person or contacts by telephone – explains their role, the asylum process and possible outcomes

Case owner checks child is receiving legal representation and/or assistance prior to substantive interview

Case owner issues letters of invitation for interview



RETURN OF SEF

Day 20



INTERVIEW

Day 25

Case owner must give 5 working days after this for the submission of further representations. Describe the next stage of the process with the child and the social worker.



DECISION

Day 25

Prior to a decision to refuse leave for asylum, HP and under ECHR Art 8 all or some of the following requires completion depending on the circumstances of the case:

- Contact the parents in country of origin

- Arrange to trace the family in country of origin

- Enquire if there are alternative safe and adequate reception arrangements in country of origin

- Request from the social worker a completed Best Interests (BI) pro-forma (their care review cycles may impact on the date of issue).

- Consider whether the BI consideration outweighs the immigration decision to remove.

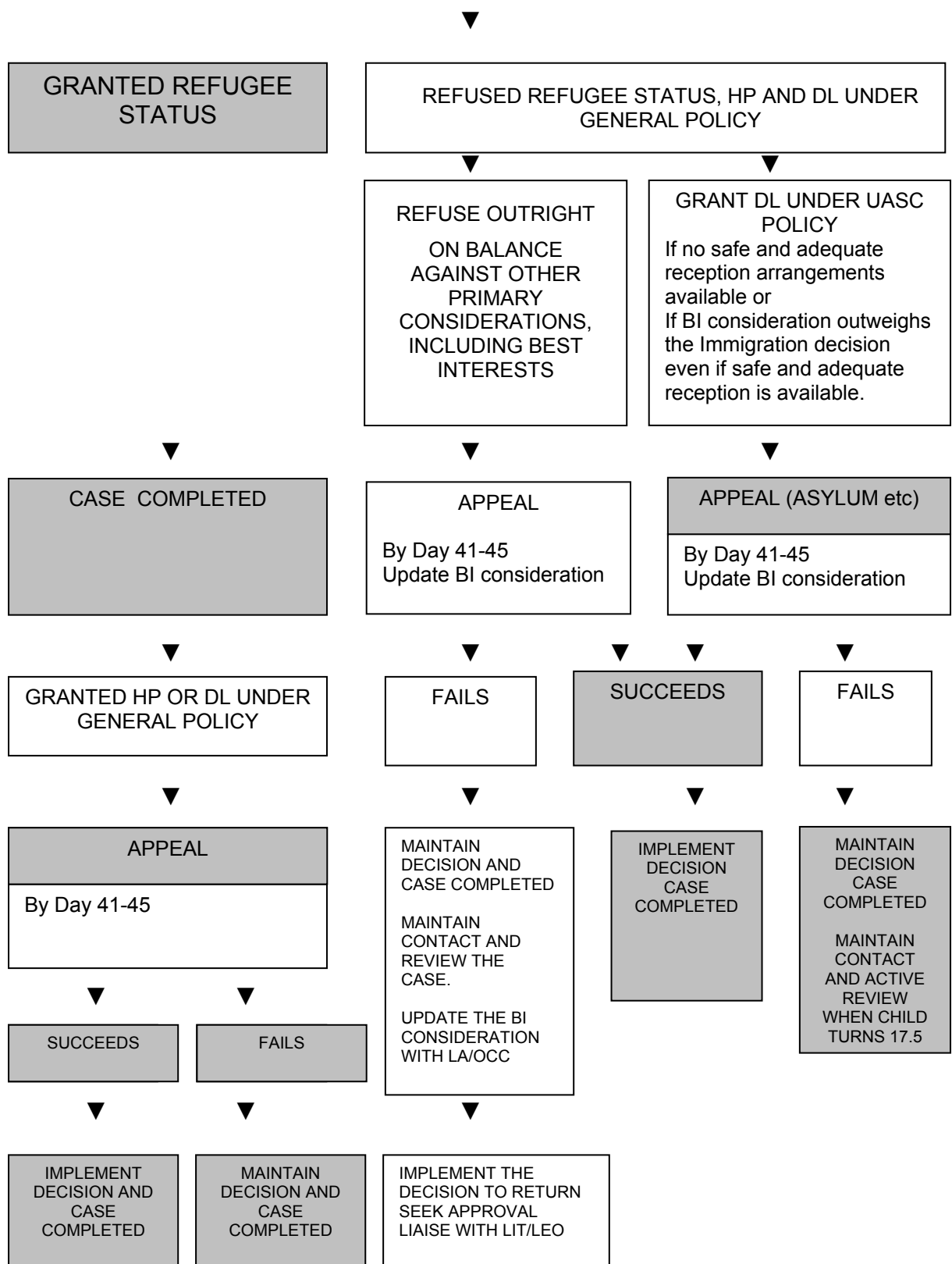
- Seek approval for outright refusal from an appropriately trained SCW and refer case to OCC.



DECISION SERVICE EVENT

Day 31-35 (or later if above actions delay outcome)

Arrange a meeting with the child and his carer.
Consider appropriate action for decision service.



Glossary

Term	Meaning
AASC	Accompanied Asylum Seeking Child
ACDIU	ACD Intel Unit
AI	Asylum Instruction
ARC	Application Registration Card
ASU	Asylum Screening Unit
CID	Case Information Database
CPO	Child Protection Officer
CRS	Central Reference System
CSD	Children's Services Department
ECO	Entry Clearance Officer
FRE	First Reporting Event
IS.96	Notification of temporary admission/release (TA/R) to a person who is liable to be detained. It outlines restrictions to TA/R.
IS.248	Notification of reporting restrictions to persons who have made an asylum application at a time when they have leave to enter or remain.
LA	Local Authority
LEO	Local Enforcement Office
NGO	Non-Governmental Organisation
PNC	Police National Computer
SEF	Self-Evidence Form
OISC	Office of Immigration Services' Commissioner
OGN	Operational Guidance Note
UASC	Unaccompanied Asylum Seeking Child
UASC DL	Discretionary Leave under UASC policy
WICU	Warnings Index Control Unit

Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	E. Gomez-Martinez	7/03/07	
2.0	BN	11/11/08	Update branding only
3.0	S.K	22/05/09	Update UASC policy
4.0	P.R	02/11/09	Update UASC policy
5.0	A.P.	11/08/10	Update UASC policy



REFERRAL TO CHILD WELFARE SERVICES

For advice on filling out this form, contact your Keeping Children Safe Co-ordinator.

Data Protection Act 1998.

The information included in this form is being sent to the local authority Children's Social Work services in the child's area to allow them to safeguard the children involved. It is in keeping with the UKBA statutory duty to keep children safe.

Referral Completed by:	Date: / / . Time:
Agency & Office Address:	Telephone Contact:
	Agency Transmission FAX number:
	E-Mail contact for non-secure items:

Details of Children: circle number to indicate which child(ren) give(s) rise to concern.				
Child	Names:	Gender: (circle)	Date of Birth:	H.O. Ref:
1		M / F	/ /	
2		M / F	/ /	
3		M / F	/ /	
4		M / F	/ /	

Attach digital or other photograph of Child 1.

Attach digital or other photograph of Child 2.

Attach digital or other photograph of Child 3.

Attach digital or other photograph of Child 4.

Give contact details of the Social Worker and Local Authority receiving this referral:

Social Worker, please note: >>> **UKBA Must have written acknowledgement of your receipt of this form within 5 working days.** (Contact details above).

Name of Parents, Carers & Significant Adults.	Relationship.	Date of Birth.	Citizenship.	H.O. Ref.:
<input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>	<input type="text"/>	<input type="text"/>

Parents' U.K. address or contact point:

Post Code: Telephone number:

Child's address, if different:

Post Code: Telephone number:

Is parent aware of referral?	Yes: <input type="text"/>	No: <input type="text"/>
Has parent's consent been obtained?	Yes: <input type="text"/>	No: <input type="text"/>
Is the child aware of referral?	Yes: <input type="text"/>	No: <input type="text"/>
Has child's consent been obtained?	Yes: <input type="text"/>	No: <input type="text"/>

Give details of any discussion of concerns with parent or child, (e.g. Reason why consent not obtained).

Family's 1st & 2nd Language & any special communication needs:
 1st Language: 2nd Language:

Summary of Immigration Status & issues:	Date of arrival in the U.K.: <input type="text"/> / <input type="text"/> / <input type="text"/>
	Admitted as / illegal entrant: <input type="text"/>
	Current immigration Status: <input type="text"/>
	Other information: <input type="text"/>

If you suspect the child is a victim of trafficking, (see guidance), tick here >>>

IN ALL SUSPECTED *TRAFFICKING* CASES THIS FORM MUST BE FAXED TO YOUR UKBA REGION'S "COMPETENT AUTHORITY" AS WELL AS THE SOCIAL WORKER AT THE LOCAL AUTHORITY.

Are any Family members already known to UKBA for other reasons? (E.g. previous history which might give cause for concern for the child's safety or be of interest to Children's Services?).

Contact details of any other agencies involved with family:

Summarise your key concerns about the child, (e.g. Mental or Physical Safety, Health, Education, for potential Victims of Trafficking give reasons/indicators for your suspicions, etc.). Give detail of your contacts with the child / family and any helpful information. What do you want Children's Services to do?

Continuation Sheet.

**ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED
KEEPING CHILDREN SAFE**

UK BORDER AGENCY (UKBA)

INSTRUCTION TO STAFF IN ALL AREAS OF UKBA

**WHEN AND HOW TO REFER A CHILD TO CHILD WELFARE AGENCIES OR THE
POLICE**

<u>PURPOSE OF THE GUIDANCE</u>	page 3
LIAISON WITH LOCAL AUTHORITIES	“ 4
<u>IDENTIFYING CHILDREN IN NEED:</u>	“ 5
CHILDREN AT RISK OF HARM OR <i>SIGNIFICANT</i> HARM	“ 5
<u>IDENTIFYING CHILDREN SUFFERING OR LIKELY TO SUFFER SIGNIFICANT HARM (Child Protection).</u>	“ 6
INDICATIONS OF HARM ARISING FROM CHILD ABUSE OR NEGLECT	“ 7
WHAT TO DO IF A CHILD DISCLOSES INFORMATION ABOUT THEMSELVES OR OTHER CHILDREN	“ 8
IDENTIFYING CHILDREN WHO MAY HAVE BEEN TRAFFICKED	“ 9
IDENTIFYING CHILDREN WHO ARE AT RISK OF, OR LIKELY TO GO MISSING (POTENTIALLY MISSING CHILDREN)	“ 10
CHILDREN IN CARE CASES	“ 10
IDENTIFYING PRIVATE FOSTERING CASES	“ 11

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED	
IDENTIFYING CHILDREN IN NEED OF ASSESSMENT OR SUPPORT	“ 13
<u>REFERRING CASES WHERE HARM ARISES FROM CHILD ABUSE</u>	“ 14
<u>MAKING REFERRALS:</u>	“ 15
DECIDING THE DEGREE OF URGENCY	“ 15
FILLING OUT THE FORM	“ 16
DECIDING TO WHICH LOCAL AUTHORITY TO MAKE A REFERRAL	“ 17
KEEPING AN ACCURATE RECORD	“ 17
<u>WHAT TO DO ONCE A REFERRAL HAS BEEN MADE</u>	“ 18
WHAT TO DO IF UNHAPPY WITH THE RESPONSE FROM A LOCAL AUTHORITY	“ 18
<u>IMPACT OF CHILD ABUSE CASES ON PROFESSIONAL STAFF</u>	“ 19
Annex A: UKBA REFERRAL FORM (Static Box Version)	See Attached
Annex B: UKBA REFERRAL FORM (Expanding Box version)	See Attached
Annex C: CONTACT DETAILS FOR UKBA KEEPING CHILDREN SAFE CO ORDINATORS	“ 20
Annex D: GLOSSARY OF TERMS	“ 21
Annex E: UNDERSTANDING LOCAL AUTHORITIES INCLUDING WORKING WITH LOCAL SAFEGUARDING CHILDREN’S BOARDS	“ 23
Annex F: STANDARD ASSESSMENT FRAMEWORK	“ 25
Annex G: DATA PROTECTION	“ 26
Annex H: HOW TO MAKE A REFERRAL TO A LOCAL AUTHORITY - CHECK LIST	“ 27
Annex J: LIST OF TRAFFICKING INDICATORS	“ 28
Annex K: EXTRACT FROM TRAFFICKING CONVENTION	“ 29

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

PURPOSE OF THE GUIDANCE

UKBA currently has a Code of Practice for Keeping Children Safe from Harm. The Code of Practice is likely to be replaced with a duty to safeguard children and promote their welfare, set out in clause 53 of the Borders Citizenship & Immigration Bill. Referring children to welfare agencies is crucial to both the Code of Practice & the proposed safeguarding duty. This guidance will help you make appropriate referrals by identifying children in need as defined in Section 17 of the Children Act 1989 and similar legislation in the devolved administrations (see para 53 of this guidance). It sets out how to develop good liaison arrangements with local authorities, how to identify children who may be in need and how to refer them for assessment and services from an appropriate agency. This guidance is aligned with statutory guidance issued by the DCSF, however the DCSF guidance is for agencies whose safeguarding duty is set out in Section 11 of the Children Act 2004 and similar legislation in the devolved administrations. UKBA is not subject to a Section 11 duty, but staff may usefully refer to: “Every Child Matters”, “Working Together to Safeguard Children” & “Safeguarding Children who may have been trafficked”, in order to assist in working with child welfare agencies.

WORKING WELL WITH OTHER AGENCIES IS ESSENTIAL TO SAFEGUARD CHILDREN AND KEEP THEM SAFE

2. The enquiry into the tragic death of Victoria Climbié found that children can only be kept safe if agencies work well with one another. UKBA’s core task is in applying the immigration rules and we have a statutory duty to carry out these tasks, while having regard to the Code of Practice or a duty to safeguard children that might replace it. Just as we would expect other agencies to refer immigration matters to us, so it is important that we refer children at risk to welfare and protection agencies for appropriate assessment and action to be taken. This instruction provides a mechanism to help us align our core duties with those of agencies that have a statutory duty to safeguard and promote the welfare of children under section 11 of the Children Act 2004 and similar legislation in the devolved administrations.

3. Referral is the beginning of a process of working in partnership with the statutory safeguarding agency (e.g. local authority children’s services or the police) to whom a referral is made. The arrangements for working in partnership may be set out in local, regional or national agreements (protocols made between UKBA & local authorities –sometimes with other organisations – see glossary at *Annex “D”*) which clarify the purpose and nature of the joint work. Directorates will make their own arrangements to publish and disseminate such agreements. By following this instruction, UKBA staff will contribute information that will help other agencies to safeguard and promote the welfare of children; in return agencies will provide information that will help UKBA have regard to its Code of Practice, (unless this is replaced by a duty to safeguard children).

SHARING INFORMATION

4. Both the Code of Practice and the proposed safeguarding duty require UKBA staff to ensure that they have good local systems for making referrals to agencies. The guidance on sharing

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

information in this document is aligned with the “Information Sharing: Practitioners Guide 2006¹”, and fulfils the requirements of the Data Protection Act. .

5. UKBA has the legal power to share information given by applicants. For disclosure to be lawful it must be in accordance with The Data Protection Act 1998 which sets out the legal safeguards for sharing information safely and fairly, and the Human Rights Act 1998 and any duty of confidence which is owed to the child. It is worth stressing that the Data Protection Act is intended to guide information sharing, not to prevent it. The kinds of information about children we want to share will inevitably be personal and sensitive. The legal basis for sharing this kind of information and the factors which must be considered before doing so are set out in *Annex “G”*

LIAISON WITH LOCAL AUTHORITIES

6. The Code of Practice, (or the duty to safeguard children), that sets out how UKBA can best keep children safe from harm, is part of a much larger framework for safeguarding children’s welfare. Throughout the United Kingdom, (except for Northern Ireland), principal responsibility for safeguarding the welfare of children rests with local government:

- England: the local authority Children’s Services Departments;
- Scotland: the local authority Social Services;
- Wales: the local authority Social Services;
- Northern Ireland: Health and Welfare Trusts.

7. For ease of reference in this document the term “local authority” is used when reference is made to statutory duties under children’s legislation and the term “children’s services” is used to refer to statutory child welfare services.

8. Safeguarding children’s welfare also involves other public services such as education, health and the police. In many areas the statutory agencies call on the specialist knowledge and experience of national and local voluntary and community organisations. In each local authority area a local safeguarding children board (LSCB) or an area child protection committee (ACPC) will co-ordinate the activity of these agencies and monitor their effectiveness in working together. (See Annex “D” for explanation of LSCB & ACPC.)

9. UKBA staff responsibilities to children may involve referring children to any of these services. A referral doesn’t mean putting the immigration aspect of a case on hold; we can carry out our immigration function as they carry out their child safeguarding functions.

10. Working with local authorities also involves establishing and maintaining relationships at a more strategic level through LSCBs and ACPCs throughout the UK. (For example: developing information sharing agreements with relevant local authorities.) This guidance explains UKBA’s liaison with Local authorities - in both referring cases and in maintaining relationships. For a guide to understanding how local authorities work see: *Annex “E”*.

11. To understand how UKBA Staff should work with Local Children Safeguarding Boards, please read the relevant section, in *Annex “E”*, (Understanding Local Authorities), below.

¹ http://www.everychildmatters.gov.uk/_files/ACB1BA35C20D4C42A1FE6F9133A7C614.pdf

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

IDENTIFYING CHILDREN IN NEED (as defined in section 17 of the Children Act 1989)

This section, (down as far as Paragraph 57), deals with the types of need for welfare services that children may have.

12. When describing the signs and symptoms of a child in need in any referral, UKBA staff should use language that social workers will understand, (see paras 57-62, 72 & *Annex “F”*), as this will help ensure a prompt and appropriate response from children’s services. Generally, they will fall into one or more of the following groups:

- A. **Child Protection cases:** where children may be at risk of significant harm, (significant harm is set out in para 31(9) & 31(10) of the Children Act), because they have been or are vulnerable to being abused and/or neglected (the main types of abuse are described below), and reference is made to the greatly increased risk if a child is a victim of trafficking and/or goes missing. **See paragraph 19.**
- B. **Children in Care cases:** where it appears that there is no-one to care for a child or the person caring can no longer do so for whatever reason;
- C. **Private Fostering cases:** these cases involve children who are being looked after by someone other than their parents or a very close relative; (see Section 66 of the Children Act 1989 for a definition), and
- D. **Children in Need of Assessment or Support:** where a family may require the assistance of welfare services in order that a child’s development will not be impaired. (“Children in need” is defined in section 17 of the Children Act 1989.)

13. If you have concerns about a child, you should not let uncertainty about the type of case you are dealing with delay that referral. Equally you may feel unsure as to whether your concerns are of sufficient seriousness to merit a referral. Remember, your responsibility is to identify and refer indications that a child may be at risk of harm. You are not expected to make a professional assessment of these sorts of situations yourself but you will need to distinguish between a case where a child’s safety is in immediate danger or where the child’s welfare needs are not being met. If in doubt, seek advice - from your line manager (see *Annex “D”* for definition & methods of contact & Paragraphs 59 – 71, (below), and *Annex “H”* for “How to make a referral”). If, having examined the available evidence, you still have concerns, you should refer. Where things are still not clear, always err on the side of caution and refer the case to the appropriate local authority children’s services, (as usual, first by ‘phone, then by referral form), or, if the child is in immediate danger, without delay by ‘phone to the police.

CHILDREN AT RISK OF HARM OR SIGNIFICANT HARM:

14. There are various ways that children may be at risk of harm as defined in the UKBA Code of Practice, (or if replaced, its duty to safeguard children). Using terms set out in Working Together to Safeguard Children 2006 in our referrals, will help social workers recognise and respond promptly

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

and effectively to our concerns. Generally our concerns will fall into one or more of the following groups:

- A. Children who have suffered or are thought to be at risk of suffering significant harm. This type of concern is also known as “a child protection referral” and special arrangements are required to deal with these concerns urgently (See for example Children Act 1989 section 47 – the local authority duty to investigate).
- B. Child victims of trafficking and those who go missing from contact with statutory agencies are thought to be at risk of significant harm.

To see how Social Workers will assess a case using the standard assessment procedure, see the diagram, (the “triangle”) at *Annex “F”*, below.

IDENTIFYING CHILDREN ‘SUFFERING OR LIKELY TO SUFFER SIGNIFICANT HARM’.

15. Significant harm is the legal threshold in children’s legislation, (the Children Act 1989), that a court may decide justifies compulsory intervention into a family’s life by children’s services. This level of harm is so serious that consideration also needs to be given to whether a crime has been committed against the child and investigation by a police child abuse investigation team may be required in parallel with the welfare investigation. If the child is not already subject to a Child Protection Plan there is likely to be an urgent need to set immediate protection in place. Referrals for the reasons in Para 18 need to be made urgently and you should *ask children’s services to consider launching a Children Act 1989 section 47 investigation to decide what steps are necessary to safeguard the child.*

16. Working Together To Safeguard Children 2006, (section one Key Definitions), sets out the following categories of abuse and neglect as ones that are likely to cause significant harm. In practice a child may be subject to more than one form of abuse. Child victims of trafficking may be vulnerable to all of them particularly if they lose contact with statutory agencies. If you can make a decision to emphasise one form of abuse then do so but do not let confusion prevent you from making an urgent referral in any case.

A. Neglect, which is the persistent failure to meet a child’s basic physical and/or psychological needs, likely to result in the serious impairment of the child’s health and development.

B. Physical abuse, which may take many forms e.g. hitting, shaking, throwing, poisoning, burning or scalding, drowning or suffocating a child or otherwise causing physical harm to a child.

C. Emotional abuse, the persistent emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child’s emotional development, examples include:

- ▶ conveying to children that they are worthless, unloved or inadequate;
- ▶ causing children to feel frightened; or
- ▶ the exploitation or corruption of children.

D. Sexual abuse, i.e. forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of the implications of what is happening. This

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

may also include non-contact activities, such as involving children with pornographic materials, or encouraging children to behave in sexually inappropriate ways.

17. These categories overlap and an abused child may be frequently harmed by more than one type of abuse. Child victims of trafficking are thought likely to be at risk of all these forms of abuse. The risk to trafficked children increases greatly if and when they lose contact with the statutory agencies, (i.e. go missing.)

18. Where a child has disclosed abuse to you in the course of an asylum application, you must pass on information that will help the local authority protect and promote their welfare. Make it clear in your referral that the information is disclosed for this purpose only and must not be shared with other parties who are not part of the child's safeguarding network and particularly not with any representatives or contacts of the government of the child's country or origin. For example children who were conscripted into militias in their countries of origin may have experienced any or all the forms of abuse set out below. They are unlikely to be in immediate danger from the abusers while they are in the UK but they may need help to recover from these traumas. You should exercise particular care over how you share this information to ensure the Agency fulfils its duty of confidence to the child. You may wish to seek the child's permission to share and explain the purpose.

INDICATIONS OF HARM ARISING FROM CHILD ABUSE OR NEGLECT

19. It may be hard for UKBA staff to identify the harm that is caused by child abuse and neglect because many staff do not see the child at all or may do so very briefly. It is hard to come to any precise view about harm and abuse from what may be limited information. Examples of signs and symptoms that indicate a child is at risk of or is suffering significant harm are set out in the following brief list of features that can be used as "triggers or identifiers" in identifying cases where a referral is appropriate:

- Bruising;
- Scarring;
- Burns;
- Very poor hygiene including untreated infections and infestations;
- Lack of communication/engagement with adults;
- Fearful attitude to carers;
- Inappropriate approaches to strangers;
- Inebriation of adult carers;
- Signs of domestic violence between adults and carers;
- Rough handling or contemptuous attitude to the child by carers;
- Evidence that adults in the household have convictions for sexual, violent or drug offences.

20. When dealing with applications on paper, caseworkers must look beyond the principal applicant and take full account of any child on the application. Relationships and the date of birth must be checked as well as the history of applications and, if a child is suddenly included or dropped when compared to a previous application, caseworkers must explore the circumstances.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

21. The list is not exhaustive but simply covers the most obvious signs. The attitude of the carers to your queries about any of these signs, may add to your concerns that a child may be suffering harm and tilt the balance toward making a referral.

22. To clarify your concerns it might be helpful to arrange for checks on the following:

- Ask the police to check on the Police National Computer (PNC)
- on the Warnings Index check;
- with the local authority (see paras 58 – 60) to see if they have concerns about the child, the adults or the address, (also include reference to where immigration issues such as sponsorship and private fostering may have implications for the child).

23. Include the outcome of these checks in your referral to the local authority if you decide to proceed. Record the outcomes on the UKBA record in all cases enclosed in an envelope marked confidential. This measure is intended to minimise inappropriate casual access by those with no need to know

WHAT TO DO IF A CHILD DISCLOSES INFORMATION ABOUT THEMSELVES OR OTHER CHILDREN

24. As well as the indicators of harm set out above, if a child discloses information to you or requests help, it should never be treated lightly. If you find yourself in a situation where you recognise signs of abuse or someone tells you, (including the child themselves), that a child is at risk of abuse you should:

- listen carefully and sympathetically to what the child or other informant has to say;
- clarify the concerns, without leading the child by prompting or suggesting what may have happened. It is best to use terms the child volunteers spontaneously;
- explain what will happen next to the child. (By this we mean you should explain the process that will now follow. At this stage we would be unable to make any guarantees to the child, e.g. we would not be able to tell the child that they will be taken away from an abusive adult – this would be something the children’s services would have to decide.)

25. Do not press the child for more information than they give freely as this can prejudice later prosecutions of alleged abusers. Do not make promises about confidentiality. Formal interviews must be left to child protection professionals such as social workers or police officers who have received special training. Staff must record details of disclosure which may be needed as evidence and must be recorded in an appropriate way.

26. In the case of asylum seeking children, the disclosures may be part of the asylum claim and may be revealed at the screening interview or the substantive interview or at any point of contact with the young person. In such a case UKBA staff members must capture, record and protect information relevant to the claim. However if the information suggests that the child has suffered (or is likely to suffer) harm, then a referral should be made to a statutory child safeguarding agency, so they can help the child recover from the abuse. The agency receiving the referral should be made aware of the need to protect the confidentiality of the asylum process in the best interest of the child. This agency should also be made aware that their assessments may be of relevance to the child’s claim.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

IDENTIFYING CHILDREN WHO MAY HAVE BEEN TRAFFICKED

27. There are three main ways in which you are likely to encounter concerns that a child may have been trafficked:

- The child may match the definition and profile of a trafficked child.
- UKBA intelligence or joint operations with the police may give rise to evidence and concern about particular children.
- The child's story and other case details may give you concerns about the adults in charge of the child and their intentions.

28. The essence of trafficking is the movement of someone through coercion or deception into a situation where they are to be/or are being exploited, (for full explanation see Article 4 of the Council of Europe Convention against Human Trafficking and the specific reference to child victims in that Convention). When children are the potential victims of trafficking they may be unaware of the exploitation that they will undergo. For this reason and because of their age and understanding, they are held to be unable to give informed consent to their traffickers.

29. The UK is a transit country as well as a final destination for the exploitation of trafficked children, particularly for domestic service, forced labour and criminality but also for the sex industry and benefit fraud.. Trafficked children enter the UK and may present to the authorities in a wide variety of ways. Examples are:

- as unaccompanied asylum seekers ;
- as students ;
- as visitors; or
- They may enter the UK illegally and only come to the attention of any authorities once they are in a situation of exploitation.

30. Children may also be brought in by adults who claim to be the child's legitimate carer, or be met at the airport by an adult who claims to be a relative.

31. If your suspicions are aroused, discuss with a senior caseworker or Chief Immigration Officer, (CIO). If, having examined the available evidence, you still have concerns, you should refer the child. Where things are still not clear, always err on the side of caution and refer the case to the appropriate local authority children's services, (first by 'phone & then by referral form), or, if the child is in immediate danger, by phoning the police. You should decide what risk of significant harm the child may need to be protected from, and which agency has the duty to do this. In some circumstances you should also consider how the child and any adult associates may be retained or delayed on UKBA premises until a safe handover to the children's services is completed. In some very limited cases it may be appropriate to use short term detention to protect the child and hold the adult. However a full justification for this action must be provided showing that the use of immigration powers is appropriate and that other less coercive options have been considered and had to be ruled out. After you have taken all necessary action to protect the child you should draw your chief officer's attention to the likelihood that the child has been trafficked as there will be implications for how the case is dealt with later.

32. UKBA will act as a competent authority as defined in the Council of Europe Convention against Human Trafficking. Specially trained caseworkers will make decisions to grant possible child victims a 45 day reflection period pending further assessment. Where a child victim needs it a

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

“renewable residence permit” will be granted to allow them to help prosecute their abusers or because it is in line with their best interests. Further guidance on trafficking issues will be produced to help you refer these cases to specialist caseworkers in due course.

See *Annex “J”* a list of Trafficking Indicators.

IDENTIFYING CHILDREN WHO ARE AT RISK OF, OR LIKELY TO GO MISSING; (POTENTIALLY MISSING CHILDREN)

33. Children subject to immigration controls who are out of touch with the authorities are at risk of harm from many sources. Missing children may be victims of trafficking. Children may be persuaded or coerced into abusing the asylum system by applying on or after arrival in the U.K. Even if they are referred to children’s services, they may later abscond or may be abducted by their traffickers. Remember that at this stage the children may be entirely persuaded that the trafficker is acting in their best interest and may be unaware that they are being, or have been brought to the U.K. to be exploited. UKBA staff should be aware of these risks and if they have any concerns about a particular child, should contact children’s services or the police by phone, without delay. If we believe a child is being coerced to abscond or has gone missing we must raise this as a child protection concern with children’s services and the police. National best practice on what to do regarding missing children who are subject to immigration controls is in development by UKBA and will be available in April 2009.

34. The UKBA staff should treat as a matter of concern any failure of a child who is a principal applicant to keep an arranged contact with the agency. Similarly, if a family cannot give a credible account for the whereabouts of their dependant child or children as shown on their previous records, this must give rise to a missing child report. Reports from children’s services that a child has lost contact with them should also be treated as an indicator of potential harm, and the officer dealing should complete a missing child report / follow the UKBA missing child procedures. Appropriate action must be taken and UKBA records amended accordingly.

CHILDREN IN CARE CASES

35. Children’s legislation throughout the UK makes provision for children aged 17 or less who have no adult to care for them. For example, under section 20 of the Children Act 1989 a local authority must provide accommodation for any “child in need” within their area if he/she appears to them to require accommodation because:

- there is no person who has parental responsibility for him;
- he/she is lost or abandoned; or
- the person who has been caring for him is prevented, (whether or not permanently, and for whatever reason), from providing him with suitable accommodation and or care.

36. All such referrals are likely to have an element of urgency, in that a young person in these circumstances will not be able to access accommodation or assistance from local housing authorities, the Benefits Agency or UKBA Asylum support arrangements. It is therefore recommended that a referral is made to a children’s services department within 24 hours.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

37. What to look out for:

- a child with no adult accompanying/no apparent adult to care for them;
- a child who arrived with an adult in the UK, but has since submitted an application in their own right;
- a child who has disappeared after entry, (i.e. the child is recorded on arrival on the claimed parent's passport but is then not included as a dependant in a subsequent application);
- the account given by a child about their care differs from that given by the adult, (e.g. child & adult say that a different person is the main carer or that the child lives in a different place);
- the adult accompanying the child is considered unsuitable because of their behaviour or information suggesting they may harm the child has come to light.

38. When referring a child for children's services accommodation, it is important to notify the child that a referral is being made unless there is a demonstrable risk, (i.e. one you could express convincingly in writing), that the child will go missing; for example the child meets the profile of other missing children, (all third country, TCU, cases will have already applied for asylum in another country and therefore have already absconded once & may do so again).

39. In the case of an unaccompanied child with a disability, the necessary referral to the local authority for accommodation must also include notification of the particular needs, whether or not the child consents to this.

40. The process for handing over a child to the local authority should be considered carefully. There can be practical difficulties particularly out of office hours. If you have established direct contact with a social worker, e.g. by telephone, make it clear that the responsibility for what happens next rests with the local authority. Explain any concern you have that the child may go missing on route to the local authority and ask the local authority for instructions on what to do next. (For example, do not leave a child alone; keep a child in immigration accommodation until someone appropriate arrives to take care of them; check the identification of the person collecting the child, etc.) You must record in writing all decisions taken and by whom, on CID or the case file. (I.Os. needing to make an official record but finding no case for CID file should file a Report.) If you need to contact children's services out of hours and cannot make contact via the local authority, then contact the local police, who will have contact details for the relevant local authority children's services.

IDENTIFYING PRIVATE FOSTERING CASES

41. There is no provision in the Immigration Rules for a child to come to the UK in order to be privately fostered, so the child will enter the U.K. under one of the provisions in the Immigration Rules, such as a "visitor" or "student". Staff should be able to identify circumstances in which children are being brought into the country, or are seeking to extend leave, to be cared for by private foster carers. Private foster carers may be distant members of the extended family such as a cousin or great aunt, or may be a friend of the family or someone unknown to the family. This means that they are not a close relative as defined in Section 105(1)(b) of the Children Act 1989. (For clarity, the Act's definition of "a relative" is stated as: "A relative, in relation to a child, means a grand-

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

parent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity) or step-parent”).

42. What to look out for:

- any child who seeks to enter the UK on their own or with an adult who is not a parent, or another person with parental responsibility or a close relative;
- any child entering the UK accompanying a parent whose visa duration exceeds that of the parent.

43. Private foster carers, parents and others with parental responsibility are legally required to notify the local authority of their intention to set up a private fostering arrangement a minimum of 6 weeks in advance of a placement or, where an emergency placement is made, within 48 hours of the placement beginning. In some cases, families in the UK are not aware of these rules or are persuaded to ignore them. In these cases, it is the duty of the UKBA to make the parents or carers aware of their responsibility and also to alert the local authority, (contact children’s services in the same way as a referral of a child in need, to see if the child or the family require support under Section 17, see Para 57 and mention that the reason for this referral is due to Private Fostering as set out in the Private Fostering Regulations 2005.

44. You may encounter a number of cases where a child entering the UK is to be cared for by an adult other than a parent or legal guardian. They may either arrive with the adult concerned or be joining him/her and be accompanied by a different adult. UKBA and UK Visa policies require applicants to act in conformity with children’s legislation throughout the UK. Before granting the child any leave, officers should ensure that the documentation shows clearly who the child’s legal parents or guardians are and how they can be contacted. The prospective carers and their contact details should also be clear. Finally, the names and detail of the adult accompanying the child should be clearly given. When any of these are not present, you should investigate the situation to see whether deception has been used to obtain leave to enter.

45. Where you believe an arrangement may be a private fostering arrangement and are satisfied that the local authority has not been, or will not be notified, you should report the situation to the local authority in whose area the child will be living. The process for doing so is set out in Paras 57-71.

46. In addition, an adult arriving from abroad whom you believe is proposing to privately foster a child, should be advised of the legal requirement to notify the local authority of the arrangement and of the required timescale for doing so. It should be made clear that failing to notify the local authority of a private fostering arrangement is an offence under section 70 (1) (Ai) of the Children Act 1989 and a written record of this warning should be filed.

47. There are broadly similar requirements for private fostering arrangements to be notified to statutory child welfare agencies throughout the UK. The Children Acts 1989 and 2004 which applies in England and Wales describes a private fostering arrangement as one that lasts 28 days or longer which is made privately, (between the birth parents and foster carer without the involvement of a local authority), for a child who is under the age of 16 (under 18, if disabled) to be cared for by someone other than a parent or close relative.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

48. In many cases, private fostering arrangements are set up legally, are monitored properly and are entirely to the benefit of the children concerned. However, it is an unfortunate possibility that such apparently beneficial arrangements can lead to significant harm or even the death of a child. This was so in the tragic case of Victoria Climbié.

49. It is the duty of local authorities to satisfy themselves that the welfare of children who are privately fostered in their area is satisfactorily safeguarded and promoted, and to ensure that such advice that the private foster carers appear to need is given to them. In order to do so, social workers should visit privately fostered children at prescribed intervals. In England the local authority duties are set out in Statutory Instrument 2005 No. 1533.² (Private fostering is dealt with in part 5 of the Children Act 2004 in England and local authority duties are set out in Statutory Instrument 2005 No. 1533, and by similar legislation in the devolved administrations).

50. When you decide to refer a private fostering case to a local authority, you should tell the private foster carer concerned. If the response of a private carer gives you any concern, then you should refer the child to the local authority children's services.

51. At the time of drafting, private foster carers do not have to register³ with their local authority but must notify them. Be clear with the local authority that you are asking them to satisfy themselves as to the welfare of the privately fostered child.

52. All staff, be they at posts overseas or caseworkers and Immigration Officers in the U.K., should be alert to noticing patterns of applications, (E.Cs or extensions), which might indicate abuse of the Rules. However both Section 21 of the UK Borders Act 2007 refers to children in the UK, not outside of the UK. Similarly the safeguarding duty will apply to children in the UK.

IDENTIFYING CHILDREN IN NEED OF ASSESSMENT OR SUPPORT

53. Children's legislation throughout the UK makes provision to assist children whose families are unable to meet all their welfare needs. For example: Section 17 of the Children Act 1989 which applies in England and Wales identifies a child as being "in need" if one or more of the following apply:

- he is unlikely to achieve or maintain or to have the opportunity to achieve or maintain, a reasonable standard of health or development without the provision of services for him by the local authority;
- his health or development is likely to be significantly impaired or further impaired without the provision of services by a local authority; or
- he is disabled.

² Statutory Instrument 2005 No. 1533 The Children (Private Arrangements for Fostering) Regulations 2005. <http://www.opsi.gov.uk/si/si2005/20051533.htm>

³ The Government is considering using its powers to compel private foster carers to register, under section 45 of the Children Act 2004.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

54. There is no specific duty to make a referral on a child who has a disability or who could benefit from family support arrangements made by children's services, for example a child who has inappropriate caring responsibility for a disabled parent. It would however, be considered good practice to inform the carers of a disabled child that social services may be able to provide support. If a family explain that they have difficulty coping in some circumstance, for example through persistent bed wetting in an older child, the role of social services should be explained to them.

55. What to look out for:

- children or parents with any sort of disability
- children or parents with chronic health problems
- children whose behaviour appears to go beyond the coping capacity of the carers
- parents/carers who ask for help to cope with their children's needs
- children who ask for help coping with their parent's disability or chronic health difficulties

56. The purpose of "children in need" assessments is to assess the needs and vulnerabilities of a child in order to provide services to the child while they remain in the family. It follows that this type of referral should only be made with the informed consent of the parent or carer. In practice, it is rare that this consent is withheld. If it is withheld unreasonably, it may cause you concern about abuse or neglect and give rise to a referral under one of the other categories of concern.

REFERRING CASES WHERE HARM ARISES FROM CHILD ABUSE

57. Staff in the UKBA must make a referral to social services if there are indications that a child has been or is vulnerable to being abused, neglected or trafficked. The timing of such referrals should reflect the level of perceived risk of harm. In all cases like these, a telephone referral should be made to the police or children's services but in addition a completed form should be faxed to the local authority within one working day of the recognition of risk. This is in line with the Code of Practice, or if replaced, by its duty to safeguard children. If the recognition of the risk is cumulative rather than a single event the referral should be made as soon as concerns arise.

58. After making a referral for these reasons, you may be asked to take part in a meeting or conference call (called a 'strategy meeting') which sets out what each agency will do. The main aims of the strategy meeting are to ensure that the participating agencies' tasks are carried out in ways that keep the child safe and do not interfere with each other. You may then be asked to contribute information about your concerns and UKBA plans in the form of a report to a child protection case conference.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

MAKING REFERRALS

DECIDING THE DEGREE OF URGENCY.

59. It may be helpful to understand that local authorities respond more urgently to some types of referrals more than others. This is because of the nature of their duties under their relevant children's legislation. For example:

Section 17 of the Children Act 1989 gives the local authority a duty to:

- Safeguard and promote the welfare of children within their area who are “in need”;
- Promote the upbringing of such children by their families;
by providing a range and level of services appropriate to those children's needs. (These needs may link to a referral under **Section 67** if Private Fostering is involved.)

Services provided under Section 17 may not be regarded as an emergency.

Section 47 of the Children Act 1989, in contrast places a duty on local authority Children's Social Care departments to:

- Make enquiries to decide whether to make enquiries to decide whether to take action to safeguard and promote the child's welfare. This duty applies where the LA is informed that a child is the subject of an emergency protection order, or is in police protection, or where the LA has reasonable cause to suspect that a child is suffering or is likely to suffer serious harm.

NB. Only social services, the police and the NSPCC have the right and responsibility to carry out this type of investigation or to initiate care proceedings to protect an abused child. Section 47 is normally dealt with urgently.

60. With referrals for services under **Section 17** referrals, you should make a referral if:

- a), a child has no adult to care for them in the U.K., (the local authority should assess to see if they have a duty to look after the child);
- b), a child has a disability or the family are not coping for any reason, (the local authority should assess to see if other Section 17 Services are needed);
- c), a child is being looked after by an adult(s) who are not close relatives, (the local authority should assess to see if they have a **Section 67** Duty to satisfy themselves that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted, and to secure that such advice is given to those caring for them as appears to the LA to be needed).

61. With **Section 47** referrals, the caseworker will need to decide whether the significant harm that threatens the child gives an **immediate concern for the child's safety**, - in which case they should phone the Police & then fax the local authority; or, whether the child is *likely to be suffering significant harm*, (i.e. in the near future rather than imminently), in which case the caseworker should phone & then fax the Local Authority, (i.e. the same process with which **Section 17** cases are dealt).

62. Having assessed the evidence, if you believe that a referral might be appropriate, take your concerns to your line manager and discuss what should be done. If your line manager is absent, you should go to whoever is covering their absence, or the next officer up the line management chain. You will need to decide how urgent your concerns are and which type of referral is appropriate:

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

- ▶ **Immediate need of protection:** immediate telephone call to the police plus a Section 47 Local Authority referral.
- ▶ **Likely to suffer significant harm:** telephone call to the local authority followed by a Section 47 Local Authority referral.
- ▶ **”In need”** or where any of the reasons at a, b or c of para. 60 (see above), apply: telephone call to the local authority plus a Section 17 Local Authority referral.

FILLING OUT THE FORM.

63. If you decide to refer the child, you should complete the referral form at Annex “A”. All referrals must be made using this form and you should complete as many sections as possible from the information available before making the referral. When making a referral you must make clear what your concerns are and the circumstances that give rise to these concerns. By writing out the form first, you will have all relevant details in front of you when you make the ‘phone call, and this will ensure that you give a consistent message by ‘phone & fax when making the referral. The process of filling out the form may even help you decide on the urgency of the referral.

64. The text immediately below refers to specific boxes in the form.

a), Page 1, “Referral Completed by:” refers to the caseworker making the referral. The discussion with, & agreement of their line manager should be noted on file.

b), Page 1, “Details of Children: (Tick to indicate which child(ren) give rise to concern).” The caseworker should list all children in the family and tick those where there are concerns. General concerns will affect all the children, but where a child may be living with relatives, perhaps as an adopted child, it may be receiving different standards of care or treatment from the others and therefore be the only child to arouse concerns.

N.B. It should be possible to attach a digital photograph of the child. This is to ensure the same child, that gave rise to concern, is seen by the welfare agencies.

c), Page 2, “Parents, Carers & Significant Adults”. This refers to those who regularly care for or supervise the child & can include relatives, friends or neighbours who have regular contact.

d), Page 2, “Relationship” This refers to this particular adult’s relationship to the child whose name has been ticked in the box(es) above. In cases where to specify the relationship would be confusing, e.g. where a married couple are living with an adult cousin, along with children from various relatives or relationships, please complete an additional referral form, grouping siblings together.

e), Page 2, “Citizenship”, enter the legal citizenship or nationality.

f), Pages 3 & 4, “Summarise your key concerns....” Has the child disappeared from a family unit, or not been included on an application? Or do you believe the child is being mistreated? Sending Children’s Services an accurate description of the case along with what concerns you have, should aid their own consideration of the child’s needs. Whatever action Social Services decide to take, you must ask them to acknowledge receipt of the referral, (see page 2), and then tell us what action they

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

have taken and note this. If you do not hear from them, you must make further enquiries to find out. It can sometimes be difficult to convert the feelings of concern that you have into definite words or phrases which will convey your intended meaning to the social worker. You might find the Common Assessment Framework is able to help you do this. Please see the diagram & advice at *Annex F* below.

DECIDING TO WHICH LOCAL AUTHORITY TO MAKE A REFERRAL

65. All referrals should be made by telephone and then followed up by faxing the written referral to the number you have obtained, with a request for a written acknowledgement. You should then make the referral to the relevant local authority children's services Department, (or equivalent in the Devolved Authorities), unless the situation is so immediate as to require referral to the police.

66. A local authority has responsibility for a child who is ordinarily resident in an area and for children who are temporarily in the area when an urgent need arises. There is a risk that children encountered by UKBA will not have established an ordinary residence and LA responsibility will not be clear. If the situation is urgent, as it can be with child protection or abandoned children, then the local authority where the child happens to be, should take immediate responsibility. If a UASC absconds from care the local authority should notify UKBA.

67. If there is a dispute about which local authority has responsibility, the local authorities should act first and can then decide between them where the longer-term responsibility lies. UKBA does not have to care for the child while this is being sorted out, for example the Children Act 1989 imposes a clear duty upon the local authority where the child happens to be until another local authority accepts responsibility.

68. If you are making an urgent telephone referral, ring the local authority switchboard and ask for the children's services duty team for the area where the child is. If the switchboard is unable to help you find the right office, ask for the office of the director of children's services. If you cannot get through outside of normal office hours, you should ring the local police as they will have a duty contact number for the local children's services.

69. If having made the referral and requested an acknowledgement, no acknowledgement is sent after 5 working days then ring children's services again and request one.

KEEPING AN ACCURATE RECORD IS VITAL IN EVERY CASE.

70. No matter where you work in UKBA, you **must** ensure you make a written record of all your dealings in a case where you decide to make a referral including copies of all faxes and correspondence. Start to do this as soon as you have spoken to your line manager & they have agreed to refer. Do not leave it until later. **Incomplete or uncertain records may not be sufficient to demonstrate that UKBA has acted in the required manner in these sensitive cases.** Therefore accurate record keeping is vital. The written account must record the times of all communications, inc. telephone calls and faxes, (whether the attempts to ring were successful or not); the reasons for

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

making the referral; who was consulted and who took the decisions as well as copies of all relevant documents in the case. The following list should help remind you what you need to record:

- Discussions with the child
- Discussions with the parent(s)
- Discussions with managers or other experts
- Information provided to Local Authority including a photocopy of the referral form
- Acknowledgement by Local Authority that referral has been received
- Decisions taken, (by whom, clearly timed, dated and signed)

71. The sections above set out the statutory duties of local authority children's services. Local authorities are better able to respond to referrals if they are linked to their statutory duties, so whenever you can, make reference to one of the duties or categories of concern. The general principles that apply in all referrals are as follows:

- Always use the referral form at Annex A (if using it printed) or B (if filling out & sending on-line) as this will help you decide what to say in the telephone call, and ensure that what you say on the Form and in the call is consistent;
- Fill in as much of the form as you can;
- Include the details set out in the Code of Practice unless replaced by a duty to safeguard children.
- If you can, be clear about your concern and link it to a statutory duty, (i.e. a Section 17 or Section 47 referral),
- Obtain written consent to share the information if required;
- When making the telephone referral agree how the referral form will be transmitted;
- Ask for a printable, (i.e. faxed or e-mailed), acknowledgment of the referral and if you do not receive one write to the local authority to request one, enclosing a copy of the original referral form;
- Where possible agree the course of action to be taken with the local authority;
- Ensure the HO file and CID record is fully minuted with all communication, action and contact names, (if I.Os. find that there is no H.O. or CID file, they should file a report).

WHAT TO DO ONCE A REFERRAL HAS BEEN MADE

72. Following a referral to Children's Services you should do the following:

- **Update the file:**
If a CID file: with the information that a child in need referral has been made in the notes field,
If a paper file: you should place the information or referral in a separate envelope clearly marked "in Confidence".
Otherwise: file a report, and place a copy of the referral form on file/with the report;
- **record** any action agreed, including the agreement of your line manager;
- **follow up** the referral if it is unclear whether any action has been taken;
- where appropriate, continue with immigration action.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

73. The referral does not preclude UKBA from continuing to action a case, making a decision or proceeding to appeal where appropriate. There may be some cases where it might be appropriate to delay making or serving an immigration decision until children’s services have completed any action they are taking. However, this should only be done after reference to a senior caseworker/CIO.

74. Suspected child victims of trafficking are a special case. As well as a referral to children’s services and the police you must refer them to specially trained UKBA caseworkers who will consider their need for a reflection period or a residence permit in line with their best interests. The specially trained caseworkers are known as “the competent authority” as defined in the Council of Europe convention against Humans Trafficking. If you are in doubt, refer to the CIO/senior caseworker and then to any specialist policy on trafficking.

WHAT TO DO IF UNHAPPY WITH THE RESPONSE FROM A LOCAL AUTHORITY

75. If you have made a referral and are unhappy about the response you have received, you should then refer to a senior caseworker/CIO, then a police child protection officer, (if one is available under the Paladin arrangements, (Paladin is a Police initiative that places a Police Child Protection Officer at some ports and screening units.)). You should make a written record of your concerns and contact the Director of Children’s services for that area to advise them of your disquiet.

76. If there is a consistent pattern of problems communicating with a particular authority, refer the issue to your Keeping Children Safe Coordinator who can take the matter up with the Director of Children’s Services and/or the LSCB/ACPC. These boards and committees have a duty to deal with gaps in cooperation in their area.

IMPACT OF CHILD ABUSE CASES ON PROFESSIONAL STAFF

77. Contact with children who have suffered or who subsequently suffer harm can have a lasting effect on the well being of professional staff. This usually arises, either from the seriousness of the child’s situation, or because it has echoes of difficult situations from the staff member’s own life. Such responses are entirely normal and occur frequently in the childcare professions. In UKBA there are sources of advice and support to help staff find appropriate ways of dealing with potentially difficult personal outcomes. You may wish to discuss with your line manager and/or the UKBA Employee Assistance Programme and/or the Children’s Champion’s Office.

78. The CAF Common Assessment Framework (see Annex F, below), contains terms which caseworkers might wish to bear in mind when contacting local authorities. The key words will be:

- ▶ harm – where a child is at risk,
- ▶ significant harm – where a child’s welfare is likely to be significantly impaired
- ▶ protection – where a child and family need help to manage risks to the child
- ▶ abuse – where a child is at risk of abuse, (of any sort); and,
- ▶ subject to child protection plans – where a child is already the subject of a plan drawn up for its safety & welfare.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex A

UKBA REFERRAL FORM (Static Box Version) – See attached

Annex B

UKBA REFERRAL FORM (Expanding Box Version) – See attached

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex C

CONTACT DETAILS FOR UKBA KEEPING CHILDREN SAFE CO ORDINATORS

This list in preparation. Please contact your Director's office for up to date advice.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex “D”

GLOSSARY OF TERMS

ACPC **Area Child Protection Committee.** These operate in Devolved areas and have a very similar function to an LSCB in England, (see LSCB below). These area Committees comprise of public services such as education, health and the police as well as local authorities.

CHILDREN’S SERVICES These were previously part of social services departments of local authorities – ‘social services’ and are now often referred to as ‘adult services’ that now deal with adult cases.

DCS **Directors of Children’s Services** is the area of a local authority that UKBA staff are most likely to have contact with. In England, following the Children Act 2004 and similar legislation in the devolved administrations, children’s services and directors of children’s services (DCS) were created. You will need to contact the DCS if you wish to develop an agreement with more than one child welfare agency in the area or to extend an agreement to neighbouring areas.

EDT Emergency Duty Team - provide out of hours service

EPO Emergency Protection Order

HOME AUTHORITY The authority which holds case responsibility, or if not known to SSD, where the child is living - this could be either an originating or receiving authority.

HOST AUTHORITY The authority where a child may be found, is visiting for a short break or in receipt of specified services (e.g. education) - this could be either a receiving authority without case responsibility or an entirely different authority.

Keeping Children Safe Co-ordinator These are the officers appointed within UKBA to hold responsibility for the dissemination of good practice on dealing with children’s cases in their particular area of UKBA.

LAC **Looked After Child** - a child who is looked after by a local authority also known as “in the care of the local authority”.

LSCB **Local Safeguarding Children Board.** These comprise of public services such as education, health and the police as well as local authorities. In each local authority area a local safeguarding children board (LSCB) or an area child protection committee (ACPC) will co-ordinate the activity of these agencies and monitor their effectiveness. UKBA will be represented on LSCB where there is a major Port or Airport in the area concerned and there will be a designated member of UKBA who will attend meetings. If no-one else is designated, the UKBA Keeping Children Safe Coordinator would normally represent us.

MISPER Police acronym for missing persons

MIT Police Serious Crime Group Major Investigation Team

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

NRUC National Register of Unaccompanied Children. This is run by Westminster Council on behalf of all local authorities with the aim of improving communication on unaccompanied children.

PROTOCOL In this document “protocol” means a national or regional agreement between UKBA & local authority(ies) to allow for better working in partnership. UKBA will set up these “protocols” or special agreements with local authorities & other bodies. Once the initial agreement(s) have been finalised, samples of how these have been drawn up will be given to local authorities & the UKBA Keeping Children Safe Coordinator to enable local agreements to be made. Staff should check with their regional Keeping Children Safe Coordinator, (see list of co-ordinators at Annex C). There is an information-sharing Protocol & there may be others in time.

RECEIVING AUTHORITY The borough / authority where the child / family has moved.

RMP Risk Management Plan

SAFEGUARDING is a duty placed on agencies listed in section 11 of the Children Act 2004 and similar legislation in the devolved administrations, to safeguard and promote the welfare of children in the UK. UKBA is getting an equivalent duty in the Borders Immigration and Citizenship Bill. Unlike the Section 11 duty this will apply across the UK not just in England and Wales. The safeguarding duty does not override the core tasks of agencies such as the police duty to uphold law and order but ensures these core duties are carried out in ways that take account of the needs of children.

STRATEGY MEETING Strategy meetings are where all involved agencies meet to agree a plan for the child’s future. After making a referral, you may be asked to take part in a strategy meeting which sets out what each agency will do. The main aims of the strategy meeting are to ensure that the participating agencies’ tasks are carried out in ways that keep the child safe and do not interfere with each other. You may then be asked to contribute information about your concerns and UKBA plans in the form of a report to a child protection case conference.

UASC **Unaccompanied Asylum Seeking Child**, This means that the child is of interest to both the local authority being in need of care and to UKBA because of the asylum application. They are supported by special grants and other arrangements. Not all children who are principal asylum applicant are UASC, having an adult who is able and willing to care for them. NGO prefer the term “separated child” which refers to a much larger group of children who are in the UK but are not with their legal or customary carer.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex “E”

UNDERSTANDING LOCAL AUTHORITIES

In order to work effectively with local authorities, it is helpful to understand their structures and functions. Communication with an authority is likely to be ineffective if it is addressed to the wrong part of these very large and complex organisations. Deciding which local authority you should be communicating with is described in paragraphs 65-69 above.

There are about 200 local authorities in the UK. These authorities are variously described as City Councils, County Councils, London Boroughs, Metropolitan Boroughs or Unitary Authorities depending on where they are. Local authorities are governed by an elected body of councillors. Each will have a ruling group generally formed on traditional political party lines. The ruling group will select a group of councillors to form a Cabinet. Within the Cabinet, members will have lead responsibilities for some council functions, such as children’s services. This is sometimes known as their “portfolio”. Special regional and national groups of elected councillors are organised by local government associations to discuss immigration. UKBA contact with council members is most frequently in response to their queries about our policies or about cases from their area.

The chief executive is the most senior officer⁴ of the local authority. Contact with chief executives occurs when UKBA policies or activities have a substantial impact on the full range of local authority functions e.g. by increasing the population. The chief executive is likely to refer the matter to their Cabinet for any political comment or action and also to the directors of the appropriate departments. The local authority department which UKBA staff are most likely to have contact with, is children’s services. In England, following the Children Act 2004 and similar legislation in the devolved administrations, children’s services and directors of children’s services (DCS) were created from out of what were ‘social’ services. The part of social services which dealt with adults is now often called ‘community care’ or ‘adult services’. You will need to contact the Association of Directors of Children’s Services, (ADCS), if you wish to develop an agreement with more than one child welfare agency in the area or to extend an agreement to neighbouring areas.

The children’s services departments have responsibility for safeguarding and promoting the welfare of all the children in their area. There will be a small team of assistant directors (AD) each leading a particular function, for example family support or children in care. (A local authority AD is a more senior figure than the ADs in UKBA.) If you wish to develop a joint working agreement with a local authority, it is the AD’s task to gain the necessary political and professional approval for your proposals and to ensure that social workers are made aware of them. Operational responsibility is further devolved through service managers and team leaders to social workers who work directly with children and families and who will deal with referrals about individual cases.

WORKING WITH LOCAL SAFEGUARDING CHILDREN’S BOARDS

As well as establishing Directors of Children’s Services, (DCS), the Children Act 2004, (there is similar legislation in the devolved administrations), also requires each local authority in England to create Local Safeguarding Children Boards (LSCBs). The function of LSCBs is to coordinate and ensure the effectiveness of the safeguarding activities of board members. This role is carried out by Area Child Protection Committees (ACPC) in the devolved administrations. The Children Act 2004 (section 11) also imposes a duty on other specified bodies in England and Wales to make

⁴ The permanent staff in local authorities are generally referred to as “officers”.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

arrangements that ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children. Most services that have a section 11 duty also have a statutory role to play on LSCBs. UKBA is not subject to a section 11 duty, nor is it a statutory member of LSCBs, but will have its own duty under the Borders Citizenship and Immigration Bill – royal assent is expected in summer 2009 and clause 53 (the new children's duty) is expected to come into force in Autumn 2009. UKBA's core task is in applying the immigration rules and we have a statutory duty to carry out these tasks, while having regard to the Code of Practice or a duty to safeguard children that might replace it, but there can be mutual benefit to the LSCB and UKBA if we work out appropriate levels of co operation. UKBA is committed to responding positively to requests that we attend LSCBs by invitation to address immigration issues affecting children in the area. We will also agree to being co opted onto boards in areas where we are particularly active – for example, areas containing major ports, asylum screening units, removal centres or to which we disperse large numbers of asylum seekers.

Examples of when we have found engagement with LSCBs useful include:

- Our representation on an LSCB's sub-committee on missing children;
- Our attendance at LSCB meetings to consider UASC issues;
- Our attendance at LSCB to discuss special arrangements for children detained with their families;
- Our consultation with an LSCB about how best to share information about cases of mutual interests; and
- Our involvement in a serious case review into the death of a child of an asylum seeker; and
- Strategy meetings (Where all involved agencies meet to agree a plan for the child's future).

Local authorities have found UKBA's involvement in LSCBs very useful. Different local authorities may structure and organise the work of their LSCBs to suit their particular local circumstances. It is important that when establishing relationships with local authorities at this level, you clarify which issues are of joint interest and how UKBA can help the work of the LSCB. It is also important that whoever represents UKBA at the formal meetings, is prepared to take away and refer to appropriate UKBA colleagues any issues outside their own area of responsibility or expertise.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex F

THE STANDARD ASSESSMENT FRAMEWORK, (TRIANGLE).



This diagram is produced to help identify the factors that have given rise to concerns about a child. It uses terms that will be familiar to Social Workers. It might help you to circle the area(s) of key concern and then include them in your summary of concerns on page 3 of the Referral Form.

The “Assessment Framework” is reproduced here to help you put your concerns into words that will be familiar to Social Workers. Examples would be if you believed that a child had gone missing, the immediate concerns would be for: “Health”, “Basic Care” & “Safety”. If you became aware of a child who was not attending school, then “Education”, “Stimulation” and the “Family’s Social Integration” would be areas of concern. If you suspected that a child had been passed from its parents to another carer, (e.g. for unofficial adoption or unnotified private fostering), it could prompt concerns about the child’s, “Identity”, “Emotional & Behavioural Development” and “Emotional Warmth”, as well as “Family & Social Relationships” and, of course, “Safety”. A neglected child might be shown by use of “Social Presentation” & “Selfcare Skills”, as well as “Basic Care” and “Emotional & Behavioural Development”.

Whatever action Social Services decide to take, it will be and can only ever be, a matter of them using their own judgement. This is where our sending them an accurate description of the facts of the case along with using the assessment framework to express the concerns we have, could aid their own consideration of the child’s needs.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex G

DATA PROTECTION

1. Sharing information amongst those working with children is essential. In many cases, it is only when information from a range of sources is put together that a child can be seen to be at risk of harm or otherwise need the help of statutory welfare services. UKBA has the legal power to share information given by applicants. The Data Protection Act 1998 set out the legal safeguards for sharing information safely and fairly. It is worth stressing that the legislation is intended to guide information sharing, not to prevent it. The Data Protection Act 1998 sets out that to be lawful, the possession of personal data is justified, if it is necessary:

2. To ensure compliance with any legal obligation to which the data controller is subject;
- to protect the vital interests of the data subject⁵ ;
 - for the administration of justice* ;
 - for the exercise of any statutory functions
 - for the exercise of any functions of the Crown, and Minister of the Crown or a Government department*;
 - for the exercise of any other functions of a public nature exercised in the public interest by any person.

⁵ Conditions marked with a * may also be relied on where sensitive personal data are involved ("sensitive personal data" is defined as including information as to racial or ethnic origin, physical or mental health or condition, sexual life, or the commission or alleged commission of any offence). Alternatively, data sharing is lawful if the person who is the subject of the data has given his consent to the processing.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex H

How to make a referral, Quick Check List.

(NB. This a check list to remind staff of the process and is **NOT** a substitute for reading the appropriate section **in full**, see paras 57 to 71 above.)

1. Consider all the evidence available.
2. Decide whether there is justification for making the referral.
3. Discuss with line manager & agree decision.
4. Decide whether to refer for services under Section 17 of the Children Act 1989, (there is a need to ***Safeguard the welfare of children who are “in need”***, i.e. you have general concerns – contact Local Authority), or whether you believe that urgent enquiries need to be made as under Section 47 of the Act, (there is an ***immediate concern for the child’s safety***, -‘phone Police, or ***they are likely to be, or are suffering significant harm*** – phone Local Authority). (See Paras 59-62 for the difference between Section 17 & 47.) [See comments earlier in this instruction – this is inaccurate. Referral is not under section 17. Referral takes place because UKBA thinks that it will assist/enable the LA to fulfil their duty in section 17 of the Children Act 1989. Same applies to section 47. The referral is not made under section 47.]
5. If you refer the child, complete the referral form at Annex “A” or “B”, (this way you will have all relevant details in front of you when you make the ‘phone call).
6. Telephone the police or local authority, (as appropriate), to alert them to the child’s situation and that a referral is being made.
7. If you are unable to get through to the local authority on the telephone, (e.g. because you are ringing out of hours), you should telephone the local police who will have a list of duty officers which cover children’s services.
8. Fax the written referral to the local authority, with a request for a written acknowledgement. If no acknowledgement is sent after 5 working days then ring children’s services again and request one.
9. Ensure you make a written record of all dealings & start this as soon as you have spoken to your line manager. Do not leave it until later.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex J

Indicators of Trafficking

Indicators are apparent symptoms of a situation. They should assist Officers (who are considered the First Responder (FR)) in making a primary assessment of whether the individuals encountered are or may be Potential Victims of Trafficking (PVoT). It is not the case that by selecting a set number of indicators this will equate to a person being a victim; it could be just one or a combination of indicators which demonstrate that the person may be a victim. Each case should be considered on its own merits. Indicators highlight a potential situation to the Officer/FR who can then dig deeper to investigate what has happened.

General indicators to be considered include:

- Found in or connected to a type of location likely to be used for exploitation
- Distrust of authorities
- Expression of fear or anxiety
- Depression (lack of interest, hopelessness, suicidal)
- Hostility (annoyed and irritated easily, temper outbursts)
- The person acts as if instructed by another
- Passport or documents held by someone else
- Perception of being bonded by debt
- Being placed in a dependency situation
- Threat of being handed over to authorities
- Threats against the individual or their family members
- Injuries apparently a result of assault or controlling measures
- Evidence of control over movement, either as an individual or as a group
- Limited social contact
- Lack of access to medical care
- No or limited access to bathroom/hygiene facilities
- Claims to be older than their actual age - If Officers suspect that an individual may be a child i.e. less than 18 years of age they must contact Social Services immediately.

This is not an exhaustive or definitive list but highlights the more common indicators that may be identified.

ANNEX B – INSTRUCTION ON REFERRING CHILDREN IN NEED

Annex K

Council of Europe Convention against Trafficking: Article 4 – some Definitions with relevance to children.

Definition of trafficking in human beings

76. *For there to be trafficking in human beings ingredients from each of the three categories (action, means, purpose) must be present together. There is, however, an exception regarding children: under Article 4(c) recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is to be regarded as trafficking in human beings even if it does not involve any of the means listed in Article 4(a). Under Article 4(d) the word “child” means any person under 18 years of age.*

84. *A wide range of means therefore has to be contemplated: abduction of women for sexual exploitation, enticement of children for use in paedophile or prostitution rings, violence by pimps to keep prostitutes under their thumb, taking advantage of an adolescent’s or adult’s vulnerability, whether or not resulting from sexual assault, or abusing the economic insecurity or poverty of an adult hoping to better their own and their family’s lot. However, these various cases reflect differences of degree rather than any difference in the nature of the phenomenon, which in each case can be classed as trafficking and is based on use of such methods.*

85. *The purpose must be exploitation of the individual. The Convention provides: “Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”. National legislation may therefore target other forms of exploitation but must at least cover the types of exploitation mentioned as constituents of trafficking in human beings.*

95. *The ECHR bodies have defined “servitude”. The European Commission of Human Rights regarded it as having to live and work on another person’s property and perform certain services for them, whether paid or unpaid, together with being unable to alter one’s condition (Application No.7906/77, D.R.17, p. 59; see also the Commission’s report in the Van Droogenbroeck case of 9 July 1980, Series B, Vol. 44, p. 30, paragraphs 78 to 80). Servitude is thus to be regarded as a particular form of slavery, differing from it less in character less than in degree. Although it constitutes a state or condition, and is a “particularly serious form of denial of freedom” (Van Droogenbroeck case, judgment of 24 June 1982, Series A, No.50, p.32, paragraph 58), it does not have the ownership features characteristic of slavery.*

98. *Under sub-paragraphs b. and c. of Article 4 taken together, recruitment, transportation, transfer, harbouring and receipt of a child for the purpose of exploitation are regarded as trafficking in human beings. It is immaterial whether the means refers to in sub paragraph a. have been used. It is also immaterial whether or not the child consents to be exploited.*

[Addressee name]
[First line of address]
[Second line of address]
[Third line of address]
[Postcode]

[Region/Directorate]
[First line of address]
[Second line of address]
[Third line of address]
[Fourth line of address]
[Postcode]

Tel +44 (0)[000 0000 0000]
Fax +44 (0)[000 0000 0000]
Email [name.surname]
@homeoffice.gsi.gov.uk
Web www.ukba.homeoffice.gov.uk

[00 Month 0000]

Ref: [Insert reference]

BEST INTERESTS CONSIDERATION PRO FORMA

Name:	First Name Surname
HO Reference:	HO Ref
Date of Birth	DOB

Title **First Name Surname** is receiving accommodation and care from your local authority. I am considering **his/her** immigration status.

Before I make a final decision on **his/her** application to stay in the United Kingdom I would be grateful if you could assist me by providing some important information. The information is important in order that I can take account of all factors relevant to **his/her** welfare and best interests before I make the final immigration decision. Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to make arrangements to ensure that its functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom. According to the guidance accompanying Section 55, arrangements include having an effective system for sharing information between different agencies.

My information is that **First Name** has family in **country**. If return was to take place we would prefer this to be direct to family

If return cannot be made direct to family, the UKBA has arrangements in place in **country** which might be suitable for **First Name** if it is decided that return should take place.

The following is a non-exhaustive list of the matters that are likely to be relevant to the consideration of **First Name's** welfare and best interests.

- physical and mental health & medical needs
- level of education
- emotional and behavioural development
- family and social relationships
- self-care skills
- the child's views
- the child's age and maturity;
- experience of mental or emotional trauma;
- compassionate factors
- the duration of absence from the home country and level of integration in the UK;

- whether the child is settled in education in the United Kingdom and the disruption caused to those arrangements by a decision to refuse outright.
- the desirability of continuity in the child's upbringing and to the child's ethnic, religious, cultural and linguistic background;
- the child's right to preserve their identity, including nationality, name and family relations
- the availability of care arrangements, the safety and security of the living arrangements, and the socio-economic conditions;
- the availability of education, work or training opportunities in the country of return.

It would be helpful if you relay the information I need by giving an assessment of the important factors listed below. But please feel free to provide any supplementary information that you feel is important.

Health & medical needs <i>Please type</i>
Level of education/Skills or qualifications gained in the UK
Emotional and behavioural development
Family and social relationships
Self-care skills
The child's views (including age & maturity)
Other vulnerabilities (e.g. disability; victim of torture or violence; victim of abuse, neglect or armed conflict)
Any other relevant information

The information I have requested may be disclosed to the UK Border Agency in order that the Agency can discharge its statutory duty to make arrangements to have regard to the need to safeguard and promote the welfare of children. However, it is of course important that **First Name** is informed of the exchange of information and that the completed proforma is copied to **him/her** and **his/her** legal representative.