



Home Office

# Processing children's asylum claims

Version 1.0

# Contents

Contents.....	2
About this guidance.....	6
Contacts .....	6
Clearance .....	6
Changes from last version of this guidance .....	6
Introduction .....	7
Purpose of instruction .....	7
Training for Home Office staff dealing with children .....	7
Policy intention .....	8
Definitions.....	8
Relevant legislation .....	10
The 1951 Refugee Convention.....	10
European Legislation .....	10
Asylum Seekers (Reception Conditions) Regulations 2005.....	10
Section 55 of the Borders, Citizenship and Immigration Act 2009 .....	10
Immigration Rules.....	11
Immigration Act 2016.....	12
Advice, support and welfare for children who claim asylum .....	14
Privately fostered children .....	14
Responsible adult .....	16
Refugee Council Panel of Advisers: Children’s Panel .....	16
Legal representation .....	17
Missing children .....	17
Modern slavery .....	18
Children Act 1989First encounter and welfare form .....	18
First encounter and welfare form.....	19
General principles.....	19
Immediate welfare concerns.....	19
CID .....	20
Notifying local authorities of the arrival of a child in their area .....	20
Unaccompanied children .....	21
Accompanied children .....	21
Safeguarding referrals to local authorities .....	23

Children accompanied to Croydon Asylum Intake Unit by a legal representative .	24
Welfare form .....	25
Actions to take after completing the welfare form .....	25
Local authority contactUASC case review events .....	27
UASC case review events.....	28
What is the purpose of a UASC case review? .....	28
Case actions .....	31
Visa application form (VAF) checks .....	31
Actions to take to prepare for a child’s substantive asylum interview .....	31
Non-completion of SEF.....	32
Considering whether to conduct a substantive asylum interview.....	32
Considering whether to interview children under 12 years old.....	33
Obtaining information from family members .....	33
Interviewing children.....	34
General principles of interviewing children .....	34
Timing and location of an interview.....	34
Conducting the substantive asylum interview .....	35
Welfare of the child during an interview .....	36
Where an interview is not possible .....	36
Where an interview is not conducted .....	36
When a child turns 18 before the substantive interview.....	36
Role of the legal representative and responsible adult during interviews .....	36
Re-documentation interviews .....	37
How to assess claims from children .....	38
Decision making principles .....	38
Age and maturity.....	38
Family circumstances of an asylum seeking child .....	39
Assessing credibility in children's claims.....	39
Child specific persecution .....	40
Asylum claim outcomes.....	45
Best interests consideration.....	45
How to work with local authorities.....	46
Refugee status .....	47
Humanitarian Protection .....	47
Article 8 family and private life .....	47
Discretionary Leave .....	47
Indefinite leave to remain.....	49

Leave under paragraph 352ZC-F of the Immigration Rules.....	49
Certification under section 94 .....	50
How to make detailed best interests of the child consideration (a Section 55 consideration) .....	51
Further potential case outcomes .....	53
Withdrawal of asylum claim.....	53
Article 1F Exclusion.....	53
Non-Compliance .....	53
Consideration of reception arrangements .....	55
Return to family.....	56
Consideration of reception arrangements.....	56
Reception upon arrival and onward travel arrangements .....	56
Consideration of best interests .....	57
Refusal and Curtailment of UASC Leave.....	57
Serving the decision .....	59
Implementing a decision to grant leave .....	59
Serving the adequacy of reception arrangements and the section 55 consideration .....	59
The decision letter .....	60
Appeals .....	61
The return discussion .....	62
Arranging the discussion .....	62
Conducting the discussion.....	63
Options for departure.....	64
Assisted voluntary return accepted:.....	64
AVR rejected or not suitable, but voluntary departure accepted:.....	65
Voluntary departure declined:.....	65
Welfare of the child.....	65
Contact management .....	66
Pre-departure arrangements .....	66
Ownership of the return decision .....	66
Missing children and absconders.....	66
Applications for further leave .....	68
How to consider best interests as part of a child's application for further leave....	68
How to deal with applications for further leave from children aged under 18.....	69
Further protection based claims.....	70
Applications for further leave from those over 18 years old.....	70

Cases excluded under Article 1F ..... 70  
What to do when a child fails to apply for an extension of leave..... 70

# About this guidance

This interim guidance is being published to coincide with the roll out of the UASC (unaccompanied asylum seeking child) National Transfer Scheme. The guidance tells you about how to process asylum claims from children and will be reviewed over the summer 2016. It primarily deals with claims from UASC, but also covers children making an asylum claim in their own right.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email asylum policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email Guidance – making changes.

## Clearance

Below is information on when this version of the guidance was cleared:

- version **v1.0**
- published for Home Office staff on **12 July 2016**

## Changes from last version of this guidance

Review of the entire document with changes throughout.

### Related content

[Contents](#)

### Related external links

# Introduction

## Purpose of instruction

This guidance sets out how Home Office staff and caseworkers should deal with UASC and other children making a claim for asylum in their own right.

An asylum claim can be made by or on behalf of a child in their own right whether accompanied or unaccompanied, and must only be processed by an appropriately trained caseworker.

If a child is not submitting a claim for asylum in their own right, or they are part of a family that has been refused asylum, see families and dependants and former dependants guidance.

This guidance must be read in conjunction with the following guidance:

- [section 55](#)
- assessing credibility and refugee status
- humanitarian protection
- discretionary leave
- curtailment
- families
- [assessing age](#)
- [working together to safeguard children](#)
- victims of modern slavery: a guide for frontline staff
- competent authority guidance
- child first responder guidance
- missing children
- UASC national transfer protocol

For information on asylum claims from EEA nationals, please refer to guidance on [EU/EEA asylum applications](#).

Child welfare issues are primarily covered in [Interviewing children](#), [Advice, support and welfare for asylum seeking children](#), [Modern slavery](#).

Case working of an asylum claim from a child is primarily covered in [Family tracing](#), [First encounter and safeguarding pro forma](#), [Collecting evidence from an asylum seeking child](#), [How to assess claims from children](#) and [Asylum claim outcomes](#).

Staff should also be aware that private fostering arrangements are covered in the [Children Act 1989](#)

## Training for Home Office staff dealing with children

The Home Office takes its responsibility towards children very seriously. All staff dealing with asylum claims from children must have completed the following training:

- foundation training programme (FTP)
- tier 1 Keeping Children Safe – e-learning
- tier 2 Keeping Children Safe – classroom based

- tier 3 Keeping Children Safe – classroom based and asylum specific

Staff must be aware that other agencies are involved in the welfare of the child and that they are not acting in isolation. Staff are expected to liaise with other agencies and organisations both from the public and private sectors to ensure that the welfare of the child is safeguarded at all stages of the immigration process.

## Policy intention

The policy objectives for processing asylum claims from children who submit an application in their own right are to ensure that:

- the welfare of the child is paramount at all times with the child being cared for by appropriate adults or agencies with safeguarding responsibilities being met
- the best interests of the child are a primary consideration at all times
- claims from unaccompanied children are prioritised and protection is granted swiftly to those who need it
- information about the asylum claim is collected in an appropriate way with decisions made promptly and communicated to the child in a way that acknowledges their age, maturity and particular vulnerabilities
- staff are constantly alert to the possibility and to any signs that the child is at risk of harm or abuse or may have been trafficked. If staff have any doubts whatsoever about the potential risk facing a child, they must refer immediately to a senior manager (minimum CIO or HEO)
- children who have been trafficked or who are at risk of modern slavery are identified as early as possible and provided with the necessary support

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## Definitions

The terms 'child' or 'children' refer to people who are under 18 years of age. Where the age of the claimant (and their status as a child) is in doubt, reference must be made to the detailed guidance provided in the asylum instruction on [assessing age](#).

An asylum seeking child will come under one of the following two categories whilst their claim is under consideration, although they may move between the two categories throughout the immigration process:

- accompanied asylum seeking child
- unaccompanied asylum seeking child



An unaccompanied asylum seeking child is defined by paragraph 352ZD of the Immigration Rules as one who is:

- under 18 years of age when the claim is submitted
- claiming in their own right
- separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so

Being unaccompanied is not necessarily a permanent status and may change, particularly if the child has family members in the UK.

An accompanied asylum seeking child is one who is being cared for either by parents or by someone who in law or custom has responsibility to do so.

### **Related content**

[Contents](#)

### **Related external links**

[Children Act 1989](#)

# Relevant legislation

## The 1951 Refugee Convention

The Refugee Convention is the primary source of the framework of international refugee protection. As a post-Second World War instrument, the Convention was originally limited in scope to persons fleeing events occurring before 1 January 1951 and within Europe. The 1967 Protocol removed these limitations to give the Convention universal coverage. It has since been supplemented in the European Union (the 'EU') and other regions by a subsidiary protection regime, as well as via the progressive development of international human rights law.

## European Legislation

### Asylum Seekers (Reception Conditions) Regulations 2005

To protect the best interests of the child, the Home Office has a duty under Regulation 6 of the [Asylum Seekers \(Reception Conditions\) Regulations 2005](#) (the 2005 Regulations) to endeavour to trace the families of unaccompanied asylum seeking children as soon as possible after a claim for asylum is made. The Home Office must also make sure that family tracing is only conducted if it is in accordance with the duty under section 55 of the 2009 Act, and if it does not jeopardise the safety of the child or their family.

Regulation 6 transposed into UK law Article 19(3) of the [Receptions Conditions Directive \(2003/9/EC\)](#).

### Dublin Regulation

Article 6(4) of [Regulation \(EU\) No 604/2013](#) ("Dublin Regulation"), which is directly effective in UK law, states that the Member State in which an unaccompanied child has lodged an application for asylum must, as soon as possible, take appropriate action to identify the family members in the territory of all Member States, whilst protecting the best interests of the child. The Dublin Regulation establishes the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person. Article 6(4) applies for the purpose of applying article 8 (as currently drafted), which states that in the case of unaccompanied children, the Member State responsible for considering the claim for asylum shall be that where a family member of the unaccompanied child is legally present, provided that it is in the best interests of that child.

### Section 55 of the Borders, Citizenship and Immigration Act 2009

The United Nations Convention on the Rights of the Child ([UNCRC](#)) is an international treaty which sets out the rights of children. The UK signed the convention on 19 April 1990 and it came into force on 15 January 1992. Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Secretary of State to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the UK. It came into force on 2 November

2009 and is how the UK gives effect to the UNCRC in immigration matters that affect children.

The main ways in which the Home Office gives effect to this are:

- staff must be alert to potential indicators of abuse or neglect, be alert to risks which abusers may pose to children, and be ready and able to share relevant information with other public bodies with a responsibility towards children in order to safeguard a child
- staff who have face to face contact with children must be able to conduct business in a child sensitive manner, and staff with roles involving regular contact with children, such as interviewing children, must receive appropriate training for their role

## Immigration Rules

The provisions relating to the consideration of asylum claims are set out in Part 11 of the [Immigration Rules](#). The rules that are particularly relevant to asylum seeking children are:

- [paragraph 349](#), which allows for a child (defined as a person who is under the age of 18 or, in the absence of any documentary evidence, appears to be under that age) to be included as the dependant of an asylum claimant or for a child to make an asylum claim in their own right and for that claim to be considered separately
- [paragraph 350](#), which requires that in the case of unaccompanied children, particular priority and care be given to the handling of their cases
- [paragraph 351](#), which sets out what is required from decision makers when considering whether a child qualifies for asylum
- [paragraph 352](#), which sets out the requirements for undertaking asylum interviews with children
- [paragraph 352ZA](#), which sets out the requirements for the provision of assistance to a child during the interview process
- [paragraph 352ZB](#), which requires that the decision on the asylum claim is taken by a person trained to deal with asylum claims from children
- [paragraphs 352ZC-ZF](#), which covers the leave to be granted to an unaccompanied child following the refusal of asylum and humanitarian protection in cases when return to the country of origin is not possible

For children, any decision about immigration status that follows non-recognition of a protection need based on the Refugee Convention must include consideration of the need to safeguard and promote the welfare of the child. A grant of humanitarian protection will nearly always take account of this by itself, as will the grant of UASC leave. If a child's situation is such that a longer period of leave is required than that ordinarily provided for in these categories then there is scope to grant discretionary leave for a longer period. However, the factors that require this should be exceptional and should be put forward by the claimant or a representative and supported by appropriate evidence. A decision to grant discretionary leave should be in line with the guidance on discretionary leave (see Discretionary Leave) and be taken following referral to a senior caseworker.

## Children Act 1989

Local Authorities in England and Wales have a duty under sections 17 and 20 of the [Children Act 1989](#) (section 22 & section 25 of the Children (Scotland) Act 1995 in Scotland and articles 18 and 21 of the Children (Northern Ireland) Order 1995) to provide support for children in need. [Similar duties are placed on local authorities in Scotland under sections 22 and 25 of the Children (Scotland) Act 1995, and the Health and Social Services Board in Northern Ireland under articles 18 and 21 of the Children (Northern Ireland) Order 1995.] (Reference to local authority in this guidance should be taken as references to the Health and Services Board in Northern Ireland.)

This will include unaccompanied asylum seeking children if they meet the relevant statutory criteria. 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 if:

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

The type of accommodation provided to the child will depend on the local authority's assessment of their needs. In general, a child aged under 16 is likely to be placed with a foster parent or in a children's home, whilst children aged over 16 may be placed in more independent living arrangements.

## Immigration Act 2016

Part 5 to the 2016 Act relates to the transfer of responsibility for unaccompanied asylum seeking children and other migrant children from one local authority to another. The legislation:

- makes it easier to transfer unaccompanied migrant and asylum seeking children from one local authority to another
- enables the Secretary of State to direct local authorities to provide information about the support and accommodation provided to children in their care. This provision will inform arrangements made for the transfer of unaccompanied migrant children from one local authority to another
- enables the Secretary of State to direct the provision of written reasons as to why a local authority refuses to comply with a request to accept responsibility for an unaccompanied migrant child from another local authority
- enables the Secretary of State to require local authorities to co-operate in the transfer of unaccompanied migrant children from one local authority to another

### Related content

[Contents](#)

**Related external links**

[Asylum Seekers \(Reception Conditions\) Regulations 2005](#)

[Receptions Conditions Directive \(2003/9/EC\)](#)

[Children Act 1989](#)

# Advice, support and welfare for children who claim asylum

This section provides guidance on the support, advice and welfare that is available to children who claim asylum.

At each stage of the asylum process, caseworkers and staff must keep in mind the following:

- Is the child I am dealing with entirely safe?
- Am I and others dealing with the child in an age sensitive, child friendly way that also reflects the child's maturity and vulnerability?
- Have I taken appropriate account of the child's best interests in making decisions that affect their future?

Caseworkers and staff must ensure that the child has access to the relevant support, welfare and advice on the asylum process.

The Home Office member of staff who first encounters an asylum seeking child is responsible for ensuring that the local authority administration lead and social care team is notified at the earliest opportunity of the child's presence and for requesting the attendance of the duty social worker to transfer the child into local authority care. Where the child is encountered by the police, they will notify the local authority administration lead and social care team and request the attendance of the duty social worker to transfer the child into local authority care. They will also notify Home Office Immigration Enforcement staff who will make arrangements as soon as possible after notification for the welfare interview and associated checks to be conducted.

## Privately fostered children

There are times when a child will be looked after by someone other than a relative or an official foster carer. These arrangements are sometimes known as private foster care arrangements.

The [Children Act 1989](#) defines private fostering as:

'A privately fostered child' means a child who is under the age of 16 and who is cared for, and provided with accommodation [in their own home] by, someone other than:

- a parent of his
- a person who is not a parent of his but who has parental responsibility for him
- a relative of his

'to foster a child privately' means to look after the child in circumstances in which he is a privately fostered child as defined by this section.

A child is not privately fostered child if the person caring for and accommodating him:

- has done so for a period a period of less than 28 days
- does not intend to do so for any longer period

Note: Similar provisions are found in Part X of the Children (Northern Ireland) Order 1995 and the Foster Children (Scotland) Act 1984.

There is a requirement for private fosterers to inform the local authority so they can confirm the suitability of the arrangements.

Home Office staff who come into contact with a child who is with an adult who is not a parent, a relative or someone who has parental responsibility for the child, must contact the relevant local authority administration lead and social care team so that appropriate checks can be made to confirm the suitability of this care for the child.

Home Office staff who come into contact with a child in a private fostering arrangement must refer the case to the local authority administration lead and social care team so the arrangements can be confirmed.

A child who is privately fostered is an accompanied asylum seeking child only if social services have confirmed that they are happy with the arrangement and have no welfare or safeguarding concerns about the child. Otherwise, the child must be treated as unaccompanied.

Staff must be alert to the fact that a child may move from being privately fostered to another category several times during the course of their asylum claim. Staff must ensure CID records and notes are fully updated whenever there is a change of circumstances.

If there are immediate and significant concerns, Home Office staff must refer the case immediately to the police.

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## Responsible adult

A responsible adult must be present when fingerprints are taken from a child under 16 years of age.

Suitable people to perform this role include (but are not limited to):

- a social worker
- a local authority key worker
- a relative
- a foster carer
- a Refugee Council representative or charity worker

In some cases, and only with the consent of the child, the child's legal representative may also act as the responsible adult. The legal representative must confirm that they are willing to take on this additional role and it must be documented in the case notes.

The role of the responsible adult includes, but is not limited to:

- providing independent support to the child
- looking after the well-being of the child so they feel able to participate in the asylum procedures in a way that meets their welfare needs and recognises their maturity
- raising any welfare issues that the caseworker needs to be aware of, before, during or after interviews so that the welfare needs of the child are actively considered throughout that process
- attending the substantive asylum interview and ensuring that the child feels comfortable during the interview process
- ensuring that the child understands the interview process
- providing moral support and reassurance as necessary to the child
- facilitating communication between the child and the interviewing officer where necessary
- ensuring that all welfare needs relating to the child are sufficiently provided for during the interview process, such as adequate breaks and refreshments
- offering any additional information to the interviewing officer which may have a bearing on the child's emotional wellbeing and fitness for interview (for example, bringing to the other'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)

## Refugee Council Panel of Advisers: Children's Panel

The role of the Panel of Advisers, often referred to as the Children's Panel, is to advise and assist unaccompanied children through the asylum system, and to support them in their interactions with the Home Office and other central and local government agencies (e.g. local authorities). The adviser will not offer legal advice.



All unaccompanied children must be referred to the Refugee Council Panel of Advisers within 24 hours of the first encounter. This should be done by the officer dealing with the child on first encounter, but all staff who interact with the child should check to ensure the referral has been made. Both the file and CID must record the time and date of the referral. If there is no record of a referral being made, caseworkers must refer the child to the Children's Panel immediately.

Age dispute cases must always be referred to the panel unless the claimant is considered to be significantly over 18 and is being treated as an adult in line with the [assessing age](#) policy.

Refugee Council Children's Panel of Advisers contact details:

Email: [Refugee Council](#)

Telephone: 020 7346 1134

Fax: 020 3070 0660

Primary address: 13 - 14 Katharine Street, Croydon CR0 1NX

For more information see: [Refugee Council: contact children's section](#).

Unaccompanied children in Scotland must also be referred to the Scottish Guardianship Service and Home Office staff must seek confirmation that the Service is aware of the child.

Contact details for the Scottish Guardianship Service:

Scottish Guardianship Service

C/O Scottish Refugee Council

First Floor, 5 Cadogan Square

Glasgow

G2 7PH

Email: Catriona Macsween

Telephone: 0141 555 1249

[Aberlour website](#)

## Legal representation

Children making an asylum claim in their own right are eligible for assistance in the form of legal aid and the Legal Aid Agency (LAA) will fund a legal representative's attendance at the substantive interview.

There is no requirement for legal representation at first encounter because the child should not be asked questions about issues that relate to the asylum claim. The immediate priority is the child's welfare.

## Missing children

If, at any stage there is reason to believe a child pursuing a claim for asylum has gone missing, staff must consult the missing children guidance.

Home Office staff dealing with asylum claims from children must ensure that the contact details given for a child are current and that the child is living where records indicate they are by calling the child's carer, social worker or foster carer. If staff

members have any concerns, they must contact the local safeguarding officer for further guidance.

## Modern slavery

If there is reason to suspect that a child seeking asylum may be a potential victim of modern slavery Home Office staff must refer to guidance contained in victims of modern slavery which includes details on how to refer potential child victims of modern slavery to the national referral mechanism.

- victims of modern slavery: A guide for frontline staff
- child first responder guidance

Please note that [reference to local authorities](#), provides detailed guidance on situations where caseworkers must make a referral to local authorities as part of their safeguarding duty.

## How to deal with an asylum claim from a child who may have been a victim of modern slavery

If a child arrives and claims asylum at port, then the requirements of the Border Force Operating Manual for dealing with arriving children seeking asylum must still be followed.

All staff should refer to the competent authority guidance and child first responder guidance

One of the factors to consider in the asylum claim is the risk of the child being re-trafficked and therefore the risk of future harm through exploitation and abuse. Once a case has been referred to the NRM, the competent authority guidance provides details on when the asylum decision can be taken. In some cases caseworkers may need to wait until the modern slavery decision has been taken under the national referral mechanism before taking the asylum decision.

Children who are identified as potential victims of modern slavery who then go on to seek international protection on that basis must be treated as asylum seekers in accordance with paragraph 327 of the Immigration Rules.

### Related content

[Contents](#)

### Related external links

[Children Act 1989](#)

# First encounter and welfare form

This section explains the actions to be taken by Home Office staff first encountering an asylum seeking child.

## General principles

This section replaces previous guidance referring to children's screening interviews. Children are no longer required to have the same screening interviews as adults, but must undergo a welfare interview and a series of checks.

In the judgment of [AN & FA](#) the Court of Appeal considered how the UK deals with unaccompanied children on arrival. It held that, in addition to recording biometrics, the Home Office should only ask questions on arrival to obtain information which is essential for:

- a meaningful booking-in process (including bio data)
- identifying welfare concerns
- identifying trafficking concerns

Key to the judgment is the amount of time unaccompanied children spend with the Home Office prior to referral to and the arrival of local authority children's services. The judgment made clear that there should be a definite reason why a child needs to be held in a holding facility, and that the local authority should be contacted as soon as Home Office staff become aware that they are dealing with an unaccompanied child.

Asylum seeking children can arrive or be encountered in the UK in a variety of ways – for example, at ports of entry, in immigration enforcement operations, as clandestine illegal entrants, or by attending the Asylum Intake Units in Kent and Croydon. Regardless of how or where a child claims asylum the principles contained in the [introduction](#) section of this document must be at the heart of how Home Office staff deal with children.

Staff must always remember that a child may have travelled extensively before arriving in the UK. They must be offered regular refreshments and comfort breaks during the welfare interview.

Staff must explain to the child what is happening at all stages of the process and what the next steps in the process will be, including the Statement of Evidence Form (SEF), the case management review and substantive interview. This must be done in a way that takes account of the child's age, maturity and vulnerability.

## Immediate welfare concerns

In all cases, the immediate welfare of the child must be considered. Any modern slavery or urgent welfare concerns must be dealt with as a matter of priority involving senior managers and other agencies, such as local authority children's services or the police. If immediate safeguarding concerns are identified, the local safeguarding

officer must be advised and the UKVI safeguarding children guidance followed. If the local safeguarding officer is unavailable, a senior manager (no lower than HMI or SEO) must be contacted. If further advice is needed, staff must consult the safeguarding children network.

For further information on what to do if there are concerns that the child might have been a victim of trafficking or modern slavery, please refer to victims of modern slavery: a guide for frontline staff.

## CID

In all cases, the child's details must be entered onto CID as soon as possible and a special condition flag must be activated. If the child is later assessed as an adult or joined to a family claim, the special condition flag must be closed.

If a child's status changes from accompanied to unaccompanied, and vice versa, CID must be updated.

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

## Notifying local authorities of the arrival of a child in their area

Home Office staff must always notify the relevant [local authority contact](#) of the arrival of an asylum seeking child in their area at the earliest possible point so that the local authority can consider the best course of action for that specific case.

The specific course of action to take in notifying the local authority will depend on the child's individual circumstances. However, where staff have welfare or safeguarding concerns about a child, they must immediately refer the child to the local authority children's service, regardless of the amount of detail available at that stage. Staff must not let uncertainty about the type of case they are dealing with delay referral to the local authority children's services. The earlier a local authority is made aware of the presence of children who will need their assistance, the earlier arrangements for the collection, accommodation and care of those children can begin. As more information is obtained, local authority children's services must be kept updated. Communication with local authorities must be open and updates must be provided as soon as relevant information becomes available.

Where the child is encountered by the police, they will notify the local authority administration lead and social care team and request the attendance of the duty social worker to transfer the child into local authority care. They will also notify Home Office Immigration Enforcement staff who will make arrangements as soon as possible after notification for the welfare interview and associated checks to be conducted.

Accurate records must be kept on both CID and the case file of what information is relayed, who is spoken to and when. Children's services in different parts of the UK

will have different processes which they would like us to adhere to for full referrals. Wherever possible, and certainly if referrals are frequent, agreement should be sought locally with them so that a means of achieving quick referrals with the relevant information and timely collection of the child can take place. Home Office staff must also be mindful of the new UASC transfer scheme (see the national transfer protocol – insert link) and can contact the central team (insert details) for further information and advice.

In emergencies, the police must be contacted immediately as well. Where a safeguarding referral to the police is made, staff must also immediately notify the Home Office safeguarding unit care referrals inbox. For further information, see the safeguarding referral guidance.

If staff are unhappy with or have not received a local authority response, they must escalate this to their line manager and to the local authority manager. If needed, Home Office staff can seek advice from the Office of the Children's Champion.

## Unaccompanied children

All unaccompanied children must be referred to local authority children's services at the earliest possible opportunity, even if only the most basic details are known. Home Office staff must provide the local authority with the information they have and request that a duty social worker attend. As more information becomes available, a more detailed referral will be possible.

When children's services arrive, they must be given the opportunity to speak to the child and explain who they are and what their role is.

## Accompanied children

If a child is accompanied by or is intending to meet an adult already in the UK and would like to remain with them, Home Office staff should first verify the identity of the adult. Where the child claims to be related to the adult, Home Office staff must establish whether the relationship is as claimed by asking for documentary proof.

The adult must be asked to show a passport, a photocard driving licence or (if appropriate) Home Office documentation. Documentation presented must be carefully examined and verified.

If Home Office staff members are satisfied with both the identity of the adult and their relationship with the child, local authority children's services must be advised of:

- the arrival of the child
- the child's address
- the relationship with the sponsor

The details must be recorded on CID and the case file.

If no documentary evidence is available, Home Office staff must refer the child to local authority children's services to take appropriate action.

If a child has been referred to a local authority because of concerns about the accompanying adult or sponsor, Home Office staff must confirm what action is being taken by the local authority and agree a timeframe for the local authority to complete or review their checks. All details regarding the nature of the concerns, discussions with other agencies and details of decisions were reached must be recorded on CID and the file and updated whenever necessary.

Home Office staff must request written confirmation by letter, fax or email from the local authority that they are satisfied with the child's living arrangements. If this is not received, Home Office staff must immediately request an update from the local authority and ensure that appropriate action is being taken.

If, following a referral, the local authority is satisfied that the child should still be looked after by the guardian or sponsor, Home Office staff must seek advice from a senior manager (minimum SEO or HMI) before following the advice of the local authority.

If Home Office staff are not in agreement with the local authority, the case must be referred again to a senior manager (minimum Grade 7) and the local child safeguarding lead. Home Office staff must keep a record of the action agreed.

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### **Safeguarding referrals to local authorities**

At every stage of the asylum process Home Office staff must refer a child to the local authority children's services if:

- there are concerns about possible abuse, for example:
  - neglect
  - physical abuse
  - emotional abuse
  - sexual abuse
- there are concerns about the support a child may be receiving
- the child is the subject of a private fostering arrangement
- there are concerns that a family member or carer is not meeting a child's developmental needs
- there are concerns that the child may be a victim of modern slavery
- there are concerns about female genital mutilation (FGM)

Home Office staff must:

- collect as much information about the accompanying adult or sponsor (if there is one), including their full name, address, immigration status, relationship to the child and any other relevant information
- ensure the appropriate checks are conducted on the adult or sponsor should there be a change of circumstances or transfer of responsibility for the care of the child
- flag concerns to a senior case worker
- note all information, including the steps that have been taken and any recommendations in the file notes
- inform the parents or the carers that a safeguarding referral is being made to local authority children's services where appropriate - Home Office staff must consult a senior caseworker if they are in doubt

When making a referral, Home Office staff must:

- fax the details and any available photograph to the relevant local authority and call the local authority to verify that they have received the information
- update the electronic social services referral log
- notify the local Intelligence Unit as soon as possible if there is any indication that the child has been trafficked
- clearly minute all actions on the file as well as record the details in the person notes section on CID

If, following a referral, the local authority is satisfied that the child should still be looked after by the guardian or sponsor, Home Office staff must seek advice from a senior caseworker 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 a senior manager (minimum Grade 7) and the local child safeguarding lead. Home Office staff must keep a record of the action agreed.

## **Children accompanied to Croydon Asylum Intake Unit by a legal representative**

Legal representatives attending Croydon Asylum Intake Unit (AIU) with children must carry identification from their firm to show on request confirming that they are employed by a named firm and are the child's representative. Failure to show such evidence must be referred to a senior manager (minimum SEO or HMI).

The Home Office will always provide a qualified and professional interpreter for each stage of the asylum process if the claimant is unable to speak English. However, legal representatives may also bring their own interpreters.

Croydon AIU staff will try to accommodate requests for interpreters to be in attendance but will also consider whether it is in the child's best interests to allow an additional interpreter into the welfare interview. Factors that will be taken into account will include the number of people wishing to attend the interview and the impact on the child. If a decision is taken to exclude an interpreter from the welfare interview, Croydon AIU staff must notify a senior manager (minimum SEO or HMI) and the decision must be fully explained to the legal representative.

The role of the representative's interpreter is to act as an observer and they must only make comments at the end of the interview unless they relate to a serious discrepancy in translation or because the child has not understood something.

It is the responsibility of the legal representatives to ensure that their interpreters have the relevant clearance from the Disclosure and Barring Service (DBS) and are legally entitled to work in the UK. Croydon AIU staff can ask legal representatives to provide evidence of being engaged by that legal firm. If, however, Croydon AIU staff still have concerns about the interpreter, they must contact the legal representatives' office for further information.

Croydon AIU staff must ensure that the child is not left alone with an interpreter at any point. They must also ensure that all interpreters are aware that they cannot retain any notes they make during the welfare interview, and all notes must be confiscated at the end of the welfare interview.

If representatives of NGOs attend with children, they must show evidence that they are an employee of that organisation.



## Welfare form

Once any immediate welfare concerns have been addressed, the welfare form must be completed. It is not necessary to have a responsible adult there when it is completed, but if one is present they may attend.

The purpose of the welfare form is to obtain information that is necessary for a meaningful booking-in process, including bio data and information relating to the child's needs and welfare concerns.

It cannot be used to examine the basis of the claim for asylum. Paragraph 352 of the [Immigration Rules](#) states that a parent, guardian, representative or another adult independent of the Secretary of State with responsibility for the child must be present when an unaccompanied child is interviewed about the substance of their claim. Therefore a child must not be asked to explain or elaborate on why they are afraid to return to their home country when completing the welfare form. Home Office staff must take particular care to ensure that questioning does not go beyond inviting a response to the questions on the form. The child must be informed 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 on initial encounter or while the welfare form is being completed. Asylum caseworkers must never rely on information obtained from an interview where no responsible adult or legal representative is present unless this information has also been explored and raised with the claimant during the substantive asylum interview in the presence of a responsible adult or legal representative. The child must be given an opportunity to explain any related issues or inconsistencies.

If the child provides any information that raises concern, for example about trafficking or exploitation issues, reference must be made to a senior manager (minimum SEO or HMI). If the information relates to criminal activity, the officer must contact the police as a matter of urgency.

A copy of the form must be given to the social worker and the original form placed on the child file.

Home Office staff completing the welfare form must ensure that the child is referred to the [Refugee Council Panel of Advisers: Children's Panel](#). If it has not been done, or if it is not apparent that it has been done, a referral must be made immediately.

## Actions to take after completing the welfare form

### Age dispute

Where the age of the claimant and therefore their status as a child is in doubt, reference must be made to the detailed [assessing age](#) guidance.

## Fingerprinting an asylum seeking child

Staff must refer to fingerprinting guidance for further details.

All children aged 5 or over must have their fingerprints taken. Children under the age of 5 need not be fingerprinted; however their photographs must always be taken.

It is a legal requirement that a parent, guardian or a responsible adult is present when the fingerprints of a person under 16 years of age are taken. The responsible adult must be entirely independent of the Home Office. The social worker can act as the responsible adult while the child's fingerprints are captured.

## Third Country Unit referral

The fingerprints of all children aged 14 and older who have lodged an asylum claim in the UK must be transmitted to the Eurodac database as soon as possible and no later than 72 hours after the lodging of the application. If there is a Eurodac match, a referral must be made to Third Country Unit (TCU) who will consider next steps.

Where the child indicates they have family or relatives present in another EU Member State or States (including Iceland, Norway, Switzerland or Liechtenstein), a referral must also be made to TCU as the child may be reunited with family members in a different EU Member State where the family or relatives are present under the provisions of the Dublin III Regulation.

## Referral to the National Asylum Allocation Unit

Once the welfare form has been completed, the details of the child must be referred to the National Asylum Allocation Unit who will allocate the case to a case working team. The most appropriate case working team will depend on whether the child remains within the local authority area or is transferred to the care of another local authority under the UASC National Transfer Scheme. They will, at the appropriate time, allocate the case to an appropriate team. The details of the case working team that will process the asylum claim will be included on the Statement of Evidence Form (SEF).

## Documents to be given to the child

All children must be issued with the following documents:

- a copy of the welfare form
- an IS96 which grants temporary admission to the United Kingdom
- a SEF noted with a return date of 28 days from the date of the completion of the welfare form
- an application registration card (ARC). If the child is under 5, the ARC must include the reference 'CUF' (child under 5)
- a standard acknowledgement letter (SAL) if the location is not equipped with ARC issuing equipment

The social worker and legal representative (if one is present), must be provided with a copy of the welfare form.

**Related content**

[Contents](#)

**Related external links**

[AN & FA](#)

[Local authority contact](#)

# UASC case review events

This section explains the purpose of UASC case review event.

## What is the purpose of a UASC case review?

The purpose of the case review event is to:

- explain the asylum process
- explain the family tracing process
- ensure the child has legal representation
- check on progress in completing the SEF
- explain the current circumstance form, parts 1 and 2, to the social worker and arrange for part 1 to be sent to the social worker with a return date agreed at least one week prior to a substantive interview
- issue any further relevant paperwork

Ten working days after a case is allocated to a caseworking team, a member of the team must contact the child's social worker to arrange a case review meeting. The case review meeting can take place via a telephone or video conference or in person. The caseworker will advise the social worker of when and where the case review is to take place (case review letter ICD.3391).

The caseworker arranging the case review meeting must confirm whether the child has legal representation and that the child has had the opportunity to meet with the legal representative to begin completion of the SEF. The details of the legal representative must be taken and be recorded on CID and the case file. Staff must also check that the child has been referred to the [Refugee Council Panel of Advisers: Children's Panel](#) and to do it urgently if necessary.

The legal representative and a representative from the Children's Panel should also be invited to the case review meeting, but they are not required to attend.

If there is no legal representative, the social worker must be advised that the child is entitled to free legal advice and recommend that the social worker discuss this with the child urgently. Legal firms offering immigration and asylum advice are regulated by the Office of the Immigration Services Commissioner. Details of location and whether they charge can be found using the Advisor finder function on the [OISC website](#).

At the case review, the caseworker must:

- ask whether there language or dialect the child would like to be interviewed in and whether there is a preference for a male or female interviewing officer
- explain what will happen during the asylum interview and answer any questions the social worker (and anyone else attending) may have. The social worker must be made aware that he or she can contact the Home Office if necessary if there are any questions or concerns prior to the interview
- check whether the child is ready to be interviewed

- check the correct return address is on the SEF in light of any transfer under the UASC transfer protocol
- explain the family tracing process
- ensure the social worker has received the current circumstances form part 1 and will complete it by the agreed date
- allow the social worker (and anyone else attending the meeting) the opportunity to ask questions about the asylum process

If it is deemed appropriate, the child can attend the case review meeting. If so, it should be a face to face meeting and should be conducted by the child's allocated caseworker or a Home Office member of staff who has received the requisite children's training.

A suitable location for the case review should be decided by the caseworker in consultation with the social worker, accompanying adult, sponsor or legal representative (or a combination of those people depending on the circumstances). This will normally be in a Home Office location, but in particularly complex or sensitive cases, consideration should be given to an alternative location agreed in consultation with a social worker or legal representative. Such arrangements must not be made without reference to a senior caseworker. Caseworkers must also consider whether it is necessary for an interpreter to attend the case review and if so arrange for one to attend. The caseworker must also check and consider whether the child has any particular needs and how these might be addressed.

Details of the meeting must be recorded on CID.

After the meeting, the child must be issued with an invitation to interview and covering letter via the child's legal representative.

All documentation issued at any point in the asylum process must be copied to the legal representative and social worker.

## Family tracing

If the child is not in contact with their family and as long as it would not be contrary to the safety of the child, the child's family or the child's well-being in some way (see Section 55 of the Borders, Citizenship and Immigration Act 2009), the child must be informed that the Home Office may take appropriate steps to endeavour to trace their family members.

Depending on the age and level of understanding, the social worker must be advised that the child should also be informed of the family tracing services available through the British Red Cross. Contact details can be obtained from [the British Red Cross](#). The British Red Cross is an independent humanitarian organisation and does not undertake family tracing on the request of a third party, including the Home Office.

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.

Requests for assistance must come directly from the child and of their own volition. Case workers must not insist on applicants contacting them. The British Red Cross considers the findings of its family tracing enquiries to be confidential and will only disclose the findings to the child.

If, during the case review, the social worker or child's representative (or the child if they attend the case review meeting) says that the child has expressed an interest in tracing their family independently from the Home Office, caseworkers must request that the child keeps the Home Office updated on the outcome of the enquiries, but pressure must not be placed on the child to do so.

### **Related content**

[Contents](#)

### **Related external links**

[British Red Cross](#)

[Refugee Council Panel of Advisers: Children's Panel](#)

# Case actions

This section provides information about the actions to be taken after the case review has been conducted.

## Visa application form (VAF) checks

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

CRS is used to store information about visa applications including:

- 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

CRS matches may therefore contain information which may assist in tracing the child's family in the country the family reside; help to determine whether or not the child came to the UK with a parent or accompanying adult; or, assist decision maker in determining whether any of the child's family 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.

Caseworkers must be alert to the possibility that in trafficking cases, the trafficker who facilitated a child's journey to the UK may have applied for a visa on behalf of the child and falsely presented themselves as the child's parents within the application.

## Actions to take to prepare for a child's substantive asylum interview

Before an interview, caseworkers must:

- check whether the child has been able to secure legal representation and consider suspending the interview to allow time for this to be arranged - in cases where the child does not want a legal representative to be present, discuss with the responsible adult or relevant social worker and agree the correct course of action
- ensure the SEF has been completed and returned - if not, contact the legal representative urgently to arrange for its return
- ensure that the child has been asked if they prefer a gender specific interviewing officer and interpreter is and that this has been accommodated
- use the Statement of Evidence Form (SEF) and current circumstances form to thoroughly prepare for the interview, consulting any subjective or objective evidence considered appropriate, consider the level of detail and the language used in the witness statement to understand the education, maturity

and general background of the child, thus indicating what is reasonable to ask at interview

## Non-completion of SEF

When a SEF has not been returned, the interview should not go ahead. Non-completion of the SEF is not on its own sufficient to treat the claim as withdrawn, but the case worker must write to the legal representative in advance of the interview to establish why the SEF has not been completed and ask for confirmation as to when the form will be returned. If the SEF remains unreturned, the case worker must discuss the child's access to legal representation with the social worker to ensure that the legal representatives are acting in the best interests of the child and that the child will have the opportunity to explain the basis of their application.

Where the SEF does not contain sufficient information the case worker must write to the child via their representative, copied to the social worker and ask them to provide further information within 10 working days

## Considering whether to conduct a substantive asylum interview

Before making a decision to conduct a substantive asylum interview with a child, caseworkers must review all the available information to establish whether it is in the child's best interests to be interviewed.

The physical and mental health considerations of the child must be taken into account when considering whether going ahead with an interview is in the child's best interests.

In most cases, it will be appropriate for an interview to take place for children over 12 as it is an opportunity for the child's voice to be heard directly. However, there may be instances where an interview is not necessary or may not be in the child's best interests. For example, if the child has been through a particularly traumatic experience and adequate documentary information has already been provided it may not be in the child's best interests to be expected to recount the experience. Any issues which have already been highlighted by either the legal representative or the social worker must be fully considered; if there are such issues, the caseworker must explain why the interview is appropriate. If the child is unfit or unable to be interviewed, the caseworker must refer to a senior manager to agree the best course of action.

In all cases, contact must be made with social workers and legal representatives to advise them of the position and if necessary to obtain further information prior to making the decision whether to interview. Where a decision is made not to interview, the case must be referred to a senior manager (minimum SEO or HMI)

Regardless of the age of the child, substantive asylum interviews must be conducted in accordance with the [asylum Interview policy](#). There are however, some additional considerations to take into account when interviewing children which are set out below.



## Considering whether to interview children under 12 years old

Caseworkers must always be open to interviewing a child under 12, especially if the child is mature and those caring for the child advise that the child is keen to be interviewed. A proposal to interview must not be made directly by a caseworker to a child under 12 but through the social worker and legal representative. This ensures that appropriate safeguards are in place such as the presence of a responsible adult. The case along with full reasons for recommending an interview and consideration of safeguarding and best interests must be referred to a senior manager (minimum SEO/HMI).

## Obtaining information from family members

Consideration must also be given to interviewing relatives of children and also any other persons who have had sustained contact with the child, for example social workers and 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 be possible for the relatives to corroborate parts of the child's claim when they are interviewed. The child must be made aware of any additional interviews and the legal representative must be permitted to comment. When it is necessary to contact third parties, legal representatives and social workers must be advised.

Caseworkers must ensure that all available evidence in asylum claims is fully considered, including evidence provided by other family members. Where other family members are also claiming asylum, it will normally be appropriate to link relevant files and consider claims from family members together, even where separate claims have been lodged. This ensures all relevant factors have been considered, including an evaluation of protection needs in the family context as well as consistency in decision making.

Care must be taken where a family member has expressly stated that they do not want information they have provided being shared with other family members.

For further information on how to deal with evidence from other family members, see the dependants and former dependants' guidance.

### Related content

[Contents](#)

# Interviewing children

This section contains practical information for staff conducting interviews with children making asylum claims.

## General principles of interviewing children

The information in this section is relevant to every child and any interview of a child.

At all stages of the process, but with particular emphasis when obtaining and then assessing evidence from a child, Home Office staff must take account of the need to safeguard and promote the welfare of the child as expressed in the section 55 duty. In collecting information from children the following general principles must always be taken into account:

- children do not often provide as much detail as adults in recalling experiences and may often express their fears differently from adults
- evidence provided by a child must be considered in the light of their age, degree of mental development and maturity currently and at all material times in the past
- evidence provided by a child must be considered in light of any available knowledge of their personal, family, cultural and educational background
- caseworkers must proactively identify, pursue and consider objective factors and information that may be relevant to the child's asylum claim, for example by making reasonable requests to obtain further information from the child or their representatives and from other agencies involved with the child
- caseworkers must take account of any evidence provided, including from other family members, other accompanying adults or social workers
- caseworkers must consult a senior caseworker or technical specialist who has received Tier 3 children's training and the relevant policy unit where appropriate
- caseworkers must consider any relevant objective country information
- caseworkers must take account of factors which may affect consideration of the child's credibility - see the [Paragraph 351 of the Immigration Rules](#) and [assessing credibility and refugee status](#).

## Timing and location of an interview

If possible, all interviews with children must be scheduled for a time and location that is suitable for the child. If this is not possible, though, there must be discussions between the caseworker, social worker and legal representative about the best way to obtain the relevant information from the child.

Caseworkers may decide in consultation with the social worker, accompanying adult or other responsible adult, and the legal representative, a suitable non-Home Office location for the substantive interview, for example, a local authority facility with which the child is familiar and comfortable.

## Conducting the substantive asylum interview

Substantive asylum interviews must be conducted in accordance with the [asylum interview policy](#). The interviewer must have received training in interviewing children.

All inconsistencies in the child's subjective evidence or between the subjective and objective evidence must be put sensitively to the child during the interview to allow them an opportunity to explain further.

The child may have difficulties articulating their fear in an interview, therefore, caseworkers must be prepared to look at other sources of information in order to investigate the child's claim. This may include evidence from teachers or social workers who may be able to provide pertinent information specific to the child. Reference to objective country information is also relevant.

At the beginning of the substantive asylum interview caseworkers must confirm:

- the identity of the child, checking against the IFB photographic records attached to the file, and the ARC card
- that a responsible adult is available - a responsible adult must be present for the interview to go ahead
- 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

Caseworkers must:

- introduce each individual in the room - including themselves - to ensure the child is clear on who is present and their role at the interview
- explain the asylum process to the child, including that they can:
  - speak to their legal representative and 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 responsible adult may ask questions and make comments in the interview
- always interview in a sensitive manner using appropriate tone, body language and eye contact with the child during the interview and use vocabulary that is appropriate to the child's age, level of understanding and to their personal situation
- always address the child when asking them a direct question – not the interpreter
- take time to establish a rapport with the child, for example by means of a short informal conversation with the child on a topic unrelated to their claim, before starting the substantive interview as this helps the child to:
  - relax
  - increase the chances that the child will be open
  - assist with disclosure of relevant information to the interviewing officer

- are aware of the cultural sensitivity issues and acknowledge the fact that the child is giving information in an alien environment and may fear or distrust someone in authority

## **Welfare of the child during an interview**

It is important to check that the child is not hungry, thirsty or in any other physical discomfort or distress during the course of the interview. Caseworkers should offer regular breaks and recognise that a child may feel inhibited from asking for a break. It is also important to check at intervals throughout the interview that the child feels comfortable and where necessary consult with the responsible adult.

If the child appears upset, caseworkers must act quickly by stopping the interview and assessing the situation. It may be sufficient for the child to have a break before continuing. However, if the child is unable to continue the interview, arrangements must be made to reschedule it for another date. In these circumstances consultation with the social worker and responsible adult (if different) will usually be appropriate.

## **Where an interview is not possible**

In exceptional circumstances where it is not possible to interview a child, caseworkers must consider visiting the child in the legal representative's presence to gather the necessary information or contact individuals who have had sustained contact with the child and may be able to elaborate on elements of the child's claim, for example carers and social services.

## **Where an interview is not conducted**

If an interview at an alternative location is not possible, case workers must consider making a decision on the information already available. This must only be done in the most exceptional circumstance and after detailed reference to a senior caseworker. The case worker must also:

- write to the legal representative, social worker and guardian or foster carer to explain the situation and to assess whether there is any other way of getting the information needed to make an asylum decision
- consult country information for relevant information

## **When a child turns 18 before the substantive interview**

If the child's 18th birthday passes before a substantive asylum interview has been conducted, they are legally an adult, however, staff must, wherever possible, follow best practice for children's cases. The child should be interviewed by a caseworker who has completed minors training and be given an opportunity to discuss the SEF as it may refer to issues that are child specific. The decision maker should also be trained in handling children's cases.

## **Role of the legal representative and responsible adult during interviews**

A responsible adult must attend the substantive interview with the child. However, it is not the function of the responsible adult to answer questions on behalf of the child,

but they may intervene if they consider that the child is becoming distressed or tired and a break is required. If necessary, a short break allowing the adult and the child to speak privately must be offered, this may be offered prior to the interview. The break must not add unduly to the overall length of the interview.

At the conclusion of this interview, the interviewing officer will ask the child to confirm that they have 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 their role and it is in the best interests of the child, they must consider suspending the interview. The incident must be discussed with a senior officer (minimum SEO/HMI) and if the interview has to be suspended, the reasons for it must be clearly recorded. The interview must be re-scheduled as early as possible.

The child must be asked prior to the interview to confirm whether they are 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 in this instruction.

Case workers must advise the legal representative and the responsible adult that wherever possible, comments should be left until the end of the interview. This is because constantly interrupting the flow of the interview would not be productive either for the child or the interviewing officer. However, there may be exceptional circumstances when it is appropriate for them to speak up at the time. These will vary, but may include although not be limited to, circumstances where:

- the age or maturity of the child suggests they are not able to properly understand the question and assistance may be necessary
- the age or maturity of the child suggests they are not able to properly contextualise what is being asked
- the child is clearly becoming upset by the subject matter and support is appropriate

## Re-documentation interviews

If re-documentation of the child is appropriate, then the substantive interview should go on to consider this and include steps for an emergency travel document as part of the substantive interview. Information on the appropriate documentation can be found on the CPIT webpage

### Related content

[Contents](#)

# How to assess claims from children

This section provides guidance on how to assess an asylum claim from a child.

## Decision making principles

This section must be read in conjunction with the relevant section of [assessing credibility and refugee status](#). In addition, the following must be taken into account:

- claims must be considered within the framework set out at paragraphs 349 to 352 of the Immigration Rules and any other policy 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
- where a child meets the requirements for refugee status, humanitarian protection, Article 8 family or private life or discretionary leave, this must be granted
- 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
- the credibility of the claim taking into account any additional relevant child specific factors
- through no fault of their own children may not be able to provide as much detail or evidence about a claim as an adult in similar circumstances
- where relevant, be proactive in pursuit and consideration of objective factors and information relating to the child's claim
- Country of Origin Information (COI) must be obtained and referred to including child specific sections of this where available
- where there are clear discrepancies in an account given by a child, consider the ability of a child to be able to clarify these discrepancies and how far these should be pursued
- complex cases must be discussed with an appropriately qualified senior caseworker or Technical Specialist
- full consideration of the child's asylum claim must take place before consideration of any other forms of leave

## Age and maturity

More weight may need to be given to objective indications of risk than to the child's state of mind or the oral or written evidence they are able to provide. 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 specifically prepared child psychological and/or physical health and development reports or information from welfare and health support professionals to whom the child may have disclosed relevant evidence, (such as trauma, mistreatment or

violence) which they may not have felt able to disclose to others must also be considered as part of the overall consideration process.

In young or less mature children a different level of knowledge and information is to be expected and the benefit of the doubt must be applied more liberally if this is applicable. An asylum claim 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. A child may not be aware that they have been persecuted. This may be especially relevant if they have been shielded by their parents from the exact nature of the persecution.

## Family circumstances of an asylum seeking child

The circumstances of family members may be central to a child's asylum claim. 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. If the child has family in the UK, the caseworker must contact the social worker to establish if it is in the best interests of the child for contact with the family members to take place as this will depend on the circumstances of the family and of the relationship the child has with them. Caseworkers must be aware that there may be cases such as forced marriage or FGM where the family are involved in the persecutory behaviour.

## Assessing credibility in children's claims

It is not appropriate to draw an adverse credibility inference from omissions in the child's knowledge or account if it is likely that their age or maturity is a factor or if their own ability to construct an account or other similar reasons lead to those omissions.

In certain circumstances, 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. For further information, see [assessing credibility and refugee status](#).

Caseworkers must take account of what it is reasonable to expect a child to know in their given set of circumstances and in doing so taking account of their age, maturity, education and other relevant factors.

Caseworkers must demonstrate as part of the decision making process consideration of any mitigating circumstances taken into account during the assessment of 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, caseworkers must discuss the case with a senior caseworker.

## Child specific persecution

In determining any claim for asylum, caseworkers must consider whether the claimant meets the definition of a refugee as set out within the Refugee Convention. Although special care is required when assessing a child's claim for asylum, it must be considered in accordance with the guidance [assessing credibility and refugee status](#). It is possible that children may not be able to understand that their claim meets the definition of a convention reason for the purposes of the Refugee Convention in the same way that an adult could. Therefore, when considering whether the child qualifies for refugee status, caseworkers must take the following into account:

Forms of, or reasons for, persecution may be directly influenced by the age of the child. The range of potential claims with an age dimension is varied, but can include:

- forcible or underage recruitment into military service
- family or domestic violence
- infanticide
- forced or underage marriages
- discrimination against street children
- female genital mutilation (FGM)
- forced labour
- forced prostitution
- child pornography
- trafficking
- children born outside of strict family planning laws and policies

This is not exhaustive and a child may also 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.

## Addressing the child's awareness of fear

A child may have little or no concept of fear as parents or family members may not share their experiences or fears with their children. The child may have been sent to safety before having experienced any ill-treatment or without their understanding as to why they were being sent away. Children may also be too young to comprehend what constitutes a risk, and what does not. Awareness of 'fear' and the reasons for it will depend on the child's individual level of maturity and understanding.



## Objective evidence from asylum seeking children

A child may be less able to produce objective evidence to corroborate their claim, and may in fact have very limited life experience. Caseworkers must also be aware that a child may find it difficult to describe details beyond 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 to refer to up-to-date relevant country of origin information.

## Harmful traditional practices

In some countries harmful traditional practices exist such as female genital mutilation (FGM), forced or under-age marriages (under-age marriages). These may be carried out at the request of, or even arranged by family members. The fact that such harm is based on widespread social customs or conventions does not mean that it is not persecution. In such cases the efforts of the state and its willingness and ability to protect a child against these harmful practices, as well as the actions taken towards its eradication, must form part of the consideration of future risk. Even though a particular State may have introduced measures prohibiting such practices, it may nevertheless continue to condone, tolerate or ignore the practice and may be unable or unwilling to stop it effectively. In such cases the practice might still amount to persecution on the basis of no sufficiency of protection and there might still be a link to one of the 5 Refugee Convention grounds.

## 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 Labour 1999 \(Article 3\)](#) and [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 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 forms part of the claim, consideration must 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.

Caseworkers must consider the likely treatment of former child soldiers on return to their country of origin as a relevant factor in the assessment of future risk. 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. Caseworkers must refer to the relevant country policy information for specific information. The state of mind of former child soldiers needs careful consideration. Characteristics of this vulnerable group of children may include distrust of adults, guilt and fear of reprisal.

Staff may also need to refer to exclusion guidance.

## Religion

In some states, a person's religion requires them to behave in a certain way and this can apply to a child. If a child does not behave as expected, for example a female refusing to wear a particular type of religious garment or refusing to obey prescriptive gender roles, they 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 claims, 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. Caseworkers must also bear in mind that children may not be aware of why their particular religion faces persecution even if they have been subject to the consequences. For further guidance see the religion section in the assessing credibility and refugee status instruction.

## 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, clan, community or family. It may also be because 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 opinions are.

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

## Membership of a particular social group

Age groupings such as children, young men or young girls may constitute a particular social group, but this will depend on the specific country context. This can include, but is not limited to the treatment of the group, how they are perceived within that society and the laws of the relevant country. Caseworkers must bear in mind that at any given point, a child's age may be considered an immutable characteristic - notwithstanding the fact that the child will ultimately grow out of their present age group.

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. Caseworkers must also be aware that other particular social groups may be identifiable, such as street children, HIV/AIDS-affected children, children in the armed forces or lesbian, gay, bi-sexual and

transgender children. For further guidance see 'Membership of a particular social group' in the [assessing credibility](#) and refugee status instruction and the relevant country specific policy guidance.

## Actors of persecution and access to protection

The need for international protection only arises where a state is either unable or unwilling to provide protection. 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 may be condoned or tolerated by the state, for example, FGM 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, provide 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, consideration must be given to 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. Therefore, although a child may have the knowledge of how to contact state agencies, they may be incapable of seeking their assistance. For further guidance see 'Actors of persecution' in the [assessing credibility and refugee status](#).

## Internal relocation

Whether internal relocation is reasonable in the case of a child 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 see [assessing credibility and refugee status](#).

## Child abuse

Where a claim from a child includes allegations of abuse, this must be handled sensitively. Where the alleged abuse is central to the claim for asylum or humanitarian protection, caseworkers must 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 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. Caseworkers must 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. Caseworkers must discuss any doubts or concerns with a senior caseworker.

## **Related content**

[Contents](#)

# Asylum claim outcomes

This section covers the different outcomes that may apply in children's cases.

Children, as with adults must be granted the status and leave that they are entitled to in accordance with the relevant immigration rules. So if the child meets the requirements of the Refugee Convention, refugee status must be granted.

Caseworkers must refer to the [drafting, implementing and serving asylum decisions](#) for the correct outcome. Decision paperwork must be prepared in accordance with the guidance in [drafting, implementing and serving asylum decisions](#), in addition, the following points specific to children's cases must be taken into account.

Where a child has been referred to the NRM you must follow the competent authority guidance in respect of when you can take the asylum decision.

## Best interests consideration

Section 55 of the Borders, Citizenship and Immigration Act 2009 places an important statutory safeguarding duty on the UK Border Agency (now the Home Office). It requires the Home Secretary to make arrangements:

“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
- undertaking that role so as to enable those children to have optimum life chances and to enter adulthood successfully

Although the duty is engaged by all asylum decisions, a decision to grant an application made by a child and supported by those with responsibility for looking after the child can be taken as implicitly safeguarding their welfare and reflecting that the child's best interests. Of course, any factors that are obviously in play and that suggest the contrary have to be considered, as do any factors that are specifically raised by the applicant, but for the most part, it will not be necessary to undertake a detailed best interests assessment in these circumstances.

In the contrary instance, when a decision is being considered that might have an adverse impact on a child, a detailed assessment of the impact on the child in best interest terms is required, because this consideration has the potential to change

that decision. How to make a best interests consideration is set out later in this section.

## How to work with local authorities

Throughout the various stages in processing an asylum application a child's caseworkers need to be aware that other statutory agencies and persons with a genuine, relevant involvement in the child's life may have information and expertise that can assist. 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 or living skills.

As soon as a decision to refuse has been made, the Current Circumstances form part 2 must be sent to the social worker who will be advised they have 14 calendar days to complete the form unless country guidance specifies differently. The case worker must ensure all relevant parties have returned the forms and must collate the information before making a decision. This is particularly important in cases where ILR has been raised.

In order to facilitate the exchange of relevant information, caseworkers must use the information contained in the Current Circumstances form parts 1 and 2 which should have been completed by the child's social worker or if appropriate the Scottish guardianship service appointed guardian or trafficking advocate and, where they have been prepared and contain relevant information, a copy of the child's care plan and their independent reviewing officer's notes from the most recent looked after child (LAC) review meeting. To assist them in completing the form, they should be provided with information on the reception arrangements in the country of return.

When considering something such as return to country of origin, or to another country, the key point is to have up to date information. Circumstances can change very quickly in the age group under discussion, for example, a family member may have been located or health and well-being factors may have changed. Caseworkers must always seek information from the child's social worker or give the social worker an opportunity to comment in the light of their knowledge of the child and the information that they hold. Social workers are well placed to seek relevant information from carers, foster carers, schools or colleges and others involved with the welfare of the child and to ensure that this information is provided to the caseworker.

The extent of the information provided and the weight attached to it will depend upon the particular circumstances and complexity of the case. It must 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. Caseworkers must also discuss with the social worker whether a case conference with all the relevant agencies or 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. Reference must always be made to a senior manager (minimum SEO or HMI) when considering a case conference to ensure that

the aims are clear and that all relevant parties are not only invited, but are also clear as to the information they will be expected to provide.

The child must be informed about the exchange of information and depending on age and maturity openly consulted by the social worker on their views.

## Refugee status

A child who fulfils the Refugee Convention criteria is a refugee and should be granted refugee status under paragraph 334 of the Immigration Rules unless the exclusion criteria apply. See Exclusion under Article 1F and Article 33(2) guidance.

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 UK. Caseworkers must 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. Caseworkers must discuss with social worker the possibility for the child to be resettled. For further information, including the length of leave to grant, see [drafting, implementing and serving asylum decisions](#).

## Humanitarian Protection

When a child does not qualify for refugee status, caseworkers must next consider whether they qualify for a grant of humanitarian protection (HP). As with a grant of asylum, it will generally be the case that the child's best interests are to remain in the UK. Caseworkers must liaise with the child's local authority social worker. See the asylum instruction on [humanitarian protection](#).

## Article 8 family and private life

Where an article 8 (family or private life only) claim is made out and the individual meets the requirements, leave under Appendix FM (family life) and paragraphs 276ADE(1) to 276DH (private life) of the Immigration Rules the Rules will normally be granted if they are not criminal cases. See IDI Section 8 ch.1.0b Family and private – 10 year route and drafting, implementing and serving asylum decisions.

## Discretionary Leave

Discretionary leave (DL) can be granted to children who meet the requirements of the discretionary Leave policy.

DL may be granted to accompanied asylum seeking children who do not meet the requirements for UASC leave where an accompanied child cannot be returned. In the vast majority of cases, a grant of 30 months is the maximum length of leave that should be granted. However, if the circumstances leading to a grant of DL are particularly exceptional and warrant a grant in excess of standard grant of 30 months, the exceptional grounds must take priority over normal grant times and the longer period must be granted. Caseworkers considering a grant in excess of 30 months must refer to a senior caseworker. In very exceptional circumstances, it may be appropriate to grant indefinite leave to remain. It is the responsibility of the claimant – or their legal representative – to provide the evidence to support a

departure from the normal period of leave. In the case of unaccompanied children, the absence of adequate reception arrangements alone will not usually warrant a grant of DL on exceptional grounds. See discretionary leave for further details.

All decisions to grant DL must be made in accordance with the policy on discretionary leave, but additionally, there are specific areas which must be given full consideration by caseworkers when assessing whether or not a child qualifies for DL.

This can be a complex consideration and caseworkers must always refer their proposal to grant DL on this basis to a senior manager (minimum SEO or HMI) prior to making the decision. The individual circumstances of any child must be taken into account, but there are a number of issues that a caseworker must always consider with full details of the consideration recorded in all cases. Additionally, the consideration must include reference to the form provided by social workers where appropriate. The issues for consideration must include, but are not restricted to, any of the following, and as a minimum, all decisions on whether DL might be appropriate must be based on consideration of all of them as well as any other issues that are relevant in the individual circumstances:

**Age:**

The weight attached to any consideration of whether Discretionary Leave is appropriate will vary depending on the age of the child – clearly, the younger the child is, the greater the amount of time they will need to spend in the UK prior to any potential return unless family members are identified overseas who are able to look after the child. As a general rule, the younger the child, the greater the need to give consideration to the grant of discretionary leave when UASC leave is not possible. The point behind periods of DL that are renewed is to provide for review at regular intervals in case the child's circumstances change. In these cases only social services can provide a definitive, properly arrived at view, as to whether the individual is unlikely, whilst a child, to be reunited with family members overseas.

**Arrival circumstances:**

If it has been determined that a child was trafficked into the UK and has suffered abuse or exploitation and there is evidence that family members were complicit in making the arrangements for the child to come to the UK, a balance will have to be struck between the uncertainty of safe and adequate reception arrangements and the grant of DL. In some cases, the authorities in the country of return may need to be contacted to see if they are able to offer suitable intervention and protection. In others, DL may be appropriate until safe and adequate reception arrangements can be assured, or it becomes clear that this is unrealistic. A case like this may require advice from the Office of the Children's Champion about whether to involve the local authority children's services.

**Barriers to removal:**

Caseworkers must review the file and the social worker's pro forma to enable an assessment of any health issues, both mental and physical, that may be a barrier to removal. The decision must be weighted according to the severity of any issues with



the effect being that the more severe the issue, the more weighting is given to the consideration of a grant of DL.

The caseworker must review the file for other potential barriers to return when the child reaches 18. In the event that the file contains information that would make it less likely that return would be likely upon turning 18, consideration to granting an appropriate period of DL must be given. However, the weight given to this aspect of the consideration would be dependent on the nature of the issue under consideration.

## Indefinite leave to remain

If a child has been refused asylum, there is scope for caseworkers to consider and grant ILR instead of other forms of leave but the claimant must state the exceptional needs or circumstances that warrant such a course of action (see the guidance on standard and non standard periods of discretionary leave).

## Leave under paragraph 352ZC-F of the Immigration Rules

### Children under 17.5 years of age

If the child does not qualify for refugee status, HP, family or private life leave or discretionary leave on any other basis, the caseworker must consider whether there are safe, adequate and sustainable reception arrangements in the child's home country. If such arrangements can be made successfully, the application will fall to be refused outright. If they cannot be made, and there is no current prospect of them being made, and but for this it would be reasonable for the child to return, caseworkers must consider granting [UASC leave under paragraphs 352ZC-F of the Immigration Rules](#). This is in keeping with the duty under section 55. Leave under paragraph 352ZC (also known as UASC leave) is granted for 30 months or until the child reaches the age of 17.5 whichever is the shorter.

The requirements to be met in order for a grant of limited leave to remain to be made to an unaccompanied asylum seeking child under paragraph 352ZE are:

- the applicant is an unaccompanied asylum seeking child under the age of 17.5 throughout the duration of leave to be granted in this capacity
- the applicant must have applied for asylum and been refused refugee leave and humanitarian protection
- there are no adequate reception arrangements in the country to which they would be returned if leave to remain was not granted
- the applicant must not be excluded from a grant of asylum under Regulation 7 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 or from a grant of humanitarian protection under paragraph 339D (or both)
- there are no reasonable grounds for regarding the applicant as a danger to the security of the UK
- the applicant has not been convicted by a final judgment of a particularly serious crime, and the applicant does not constitute a danger to the community of the UK

- the applicant is not, at the date of their application, the subject of a deportation order or a decision to make a deportation order

Limited leave under these rules must be granted for a period of 30 months or until the child is 17.5 years of age, whichever is shorter.

For further information, see guidance on the [consideration of reception arrangements and return](#).

Evidence of the considerations that have applied to the child's case must be included in the reasons for refusal letter (RFRL) which must fully and clearly explain the grounds for the decision. All refusal decisions and decision letters in children's cases must be cleared by a senior caseworker or technical specialist. In the case of refusal of the protection claim where leave is granted, the letter must make clear that this is not a permanent grant of leave to remain in the UK and explain that the child will be expected to submit a further application when that period of leave expires or leave the UK.

UASC leave does not count as qualifying leave towards Settlement Protection ILR.

## Children over 17.5 years of age

Children who are refused outright because they are over 17.5, but are under 18 years of age, will be liable for removal on turning 18. This must be made clear in the reasons for refusal letter and gives the young person up to 6 months to prepare for return back to their country of origin.

In the case of applications from those aged 17.5, there could be a period of time that remains before they turn 18. During that period, return must be considered in line with [consideration of reception arrangements and return](#) which takes account of the commitment that no unaccompanied child will be returned without safe, adequate and sustainable reception arrangements being in place.

If, following careful consideration as outlined in [consideration of reception arrangements and return](#) adequate reception arrangements are available and following approval from a senior manager (G7) arrangements for return can be made, with full consideration of section 55 duty being taken at all times.

If, at any point, it becomes apparent the reception arrangements do not meet the standard needed, return must immediately be stopped. If no reception arrangements are available, no return arrangements can be made until the applicant is over 18, although the applicant must be advised that once they reach 18 they will be expected to return home.

## Certification under section 94

Where the child is from a designated state, an asylum or human rights claim from an unaccompanied child can be certified as clearly unfounded. The Home Office does not certify claims in circumstances where no adequate reception arrangements are available in the country of return because the child is unlikely to be able to return to

make an in time appeal. Such cases should lead to the grant of UASC leave and should not be certified under section 94.

For guidance, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

## **How to make detailed best interests of the child consideration (a Section 55 consideration)**

Considering the best interests of the child in a structured way is essentially a matter of asking the right questions. In the case of ZH(Tanzania) the Supreme Court set out the factors that need to be considered when assessing the best interests of a child in the context of an immigration decision. It set out 6 key questions:

- is it reasonable to expect the child to live in another country?
- what is the level of the child's integration into this country?
- how long has the child been away from the country of the parents?
- where and with whom will the child live if compelled to live overseas?
- what will the arrangements be for the child in that other country?
- what is the strength of the child's relationship with a parent or other family members that would be severed if the child moves away?

Addressing all of these questions in an organised way will lead to a good consideration of the child's best interests. The information that goes into this consideration should be that which is provided by the child or their representative. If they indicate that they wish to provide more information then this opportunity must be provided. Caseworkers must seriously address these questions, but there is no obligation to inquire or investigate in order to exclude factors that are not obvious or are not being invoked on behalf of the child.

Caseworkers must ensure that all best interests enquiries are thoroughly recorded on both CID and case files. Consideration of new, child specific information at this stage can be used to assess whether the child qualifies for leave in any of the capacities listed below.

Alternatively, it may be apparent at this stage that the child's best interests can be met in an obvious way such as 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 interests involved, such as the need to prevent unauthorised migration where the asylum route has been used for such a purpose, or the need to ensure public funds are channelled to the support of those in need of protection. 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 and 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 UK 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

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 UK alongside information about the conditions the child would face in the country of return.

In the case of unaccompanied children, caseworkers must also gather information from the child's social worker to enable a full and rounded best interests consideration to be made in the full knowledge of all the relevant facts. This must be done using both part 2 of the Current Circumstances form. Social workers must be asked to return the form within 14 calendar days and if it has not been received by then, reference must be made to a senior manager (minimum SEO or HMI) and further efforts made to establish the cause of the delay and to ensure the pro forma is returned as soon as possible. Care must be taken when the form is returned to check that it has been fully completed. If not, the case worker must contact the social worker as soon as possible to ensure that any missing information is provided within a timescale that is agreed with the social worker.

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.

If a decision is made that removal is not in the best interests of the child, a decision must be made about whether the child's best interests are outweighed by the need to uphold immigration control. If it is concluded that the need to uphold the immigration control is greater, reference must be made to a senior manager prior to a final decision being made.

It can be seen from the above that the detailed best interests consideration is an important and necessary stage when a decision is being made that may lead to an adverse impact on the child such as requiring the child to leave the UK.

## Further potential case outcomes

### Withdrawal of asylum claim

If a child fails to attend their personal interview without reasonable explanation, their claim may be treated as implicitly withdrawn under paragraph 333C of the Immigration Rules. Caseworkers must, however, exercise extreme caution in handling occurrences of non-attendance of personal interviews in the case of children, taking into account their level of maturity and the need to respond accordingly. Every effort must be made to establish why the child failed to attend the interview. This may include providing the opportunity for their legal representative to address this question and any reasons why the claim should not be treated as withdrawn. Children may also explicitly withdraw their claim for asylum. See [withdrawing asylum claims](#).

### Article 1F Exclusion

Children can be excluded under Article 1F of the Refugee Convention, however, it is important that caseworkers 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 own actions. Each case must be treated on its own merits. 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. No decision to exclude a child must be taken without discussing the case with a senior officer (minimum SEO). For further information see Article 1F and 33(2) of the 1951 Refugee Convention.

### Non-Compliance

If a child fails to submit information when requested without reasonable explanation or submits the information late, caseworkers must make every effort to investigate the reasons before refusing the asylum claim on the grounds of non-compliance or even regarding it as withdrawn. See [assessing credibility and refugee status](#), [drafting, implementing and serving asylum decisions](#) and [withdrawing asylum claims](#) for further details.

Caseworkers must advise the [Refugee Council Panel of Advisers: Children's Panel](#) in the case of unaccompanied children being refused on non-compliance grounds using form ASL.2206 (Refugee Council notification form)

Caseworkers must contact the local authority to establish if the child is missing. If it is confirmed that the child is missing, immediate referral to the police, local authority and misper bureau (National Crime Agency) using form IS294 must be made. Once form IS294 has been completed, the caseworker must maintain regular contact with the local authority and the police at least on a weekly basis, but more often if circumstances require it, until the child is found.

For further information, refer to EIG 19C Missing children and vulnerable adults.

**Related content**

[Contents](#)

# Consideration of reception arrangements

This section explains how to consider reception arrangements for a child whose asylum claim has been refused.

The Home Office has a policy commitment that no unaccompanied child will be removed from the UK 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. In addition, the decision to return must take into account the section 55 duty to have regard to the need to safeguard and promote the welfare of the child, including that their best interests are taken into account as a primary consideration in the decision.

Therefore, when assessing whether the child can be expected to return full consideration needs to be given to the following:

- whether the reception arrangements are safe and adequate in the individual circumstances
- section 55

The assessment of the adequacy of reception arrangements and section 55 must take in to account but not necessarily be limited to:

- information collected by the Home Office during the course of the asylum process
- the form designed to help with the section 55 consideration (ASL.4262)
- country information (refer to the CPIT webpage for further information)
- family assessment results (if undertaken)

When considering a grant of UASC leave, caseworkers may need to assess whether there are adequate reception arrangements in the country of origin.

It is not possible to draw an exhaustive list of what counts as adequate reception as these will vary in kind and in degree and each case must be considered on its individual merits. However the following examples could be considered adequate reception arrangements following a comprehensive assessment (although their presence does not necessarily mean that return is appropriate):

- 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
- reception arrangements provided through the authorities in the country of destination

## Return to family

When considering whether adequate reception arrangements are present in the country of return, caseworkers must assess whether the child can be returned to their family.

Family reunification must generally be regarded as being in the best interests of the child, but a full assessment must be made of this taking into account the child's individual circumstances and recorded on the file. Possible locations for family reunification must be taken fully into account.

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 elements of persecution or ill treatment at the hands of family.

## Consideration of reception arrangements

Where returns to family or extended family cannot take place (for example, when the family cannot be traced) the caseworker must consider if the child can be returned to alternative safe reception arrangements. Caseworkers must consult the country specific guidance.

Where the Home Office has made arrangements with NGOs or other organisations overseas to provide specific assistance on return, it can be assumed that these arrangements are adequate. However, caseworkers must 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 the child's best interests.

The general position is that if the child is to be met on return by a representative of the authorities in that country who are charged with providing for the welfare of children, and if the relevant country of origin information confirms that care, health, education and similar services are available to children, then the obligation to the child's welfare in carrying out immigration functions has been followed. Any exceptional factors in the situation or circumstances must be addressed, for example, if the act of transfer is likely to lead to deterioration in mental health, must be addressed.

Information regarding the availability of safe and adequate reception arrangements can be found within the reports from the country policy and information team 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).

## Reception upon arrival and onward travel arrangements

Careful consideration must 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 caseworker may need to draw on information from other sources such as the local authority.

## Consideration of best interests

If adequate reception arrangements are confirmed, the case worker must record the details, in particular about how the child is to be met on arrival and those responsible for providing for the child's welfare needs. The [consideration of best interests](#) must only be carried out once the case worker has fully assessed the information contained in the Current Circumstances form. If this has not been provided, the case worker must urgently contact the social worker and arrange for its completion and return.

These cases will not be frequent but there will be occasions when a child is being returned to arrangements that are not being provided by the authorities, for instance to the care of an extended family member. There still needs to be a demonstration that the need to safeguard and promote the welfare of the child has been taken into account.

## Refusal and Curtailment of UASC Leave

Leave to remain under [Paragraphs 352ZC – 352ZF of the Immigration Rules](#) (UASC leave) is normally granted to unaccompanied children who have been refused refugee leave and humanitarian protection and where there are no adequate reception arrangements in the country to which they would be returned if leave was not granted. UASC leave is granted for 30 months or until the applicant is aged 17.5, whichever is shorter.

If it can be firmly established that a person who claimed to be a child was aged 18 or over at the time of the asylum application, and had therefore used deception to obtain leave, then curtailment action could follow. Ideally they should be given the opportunity to explain themselves before curtailment action is taken. For further guidance, refer to [curtailment](#) guidance.

If based on the child's individual circumstances, there is a realistic likelihood that adequate reception arrangements are present in the country of return and a decision on the adequacy of reception arrangements can be made within 6 weeks, the UASC Leave eligibility decision and service of the reasons for refusal letter on the child should be delayed while this assessment is conducted. However, where there is no reason to believe that adequate reception arrangements are present in the country of return or the assessment of adequate reception arrangements cannot be made within 6 weeks, grants of UASC leave and service of the reasons for refusal letter should not be delayed.

As soon as an assessment has been made that, based on the child's individual circumstances, there are adequate reception arrangements in their home country, the child will cease to be eligible for UASC leave and curtailment should be immediately considered.

For further information, see guidance on [UASC leave under paragraphs 352ZC-F of the Immigration Rules](#) and [applications for further leave](#). For information on curtailment, refer to the discretionary leave AI and the curtailment guidance. For details on revocation, refer to the revoking refugee status guidance.

In cases where a child is found to have obtained leave to enter 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, consideration should be given to curtailment action and they will then be liable to removal under section 10 of the Immigration and Asylum Act 1999.

Where the deception comes to light during the course of a further application to remain consideration should be given to curtailment action. The aim should be to include the curtailment together with any negative decision if otherwise the child would continue to have extant leave.

#### **Related content**

[Contents](#)

# Serving the decision

All asylum decisions must be served in accordance with the guidance on [drafting, implementing and serving asylum decisions](#). The additional points set out in this section relate to children's cases.

The decision on the claim for asylum can be served either in person with the child's legal representative, social worker and responsible adult present or by post. In all cases, though, the caseworker must notify:

- the child
- the local authority
- the legal representative
- the guardian (if part of Scottish Guardianship Service)
- the trafficking advocate (if appropriate)
- any individual with a formal role in the child's life

## Implementing a decision to grant leave

When a decision is made to grant the child some form of leave, caseworkers must liaise closely with the child's social worker where they have one, to ensure that they are able to take this into account in their pathway plan for the child. Legal representatives can also be contacted if caseworkers or social workers consider that it is necessary or would be helpful.

For a child who is granted refugee leave or humanitarian protection for a period of 5 years, the pathway plan will most likely reflect the provisions of the Children Act 1989 as amended by the Children (Leaving Care) Act 2000. 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 must be flexible and regularly updated. These matters will all be handled by the local authority.

Caseworkers must close the case if refugee or HP status is granted, and must review it either when an application for further leave is made or after 5 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 leave for a shorter period (most likely under paragraph 352ZE), caseworkers must seek to agree an ongoing contact management strategy with the child and their social worker.

## Serving the adequacy of reception arrangements and the section 55 consideration

If return is not immediately appropriate, the case owning team should set an appropriate review date, for example, the date when the barrier to departure ceases to apply. If a decision is made that the child can be expected to leave the UK, the case owning team must undertake the actions in the sections below.

## The decision letter

The decision maker should clearly explain within the reasons for refusal letter or curtailment of UASC leave letter why the Secretary of State is satisfied that adequate reception arrangements are in place and how this decision has taken in to account the section 55 duty. If this assessment is not being made at the same time as a refusal of a leave to remain application or curtailment of UASC leave, the assessment should be set out in a separate letter. For further guidance on drafting reasons for refusal letters, refer to the assessing credibility and refugee status AI.

The manner in which the letter will be served on the child will be determined by whether they have any outstanding in-country appeal rights:

- if in-country appeal rights have not been exhausted, the case owning team should serve the letter on the child by post or in person at a decision service event - for further guidance on serving decision letters in this circumstance, refer to [drafting, implementing and serving asylum decisions](#)
- if in-country appeal rights have been exhausted or were not granted, the case owning team should serve the letter during [The return discussion](#)

### Related content

[Contents](#)

# Appeals

Changes made by the Immigration Act 2014 came into force on 6 April 2015 after which all asylum appeals fall under section 82 of the Nationality, Immigration and Asylum Act 2002. Asylum appeals gives guidance on rights of appeal arising from decisions made on asylum cases.

Cases which are granted UASC leave for less than one year qualify for a right of appeal under section 82.

Once a decision to refuse asylum and HP has been served on the child, caseworkers must:

- update CID
- check whether an appeal is lodged
- carry out data quality checks of PF1

If an appeal is lodged, caseworkers must:

- 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

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 must be prepared using ASL.1950 on DOCGEN and sent out immediately to the local authority.

## **Related content**

[Contents](#)

# The return process

If the child is to be returned to their country of origin or to another country, this section sets out the process that must be followed.

## The return discussion

Following a decision that the child is expected to return, a return discussion must be arranged in cooperation with the child's social worker. All in-country appeal rights must have been exhausted and either the child has no legal right to remain in the UK or they have no legal right to remain in the UK beyond having extant UASC leave or UASC discretionary leave.

The principal aims of the discussion include helping the child to:

- understand their immigration status
- consider their options for returning home and the implications of each option available to them
- prepare for departure

It is also an opportunity to serve the adequacy of reception arrangements decision letter, unless already served

If the case is owned by the NSA hub team, that team will have responsibility for arranging and undertaking the discussion. If the case is owned by CCWD, CCWD will have responsibility for arranging the discussion, but should commission the Family Return's Team to undertake the discussion.

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### Official – sensitive: end of section

## Arranging the discussion

The invitations should be sent by standard post, recorded on CID notes and be received at least 5 working days in advance of the discussion.

When arranging the discussion the case owning team must consider the following:

**Attendees:** who should be in attendance should take into account the views of the child's social worker. The social worker should also be asked to obtain the views of the child's independent reviewing officer. As a minimum the attendees should include:

- the child
- the child's social worker

- the Home Office interviewing officer
- an interpreter (if required)

If the child has legal representation, the legal representative should also be invited to the discussion.

The social worker will be expected to communicate the views of the child's independent reviewing officer (IRO), foster carer if in foster care, teachers if in part time or full time education and doctor if in receipt of ongoing medical treatment and other relevant service providers unless these individuals attend in person.

The case worker must establish if an interpreter is required to ensure that the child can participate fully, this must be a professional interpreter. See EIG CH39: Interpreters for additional details.

**Location:** the discussion should usually be conducted at a local authority facility with which the child is familiar and comfortable. However, factors such as compliance and travelling distance may occasionally influence location. Caseworkers may decide in consultation with the social worker, responsible adult and/or the legal representative if applicable, a suitable non local authority location for the discussion, for example, suitable Home Office premises. Where it is considered more appropriate to convene at a non government venue, a full operational risk assessment must be carried out. See operational risk assessment guidance and National Generic Risk Assessment Framework for full details.

**Special needs:** the case working team should check and consider whether the child has any particular needs and how these might be addressed, such as a disability.

**Maturity:** the case working team should consult the child's social worker, to gain an understanding of the maturity and communication skills of the child and developmental stage in order to inform the manner in which the discussion with them should be conducted.

**AVR:** on advance of the return discussion, the case worker must determine whether the child can be offered the opportunity to return via the Home Office assisted voluntary return (AVR) programme. They should normally be offered the opportunity to depart via AVR before removal directions are set unless they are ineligible. To inform this decision, the case working team must complete a police national computer (PNC) check (see assisted voluntary returns guidance).

## Conducting the discussion

The interviewing officer must take minutes during the discussion and once the discussion has concluded must:

- share the minutes with the attendees including the child
- record the details of the return discussion in full on CID and in the Home Office case file
- update CID with the relevant outcomes and admin events

- update the immigration factual summary in line with guidance in EIG Chapter 60

Information on the reception arrangements in place should be provided to the attendees, verbally and in writing. The issues to be discussed at the discussion will be determined by the individual circumstances, though the interviewing officer should usually:

- establish the child's views, needs, wishes and feelings about the consideration and consequences of return
- establish the child's thoughts on the reception and reintegration arrangements following return
- confirm options for departure: explain the available routes to departure to the child and the potential consequences of each route, for example, voluntary departure, assisted voluntary return and ensured return
- begin preparing the child for the eventuality that they will need to close down their UK life and prepare for life back home including saying goodbye to friends and getting educational certificates ready
- ask about legal challenges or further submissions to establish whether the child wishes to submit any further legal challenge or submissions
- discuss baggage and shipping to ensure that the child understands airline baggage restrictions and other methods for shipping possessions home
- provide the child with a Home Office point of contact – usually the case worker responsible for the case
- invite any additional questions from the child
- notify the child that if, following conclusion of the discussion, they think of any additional questions or obtain additional information relevant to their return, they should immediately notify the Home Office
- notify the child that they can also seek advice from their legal representative (if they have one) or from an independent organisation such as the local authority's advocacy service or the Refugee Council's Panel of Advisers
  - The Panel of Advisers can be contacted at 13-14 Katharine Street, Croydon, Surrey, CR10 1NX, 0207 3461134, [children@refugeecouncil.org.uk](mailto:children@refugeecouncil.org.uk)

## Options for departure

### Assisted voluntary return accepted:

If the child requests to return via AVR and they are eligible, the interviewing officer should set a contact management schedule so that the next point of contact should coincide with the expected date of decision on the AVR application.

An AVR return would utilise arrangements specific to the AVR programme and therefore is separate to the remaining processes specified in this AI.

If an AVR application is refused or the child is ineligible, they should normally be offered the opportunity to return voluntarily separately from the AVR programme.



### **AVR rejected or not suitable, but voluntary departure accepted:**

If the child requests to return voluntarily, separately from the AVR programme, the interviewing officer must:

- discuss a departure timescale with the child and their social worker
- ask to see valid travel tickets confirming the child's planned departure arrangements as soon as they are available
- make arrangements for their travel documents to be at the airport for collection on checking in
- set a contact management schedule

### **Voluntary departure declined:**

If the child declines to return voluntarily, the interviewing officer must seek to establish the child's reasons for declining and ensure once more that the child understands their options and the benefits of departing voluntarily. If the child still refuses to return voluntarily, the interviewing officer must advise the child that removal directions will be set, provide a clear timescale for this, and advise them that it is their responsibility to comply with these directions.

The child now moves to the ensured removal process, which is used when the voluntary return stage has failed, or is not considered appropriate, either because the child has refused to co-operate, or exceptionally, where the child poses a high risk to themselves or others. The Immigration Enforcement's National Removals Command (NRC) should be immediately commissioned to set removal directions. Requests to NRC to set removal directions should be submitted via the Complex Casework Directorate.

Refer to EIG Chapter 45(c) Families and children for guidance on the operational process for ensured removal of unaccompanied children.

### **Welfare of the child**

The return discussion can be a stressful event for the child. Staff present must be alert to any potential welfare or safeguarding concerns, such as the child becoming depressed and withdrawn, exhibiting erratic or angry moods, expressing extreme feelings of hopelessness or suicidal thoughts and making threats against themselves or those in attendance.

Behaviour that gives rise to safeguarding concerns must be referred to and discussed with the social worker as soon as appropriate. Advice can also be obtained from the Office of the Children's Champion if there are concerns about the child.

Potential welfare or safeguarding concerns and actions taken in response to these must be detailed on the child's case file and CID, including the appropriate special conditions screen on CID.

## Contact management

Immediately after the conclusion of the return discussion, a suitable contact management schedule should be agreed with the child and their social worker in accordance of the returns process schedule and taking into account the child's individual circumstances.

This may involve telephone contact or visits or meetings. It may also include the possibility of reporting with a view to minimising the risk that the child will go missing from his care placement and ensuring that their welfare is safeguarded and promoted.

## Pre-departure arrangements

Following confirmation that a non-AVR voluntary return or ensured removal is to be implemented the Home Office should proceed to making final arrangements for the child's departure from the UK. In the case of ensured returns, the tasks listed below should be undertaken in conjunction with the operational guidance in EIG Chapter 45(c) families and children.

As a general principle, giving the child as much control as possible over their departure helps promote compliance. For example, allowing a child to depart on a Sunday because there is a good-bye party on Friday is preferable to ensuring a Friday return.

In addition to the guidance EIG Chapter 45(c) families and children, the case owning team should note the following:

- advice should be obtained from the child's social worker when arranging transportation and, if applicable, escorts to the airport
- charter flights would not normally be appropriate for unaccompanied young people, unless the charter is for young people only
- notify the UK social worker of the final return arrangements
- ensure arrangements have been made for a social worker or an appropriately trained Home Office escort to accompany the child during the flight
- provide an information pack to the child on the returns and reception arrangements, with a copy sent to their legal representative and social worker
- notify the receiving authority or party in the country of origin of the travel arrangements

## Ownership of the return decision

The return decision, including the duty to take account of the needs and welfare of the child as in the section 55 duty, is the responsibility of the team responsible for considering the claim for asylum or the application for further leave to remain.

## Missing children and absconders

When a child goes missing during any stage of the returns process, caseworkers **must** immediately refer to the missing children guidance and to chapter 19c of the enforcement instructions and guidance. It is the case working team's responsibility to ensure that Home Office absconder or missing child guidance is followed, including notification as an absconder or missing child. The case working team will also retain

ownership of the case for as long as the child remains missing or until they cease to be below 18 years of age.

Details of any attempts to locate the child must be recorded on CID and in the case file.

If a child goes missing or absconds during the assisted return stage and is subsequently traced and located by the Home Office, the case working team must assess whether the case should resume at the assisted return stage or proceed straight to ensured return. This decision must take account of the child's prior compliance, behaviour and reaction to discussions regarding their return.

### **Related content**

[Contents](#)

## Applications for further leave

Where discretionary leave has been granted following the refusal of an asylum claim, further applications for DL must be made in accordance with the DL policy and by way of the FLR(DL) application form available on the GOV.UK website.

When a child has been granted leave following a refusal of asylum because there were no satisfactory reception arrangements in place, an application for further leave must be made up to 28 days before any current leave comes to an end.

The application must be dealt with as a priority if the applicant is still a child when they apply for further leave, however, there may be local variations in processes to ensure this prioritisation takes place. If caseworkers are in doubt, they must speak to a senior caseworker. If the application is submitted when the child has turned 18 and is therefore an adult, the [further submissions](#) policy must be followed.

Caseworkers must check that the contact details on CID for the child are up to date.

There may be occasions where the child remains below 18 years of age and remains in the UK, and additional information is received or there is a change in circumstance which either:

- enables a new family tracing step to become available
- improves the likelihood of success of a previously utilised family tracing step
- now makes family tracing potentially suitable

In such cases, case workers must review the circumstances in accordance with the [family tracing](#) guidance to assess what, if any, family tracing steps should be undertaken.

### How to consider best interests as part of a child's application for further leave

In cases where the applicant is under 18, the caseworker must make an assessment of the child's best interests. A decision about whether or not the child qualifies for further leave must not be taken without full consideration of any section 55 issues. If the child is over 18, no section 55 assessment is required.

If a section 55 consideration was conducted prior to an earlier grant of leave, this can be used as a basis for this assessment, but up to date details must be obtained and assessed.

For details on how to make an assessment of best interests, refer to [consideration of best interests](#).

A key part of the best interests consideration is that the Home Office will not remove any unaccompanied child, including those who have been refused asylum or HP, from the UK 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.

It is also the case that no accompanied child, returning alone will be removed unless there are safe and adequate reception arrangements in place.

It therefore follows that reception arrangements and the possibility of putting reception arrangements in place must be fully assessed and recorded by the caseworker as part of the best interests consideration. What constitutes adequate reception arrangements will vary from case to case, depending on the individual circumstances of the child, and further guidance can be found in [consideration of reception arrangements](#).

If reception arrangements do not come up to the necessary standard and it has not been possible to make arrangements to return the child to their country of origin, then the case worker must consider whether the child qualifies in line with the application they have submitted for further leave.

## How to deal with applications for further leave from children aged under 18

If a child is under the age of 18, the caseworker must contact the child through the legal representative and social worker to establish if there has been any change of circumstances since the previous grant of leave was made. The request must be made in writing and the response fully noted and considered. If there has not been any change in circumstances, the UASC leave can be renewed for a further 30 months or until the child reaches 17.5, whichever is shorter. Contact must be made once existing leave is within 3 months of expiry.

If there has been a change of circumstances, the case must be reviewed in accordance with the information provided and the relevant policy or section of this guidance followed.

A section 55 assessment must be made prior to the service of any decision. For further details on this, see [consideration of best interests](#).

Applicants who were originally granted leave under paragraph 352ZE or under the DL policy and who have said that their circumstances have changed may be eligible for asylum, humanitarian protection or discretionary leave and should apply under the [further submissions](#) policy. The fact that they were not eligible at the time of the original decision does not preclude them from qualifying now.

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## Further protection based claims

Any protection-based reasons for wanting to remain in the UK must be made in accordance with the [further submissions](#) policy.

## Applications for further leave from those over 18 years old

If the applicant is over 18, section 55 no longer applies. Applications for further leave will be considered in accordance with the relevant guidance.

## Cases excluded under Article 1F

Some claimants will have been excluded from asylum and humanitarian protection as a result of their previous actions. Where removal from the UK is not possible, shorter periods of leave will have been granted and the case kept under review pending appropriate removal action. Where leave has been granted, the application process for further periods of leave is covered in the relevant guidance. See restricted leave and discretionary leave. All cases granted restricted leave are managed by the Special Cases Unit and must be referred to SCU in the first instance.

## What to do when a child fails to apply for an extension of leave

If a child has not made an application for further leave before their current leave expires, they will become an overstayer. They will be liable to removal under section 10 of the Immigration and Asylum Act 1999 (as amended by the Immigration Act 2014). Caseworkers must look to re-document such overstayers ready for potential removal at the earliest opportunity.

Caseworkers must bear in mind that the claimant cannot be removed if they are under 18 years of age unless adequate reception arrangements have been identified and section 55 has been considered. It is therefore in the best interests of the child to maintain the lawfulness of their leave.

However, if the applicant is approaching 18 this must not prevent caseworkers from completing any preliminary work necessary to ensure that removal can go ahead as soon as possible after the applicant turns 18.

### Related content

[Contents](#)