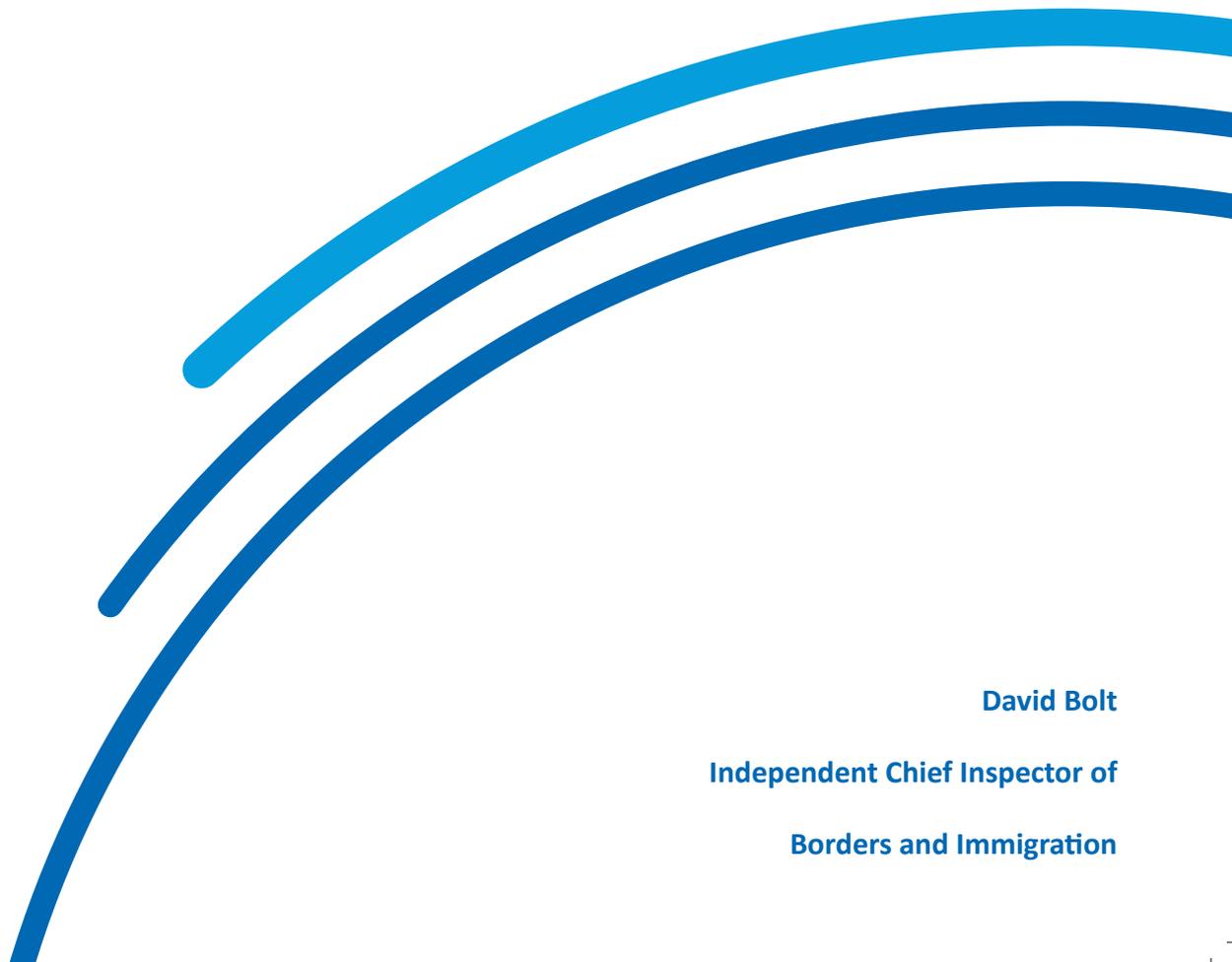




# An inspection of how the Home Office considers the 'best interests' of unaccompanied asylum seeking children

August – December 2017



David Bolt

Independent Chief Inspector of  
Borders and Immigration



# **An inspection of how the Home Office considers the ‘best interests’ of unaccompanied asylum seeking children**

**August – December 2017**

Presented to Parliament pursuant to Section 50 (2) of the UK Borders Act 2007

March 2018



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# Foreword

The UK's treatment of asylum seeking children is a matter of considerable public interest. In this inspection, I looked specifically at the Home Office's handling of unaccompanied asylum seeking children, and in particular at how it ensured that the 'best interests' of the child were properly considered throughout the asylum process. This included how those interests were met for those children transferred from one Local Authority area to another under the National Transfer Scheme.

This inspection was the second in what I intend to be a series of inspections focused on the treatment of children by the Home Office's Borders, Immigration and Citizenship System. The first report, published in July 2017, dealt with the Home Office's application of the good character requirement in the case of young persons who apply for registration as British citizens.

It also sits alongside my report on the Home Office's Asylum Intake and Casework, which was published in November 2017.

My predecessor reported in 2013 on the handling of asylum applications from unaccompanied children. In that inspection he made 9 recommendations, covering: consistency of treatment; family tracing; timeliness of asylum decisions; performance targets; development of statistics; data quality/record-keeping; quality of refusal letters; consistency of initial interviews; and referrals to the Refugee Council.

The Home Office accepted all 9 recommendations, and 'closed' them all between October 2013 and May 2016, having satisfied itself that it had taken the necessary actions. This latest inspection showed that it now needed to revisit most of these areas and make improvements that stick.

In addition, improvements are needed in relation to the National Transfer Scheme, in how the Home Office communicates with unaccompanied asylum seeking children and stakeholders, and in the use of 'UASC leave'.

This report contains just 2 recommendations, although each breaks down into several parts. Overall, there is a considerable amount of work for the Home Office to do. Given the impact the asylum system has on the lives of those children and young people who come into contact with it, I hope that the Home Office can move quickly to make the necessary improvements.

The report was sent to the Home Secretary on Wednesday 7 February 2018.

**David Bolt**

**Independent Chief Inspector of Borders and Immigration**

# 1. Purpose and scope

- 1.1 This inspection examined how the Home Office considers the ‘best interests’ of unaccompanied asylum seeking children.
- 1.2 The inspection focused on 6 areas:
- the reception arrangements for unaccompanied asylum seeking children, specifically the support and information provided to the child, collation of information about the child, referrals to other parties, and how where the child is encountered and by whom affects their experience
  - the Home Office’s role in carrying out age assessments, the information provided to the child when their age is assessed, and how the Home Office works with Local Authorities in the case of age disputes
  - the Home Office’s role in the National Transfer Scheme, and its part in making ‘best interest’ judgements when considering whether to transfer a child from one Local Authority to another
  - the Home Office’s role in carrying out family tracing
  - Home Office and stakeholder views about whether granting ‘UASC leave’ is in the ‘best interests’ of the child, the impact of granting such leave, and the information and support provided to children about it
  - progress in implementing the recommendations from previous inspections
- 1.3 The following areas were excluded from scope:
- Asylum processes and the quality of asylum decision making – these were covered in detail in ‘An Inspection of the Home Office’s Asylum Intake and Casework’,<sup>1</sup> published on 28 November 2017
  - the Dublin III Regulation and the ‘Dubs’ scheme,<sup>2</sup> except where relevant to the National Transfer Scheme
  - the Vulnerable Children Resettlement Scheme (VCRS) – an inspection of the Vulnerable Persons Resettlement Scheme (VPRS) is due to be published in April 2018

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/662769/An\\_Inspection\\_of\\_Asylum\\_intake\\_and\\_casework.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662769/An_Inspection_of_Asylum_intake_and_casework.pdf)

<sup>2</sup> Unaccompanied asylum seeking children can be transferred from Europe to the UK under Section 67 of the Immigration Act 2016, colloquially referred to as the ‘Dubs’ scheme. See <http://www.legislation.gov.uk/ukpga/2016/19/section/67/enacted>

## 2. Methodology

### 2.1 Inspectors:

- on 17 August 2017, convened a meeting of stakeholders (attended by representatives from Amnesty International, British Red Cross, Camden Community Law Centre, Immigration Law Practitioners Association, Migrant Help UK and the United Nations High Commissioner for Refugees) to inform the scope of the inspection
- on 14 September, visited the Asylum Intake Unit (AIU) in Croydon for a walkthrough of the functions and processes for receiving unaccompanied asylum seeking children at the unit
- on 11 October 2017, received a familiarisation briefing from Home Office officials responsible for the reception of unaccompanied asylum seeking children, age assessments, the National Transfer Scheme, and 'UASC policy'
- on 26 October 2017, met Refugee Council Advisers to discuss their experiences in supporting and advising unaccompanied asylum seeking children
- reviewed the findings and recommendations from previous ICIBI inspections, in particular the 2013 inspection of the 'Handling of Asylum Applications made by Unaccompanied Children'<sup>3</sup>
- researched and analysed relevant open source material, including Home Office guidance available to unaccompanied asylum seeking children
- examined policies and staff guidance available on the Home Office intranet, and performance data and management information provided by the Home Office
- examined 64 Home Office case records, focusing on initial reception and intake processes, age assessments, the National Transfer Scheme, family tracing and asylum decisions for unaccompanied children
- called for written evidence from stakeholders working in the asylum sector
- interviewed (face-to face and by telephone) and ran focus groups with Local Authorities and Strategic Migration Partnerships (SMPs) in the East of England, the South East, Scotland, Wales and Yorkshire and Humber
- interviewed representatives from the Scottish Refugee Council and Aberlour Child Care Trust
- interviewed officials from the Department for Education
- visited the Asylum Intake Units at Croydon and Dover, and the asylum decision-making units at Leeds and Glasgow to interview and hold focus groups with managers and staff
- visited the Home Office's Central Administration Team, responsible for overseeing the National Transfer Scheme, at Croydon to interview and hold focus groups with managers and staff
- interviewed the Home Office's Office of the Children's Champion
- supported by The Children's Society, interviewed young people who had entered the UK's asylum system as unaccompanied children

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<sup>3</sup> <https://www.gov.uk/government/publications/inspection-report-on-asylum-applications-made-by-unaccompanied-children-october-2013>

## 3. Summary of conclusions

- 3.1 In the 12 months from 1 July 2016 to 30 June 2017, 2,952 unaccompanied children claimed asylum in the UK. This was 11% of the total of 27,983 asylum claims registered by the Home Office in that period.
- 3.2 The Home Office's National Asylum Intake Unit (NAIU) received almost two-thirds (62%) of the claims made, of which the vast majority (1,575 or 86%) were registered at the Asylum Intake Unit (AIU) in Croydon, which was meeting its internal performance target of 10 days for the registration of a child's asylum claim (including completion of an initial interview).
- 3.3 AIU had a further internal target to register asylum claims from unaccompanied children to be transferred under the National Transfer Scheme (NTS) within 3 working days.<sup>4</sup> Home Office data showed that this target had been met in only one month (August 2016) between 1 August 2016<sup>5</sup> and 31 July 2017. Staff felt the target had become "unmanageable", commenting that many London boroughs had already reached the 0.07% "ceiling" for unaccompanied asylum seeking children as a percentage of their overall child population.
- 3.4 The Kent Intake (KIU) registered the remaining 14% of NAIU claims. It had an internal target to refer all children who arrived at the unit to Kent County Council within 90 minutes, having completed the initial welfare interview. Between 1 July 2016 and 30 June 2017, the average referral time exceeded 90 minutes in 3 months (September, February and June).
- 3.5 In August 2016, Immigration Enforcement (IE) notified UK Visas and Immigration (UKVI) that where UKVI had an office in one of its regions it would expect UKVI to take on the responsibility for the initial interview of unaccompanied asylum seeking children. This reflected IE's belief that this was UKVI core business and that IE's priorities lay elsewhere - the arrest, detention and removal of illegal migrants. Meanwhile, in areas where there was an Immigration, Compliance and Enforcement (ICE) team but no UKVI presence IE would continue to conduct any initial interviews.
- 3.6 AIU had received numerous complaints from non-governmental organisations (NGO) and Local Authorities, who reported that IE's decision had had a detrimental impact on unaccompanied children living outside of London and the South East, citing numerous instances where children were required to travel significant distances to attend the AIU in Croydon in order to register their asylum claims. This also placed a strain on Local Authorities, who were usually required to send a social worker with the child.
- 3.7 Local Authorities felt that the decision, and the rationale behind it, had not been effectively communicated to them. While IE believed it had "communicated clearly" its operational decision, Home Office asylum policy officers told inspectors that IE had not informed them and that new operational instructions had not been issued to staff dealing with the registration of asylum claims from unaccompanied children, so "the wrong advice" had been given to unaccompanied children attempting to register their asylum claims locally to where they were living.

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<sup>4</sup> The 'clock' started on the 3-day target when the claimant, or their social worker, called the UK Visas and Immigration booking service to make an appointment or the child attended AIU as a 'walk-in'.

<sup>5</sup> The date the internal target was implemented

- 3.8 In November 2016, the Home Office replaced screening interviews for unaccompanied children with an initial welfare interview. Children were no longer asked about the substance of their claim, and had time to “recuperate” and seek legal and other advice. However, Home Office managers and staff said they were concerned that the current welfare interview form did not allow them to probe safeguarding issues sufficiently.
- 3.9 Home Office guidance ‘Children’s Asylum Claims’<sup>6</sup> made clear that all unaccompanied asylum seeking children in England must be referred to the Refugee Council’s Children’s Panel Advice Service within 24 hours of the Home Office’s encounter with the child. However, this was not being done in every case. AIU managers had identified this as a problem, but it had not been solved.
- 3.10 Children applying for asylum are treated differently from adults, both in terms of Home Office processes and the care and support to which they are legally entitled. Therefore, determining a claimant’s age is a key Home Office requirement, with consequences for the Home Office, other ‘actors’, and most importantly the claimant.
- 3.11 Some NAIU managers and staff considered the Home Office’s ‘Assessing Age’<sup>7</sup> guidance too vague. They did not feel confident about making initial age assessments of applicants claiming to be children, particularly judging whether the claimant was “significantly over 18” and should be entered into the adult process. They received no training to help them make such judgements. Some Local Authorities were concerned that the Home Office applied its ‘benefit of the doubt’ policy too readily, and highlighted the risks of wrongly placing an adult with children in their care.
- 3.12 Home Office data indicated that, between 1 July 2016 and 30 June 2017, it had raised 705 age disputes, roughly 1 in 4 cases. Of the 705, 618 had been resolved, of which 402 (65%) claimants were found to be over 18, and 216 (35%) were found to be children. The previous year’s figures were higher, as there were more asylum claims from unaccompanied children. The percentage of those assessed as over 18 was also slightly higher (68%).
- 3.13 The Home Office did not capture data about claimants it assessed to be “significantly over 18”, which was of concern to stakeholders. It meant that the picture of asylum applicants who claim to be children was incomplete, and the Home Office, and others, were unable to track the outcomes of these claimants’ cases.
- 3.14 Record-keeping for age disputes and age assessments was inconsistent. There were instances where the correct documentation was not issued to the claimant, and the record of why a claimant’s age had been disputed was sometimes inadequate. In some cases, age dispute ‘flags’ had been raised incorrectly or had not been closed, which cast doubt on the accuracy of the Home Office data.
- 3.15 The NTS was implemented on 1 July 2016 to relieve pressure on ‘entry’ Local Authorities, such as Kent and Hillingdon. While it had been successful in transferring hundreds of children, there was widespread concern amongst stakeholders that it was not working effectively and efficiently. There were issues with delays in completing transfers, funding difficulties, lack of information sharing by the Home Office, and failure to demonstrate that the child’s ‘best interests’ were a primary concern.

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6 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct_2013.pdf)

7 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257462/assessing-age.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf)

- 3.16 By 1 October 2017, 555 transfers had been completed. At the start, transfer times were averaging 8 days. By November 2017, this had become 30 days and was getting longer, with significant regional variations. Several stakeholders referred to delays of 3 months, and one region referred to occasional delays of 150 days.
- 3.17 Stakeholders highlighted the impact of delays on a child's 'best interests'. They caused difficulties in accessing education, English language tuition, legal advice and specialist healthcare. They also increased the likelihood of children going missing once they were notified they were being transferred, because they had become settled and were reluctant to move areas. A dearth of placements, linked to funding and competing pressures on Local Authorities, including from other better-funded refugee programmes, all contributed to the delays.
- 3.18 Not all the Local Authorities in England had signed up to the NTS, and the Home Office was working to persuade more to do so. However, some of those that had joined had since withdrawn, largely because they considered Home Office funding insufficient. The Home Office hoped that the announcement in December 2017 of the extension of the NTS to Scotland and Wales would increase participation levels, but as a voluntary scheme the NTS remained entirely dependent on the willingness of Local Authorities.
- 3.19 Until the end of 2017, the Home Office had produced little or no data about the NTS. This had led to a lack of trust in the Scheme. Some Local Authorities were concerned that the allocation of transfers was "unfair". The Home Office acknowledged that its failure to publish relevant data had caused issues, and in December 2017 produced the first NTS data set. It remained to be seen whether this would have a positive effect.
- 3.20 Stakeholders were unanimous that the Unique Unaccompanied Child Record (UUCR) form, used to initiate and support the transfer process, did not give sufficient consideration to the child's 'best interests'. Any 'best interests' assessments that had been carried out were not attached, nor was the UUCR maintained as a "live" document or reviewed if a transfer was delayed, failing to recognise that 'best interests' might change. Consequently, there had been some unsuitable referrals, and some transfers had "bounced around". As a minimum, the Home Office's Central Administration team needed to take a more active assurance role.
- 3.21 Home Office staff and stakeholders also believed that the child's "voice" was absent from the UUCR form. They argued that ensuring it was included would not only help inform transfer decisions, but also reduce the occasions where a child was resistant to moving or went missing, because the move came as a surprise or had not been properly explained and their views expressly sought.
- 3.22 'An inspection of asylum intake and casework',<sup>8</sup> published in November 2017, looked in detail at asylum interviews and decision making. It highlighted severe staffing problems with asylum decision makers throughout 2016, and the consequences for the time taken to make an initial decision, decision quality, and the increase in cases marked 'non straightforward' and set outside service standards. The current inspection did not look again at each of these issues in relation to claims from unaccompanied children, but they are handled by the same teams in Asylum Intake and Casework (AIC), normally by staff who are more experienced and have received specific training. The AIC-related recommendations from 'An inspection of asylum intake and casework' therefore also apply here.

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<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/662769/An\\_Inspection\\_of\\_Asylum\\_intake\\_and\\_casework.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662769/An_Inspection_of_Asylum_intake_and_casework.pdf)

- 3.23 In the current inspection, AIC told inspectors that, in practice, case reviews for unaccompanied asylum seeking children were not routinely completed. This was due to the lack of time, because of other casework demands; the difficulty in locating the child's social worker, where the child had moved location via the NTS or their claim had been redirected to another "less busy" AIC decision-making hub; or, social workers not attending arranged events. There was no evidence that this was being addressed, either nationally or locally, and while the difficulties were real, case reviews are too important for the Home Office simply to accept this situation.
- 3.24 Despite being an explicit requirement, and clearly relevant to any assessment of 'best interests', according to AIC staff, family tracing was "routinely considered, but rarely conducted". Where it was it was rarely successful. Staff reported that unaccompanied asylum seeking children were unable or unwilling to provide information about family members, and their tracing options were therefore limited. Where family members had been located they were often unwilling to engage with the Home Office.
- 3.25 The 2013 inspection of asylum applications from unaccompanied children recommended that the Home Office 'Ensures that it meets its legal obligation regarding family tracing and retains a record of the steps it has taken'.<sup>9</sup> The Home Office 'closed' this recommendation in May 2014, on the basis that decision-makers were being provided with additional practical guidance on family tracing and training. In light of the latest findings, it needs to give this matter further consideration and provide an updated response.
- 3.26 Inspectors found that Home Office staff were not giving full consideration to the child's 'best interests' in refusal decision letters. Again, decision-makers mentioned time as a problem, pointing out that they had 444 minutes allocated for asylum decisions for unaccompanied children, but 555 minutes for adult asylum refusal cases. Managers believed this was sufficient as it was based on a time and motion study. Whether as a result of time pressures or ineffective management assurance, or both, the quality of decision letters was poor.
- 3.27 Local Authorities and NGOs highlighted that it was essential to their 'best interests' that children were given information to help them to understand all stages of the asylum process and their rights. However, Home Office documentation was not "child-friendly", and was produced only in English. The Home Office made too little effort to ensure that the child understood key events such as age disputes, dispersal, and the limitations of 'UASC leave', relying instead on other 'actors', in Local Authorities and NGOs, to interact with and explain what was happening to the child, why, and what they needed to consider or do.
- 3.28 Between 1 July 2016 and 30 June 2017, the Home Office made 1,938 initial decisions on asylum claims from unaccompanied children. Of these, 508 (26%) were asylum refusals with grants of 'UASC leave'. The Home Office contended that granting 'UASC leave' was the most effective way of balancing the competing priorities of meeting the 'best interests' of the child while maintaining effective immigration control.
- 3.29 Most stakeholders working with unaccompanied asylum seeking children, from Local Authorities and from NGOs, strongly disagreed. In their view, uncertainty about their long-term future caused these children unnecessary distress, particularly where they had to make a further leave application at 17½ years old. This was a critical time, when many children would be taking examinations or completing training or apprenticeship programmes, and would be looking to make plans to start university courses or to look for employment.

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<sup>9</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct_2013.pdf)

3.30 The 2013 inspection of the Home Office's handling of asylum claims from unaccompanied children<sup>10</sup> made 9 recommendations, covering: consistency of treatment; family tracing; timeliness of asylum decisions; performance targets; development of statistics; data quality/record-keeping; quality of refusal letters; consistency of initial interviews; and referrals to the Refugee Council. The Home Office accepted all 9, and 'closed' them all between October 2013 and May 2016, having satisfied itself that it had taken the necessary actions. This latest inspection showed that it now needs to revisit most of these areas and make improvements that stick, with the support for staff and assurance measures in place to ensure and test that this is the case.

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<sup>10</sup> See footnote 9

## 4. Recommendations

### The Home Office should:

1. In respect of previous inspection reports:
  - a. Revisit each of the recommendations from the 2013 inspection on ‘Asylum applications made by unaccompanied children’<sup>11</sup> and ensure that the actions taken and measures put in place in response are fully effective now and remain so into the future, backed up with evidence from appropriate assurance processes and data
  - b. Ensure that in responding to the recommendations from the 2017 inspection on ‘the Home Office’s Asylum Intake and Casework’,<sup>12</sup> the findings of the current inspection on ‘how the Home Office considers the ‘best interests’ of unaccompanied asylum seeking children’ are taken fully into account
2. In respect of the current inspection, over and above any responses to previous inspections:
  - a. Ensure that the responsibilities of all Home Office business areas relating to the intake and reception of unaccompanied asylum seeking children are clearly communicated across the Home Office, to other ‘first responder’ agencies, and to all affected stakeholders – taking care that children are not required to make unnecessarily long journeys to register their claim
  - b. Work with stakeholders to produce “child-friendly” information to hand to unaccompanied asylum seeking children, including foreign language versions for the main nationalities, covering all aspects of the asylum process, but especially key events such as age disputes/age assessments, the National Transfer Scheme process, and ‘UASC leave’ – plans to publish a ‘point of claim’ leaflet, which should be progressed, may answer this, but only in part
  - c. Progress plans to review the initial welfare interview form swiftly so that it captures all relevant safeguarding information as well as being tailored appropriately to each child
  - d. Progress plans to update the ‘Assessing Age’ policy swiftly so that it is comprehensive and clear, including the “significantly over 18” guidance
  - e. Ensure that National Transfer Scheme requests are kept under review and that consideration of the child’s ‘best interests’ is dynamic throughout the transfer process, and any ‘best interests’ assessments are recorded on or attached to the Unique Unaccompanied Child Record
  - f. Amend the National Transfer Scheme process and Unique Unaccompanied Child Record to ensure that the child is given a “voice” throughout

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11 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct_2013.pdf)

12 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/662748/Home\\_Office\\_response\\_ICIBI\\_report\\_on\\_Home\\_Offices\\_Asylum\\_Intake\\_Casework.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662748/Home_Office_response_ICIBI_report_on_Home_Offices_Asylum_Intake_Casework.pdf)

- g. Develop a communication strategy for the National Transfer Scheme, supported by timely and accurate data and information about how the scheme is working, and covering issues (such as delays and funding) and how these are being addressed, and ensure it connects with Local Authorities across the UK, and with stakeholders, and includes communication and feedback within the Home Office to raise the profile within the Home Office
- h. Review the way Asylum Intake and Casework manages claims from unaccompanied asylum seeking children to ensure that decision-makers have the time, information and expertise necessary to make fully considered decisions that are in the child's 'best interests', and that the rationale for decisions is evidenced - ensuring case reviews take place and that the views of the child and of all the relevant 'actors' have been sought and recorded
- i. Review the 'UASC leave' policy and ensure that it is aligned with the policy intention and consequences of the Education and Skills Act 2008, that the likely impact of the expiry of leave at 17½ years is taken fully into account when granting leave in individual cases, and that steps are taken to ensure decisions about further leave applications are made swiftly
- j. Ensure that all Home Office staff involved with unaccompanied asylum seeking children understand and comply with the requirement to create accurate, complete and auditable records of all actions and decisions, including (but not limited to) Refugee Council referrals, age disputes and age assessments, the National Transfer Scheme, family tracing and asylum decisions

## 5. Background

### The rights and ‘best interests’ of children

- 5.1 The United Nations Convention on the Rights of the Child (UNCRC) is an international treaty that defines the fundamental rights of children. The UK signed the Convention on 19 April 1990, and it came into force in the UK on 15 January 1992.
- 5.2 Article 3 (1) of the Convention states:
- “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”
- 5.3 Section 55 of the Borders, Citizenship and Immigration Act 2009<sup>13</sup> gives effect to the UNCRC in immigration matters that affect children in the UK. It requires the Secretary of State (Home Secretary) to make arrangements to ensure 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”.
- 5.4 The Home Office has set out how it expects its staff to give effect to the UNCRC in published guidance, ‘Children’s asylum claims’:<sup>14</sup>
- “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”
- 5.5 Local Authorities in England have a duty under sections 17 and 20 of the Children Act 1989<sup>15</sup> to safeguard and promote the welfare of “children in need” by providing services appropriate to those children’s needs. Similar duties are placed on Local Authorities in Scotland under sections 22 and 25 of the Children (Scotland) Act 1995.<sup>16</sup> The equivalent duties of Welsh Local Authorities are set out in parts 3, 4 and 6 of the Social Services and Well-being (Wales) Act 2014.<sup>17</sup> The duties of Health and Social Care Trusts in Northern Ireland are set out in articles 18 and 21 of the Children (Northern Ireland) Order 1995.<sup>18</sup> This legislation applies to unaccompanied asylum seeking children.

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<sup>13</sup> <http://www.legislation.gov.uk/ukpga/2009/11/section/55>

<sup>14</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

<sup>15</sup> <http://www.legislation.gov.uk/ukpga/1989/41/contents>

<sup>16</sup> <http://www.legislation.gov.uk/ukpga/1995/36/contents>

<sup>17</sup> <http://www.legislation.gov.uk/anaw/2014/4/contents/enacted>

<sup>18</sup> <http://www.legislation.gov.uk/nisi/1995/755/contents/made>

## Unaccompanied asylum seeking children

5.6 The term ‘asylum’ is normally used to refer to the protection provided by a country to someone fleeing persecution in their country of nationality or habitual residence. The 1951 United Nations Convention Relating to the Status of Refugees<sup>19</sup> (‘the Convention’), to which the UK is a signatory, requires an individual seeking asylum to demonstrate that they have:

“a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion”

5.7 In the UK, claims for asylum are made under Paragraphs 328-333B of the Immigration Rules,<sup>20</sup> and may be made on or after arrival in the UK.

5.8 An unaccompanied asylum seeking child is defined by paragraph 352ZD of the Immigration Rules<sup>21</sup> as an asylum claimant 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

5.9 In the 12 months between 1 July 2016 and 30 June 2017, 2,952 unaccompanied children claimed asylum in the UK. This was 11% of the total 27,983 asylum claims registered in that period.

## Home Office responsibilities

5.10 UK Visas & Immigration (UKVI), a Home Office Directorate, manages the process for asylum claims, including claims made by unaccompanied children. This includes the initial registration of the claim, the routing of the claim to the appropriate unit, interview(s) of the claimant, the asylum decision, the handling of any appeal, and case conclusion.

5.11 The ‘Children’s asylum claims’ guidance,<sup>22</sup> which was updated in October 2017, covers the end-to-end process for asylum claims made by children. It makes clear that, from the first encounter of an unaccompanied child, Home Office staff must ensure that the child has access to the relevant support, welfare and advice on the asylum process and that appropriate account of the child’s ‘best interests’ is taken when making decisions.

## First encounters with an unaccompanied asylum seeking child

5.12 Asylum claims from children can be lodged on arrival at a UK port of entry, in-country with a local Immigration, Compliance and Enforcement (ICE) team, typically when the individual is encountered during an enforcement operation, or at 1 of 2 asylum intake units, located in Croydon and Kent, which are part of the National Asylum Intake Unit (NAIU).<sup>23</sup>

5.13 Of the 2,952 asylum claims from unaccompanied children made between 1 July 2016 and 30 June 2017, 277 (9%) were registered at a port, 844 (29%) by Immigration Enforcement, and 1,831 (62%) at one of the asylum intake units.

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<sup>19</sup> <http://www.unhcr.org/pages/49da0e466.html>

<sup>20</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>

<sup>21</sup> See footnote 20

<sup>22</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

<sup>23</sup> The Midlands Intake Unit in Bedfordshire is also part of the NAIU, although it does not have the facilities to lodge the asylum claims of children.

## Support for unaccompanied asylum seeking children

- 5.14 When an unaccompanied asylum seeking child is first identified, Home Office guidance requires that the Local Authority where the child was encountered is notified of the child's presence at the earliest opportunity. Home Office staff must request the attendance of the duty social worker to transfer the child into Local Authority care. Once in its care, the Local Authority is responsible in law for accommodating and caring for the child, including ensuring that the child receives the appropriate legal advice throughout their asylum claim.<sup>24</sup>
- 5.15 In England, the Home Office must refer all unaccompanied children to the Refugee Council's Children's Panel Advice Service<sup>25</sup> within 24 hours of their first encounter with the Home Office. The role of an Adviser is to assist and support unaccompanied children throughout the asylum process, including in their interactions with the Home Office and other agencies.
- 5.16 In Scotland, support is provided to unaccompanied children via the Scottish Guardianship Service which was set up in 2010 and is run in partnership by the Scottish Refugee Council and the Aberlour Child Care Trust. The Scottish Refugee Council's website describes the role of Guardians as to:
- “support the young people by helping them to navigate the immigration and welfare processes, feel supported and empowered throughout the asylum process and assist them to access the help they need when they need it and help them make informed decisions about their future”.<sup>26</sup>
- 5.17 In 2015, the Scottish Parliament passed the Human Trafficking and Exploitation (Scotland) Act.<sup>27</sup> This placed the Scottish Guardianship Service into law and put a duty on public bodies to refer to it. At the time of the inspection, Wales and Northern Ireland did not have a guardianship scheme, or access to the Refugee Council's Children's Panel Advice Service.

## Age Assessment

- 5.18 Where a young person without any documentary proof of their age claims asylum as an unaccompanied child the Home Office will make an assessment of age. This will normally be done at the initial encounter, at which stage the Home Office will either accept the individual's claimed age or dispute it.
- 5.19 Home Office staff guidance, 'Assessing Age',<sup>28</sup> published in June 2011, sets out the policy and practice to be followed when an asylum claimant's age is doubted:
- “The applicant should be treated as an adult if their physical appearance / demeanour **very strongly suggests that they are significantly over 18 years of age**<sup>29</sup>
  - ...
  - All other applicants should be afforded the benefit of the doubt and treated as children, until a careful assessment of their age has been completed”

24 “Every local authority— (a)shall facilitate the provision by others (including in particular voluntary organisations) of services which [it is a function of the authority] to provide ...” - The Children Act 1989. <http://www.legislation.gov.uk/ukpga/1989/41/contents>

25 [https://www.refugeecouncil.org.uk/what\\_we\\_do/childrens\\_services/the\\_childrens\\_panel\\_-\\_advice\\_service](https://www.refugeecouncil.org.uk/what_we_do/childrens_services/the_childrens_panel_-_advice_service)

26 [http://www.scottishrefugeecouncil.org.uk/how\\_we\\_can\\_help/advice\\_services/the\\_scottish\\_guardianship\\_service](http://www.scottishrefugeecouncil.org.uk/how_we_can_help/advice_services/the_scottish_guardianship_service)

27 <http://www.legislation.gov.uk/asp/2015/12/enacted>

28 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257462/assessing-age.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf)

29 **Bold** and underlined text as set out in the guidance

- 5.20 The Home Office should refer claimants who are “afforded the benefit of the doubt” to a Local Authority for a full age assessment. The ‘Age Assessment Joint Working Guidance’,<sup>30</sup> published in June 2015 by the Home Office and the Association of Directors of Children’s Services, sets out the minimum standards the Home Office and Local Authorities should adhere to when an age assessment is required. The Guidance recognises that both parties have a responsibility to ensure assessments are conducted in line with case law and guidance.<sup>31</sup>

## National Transfer Scheme

- 5.21 Before July 2016, responsibility for accommodating and caring for an unaccompanied asylum seeking child in England fell to the Local Authority where the child was first encountered.
- 5.22 On 1 July 2016, in recognition of the increased number of unaccompanied asylum seeking children arriving and being encountered at particular ‘entry’ points to the UK, notably in Kent and at Heathrow Airport,<sup>32</sup> the Home Office, Department for Education, and Department for Communities and Local Government launched the National Transfer Scheme (NTS).
- 5.23 The purpose of the NTS is to distribute responsibilities for caring for unaccompanied asylum seeking children more evenly amongst Local Authorities. Participation in the NTS is voluntary. Local Authorities opt into it. It operates according to an “Interim Protocol” drawn up by the Home Office, the Department for Education and the Department for Communities and Local Government.<sup>33</sup> An Annex to the protocol explains how “the best interests of the child shall be a primary consideration”.
- 5.24 The scheme operates on the principle that if the percentage of unaccompanied asylum seeking children in the care of a Local Authority has reached 0.07% of the total number of children in that area,<sup>34</sup> the ‘entry’ Local Authority may seek the transfer of any additional unaccompanied asylum seeking children to a ‘receiving’ Local Authority.
- 5.25 Originally, the NTS operated in England only. In December 2017, secondary legislation was introduced under the Immigration Act 2016<sup>35</sup> to extend the scheme to the whole of the United Kingdom.
- 5.26 Within the Home Office, the NTS is overseen by the Central Administration Team, part of UKVI’s Resettlement, Asylum Support and Integration directorate. In England, the NTS is regionalised. Local Authorities are grouped into 10 regions: Kent,<sup>36</sup> South East (excluding Kent), South West, North East, North West, Yorkshire and Humber, East of England, East Midlands, West Midlands, and London. The regions are overseen by Strategic Migration Partnerships (SMPs),<sup>37</sup> funded by the Home Office, who manage communication between the Home Office and the Local Authorities participating in the scheme.

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30 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/432724/Age\\_Assessment\\_Joint\\_Working\\_Guidance\\_April\\_2015\\_Final\\_agreed\\_v2\\_EXT.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432724/Age_Assessment_Joint_Working_Guidance_April_2015_Final_agreed_v2_EXT.pdf)

31 There is no prescribed way in which local authorities are obliged to carry out age assessments; the courts have, however, provided some general guidance to local authorities in a case involving Merton Council (B v London Borough of Merton [2003] EWHC 1689 (Admin), in which judgment was handed down by Stanley Burnton, J in the High Court on 14 July 2003. The Merton guidelines are set out in the Home Office’s ‘Assessing Age’ guidance at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257462/assessing-age.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf)

32 Heathrow Airport is in the Borough of Hillingdon

33 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/534258/Interim\\_National\\_UASC\\_transfer\\_protocol.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534258/Interim_National_UASC_transfer_protocol.pdf)

34 Calculated using the number of children per local authority as published by the Office for National Statistics in the Mid-2014 Population Estimates

35 <http://www.legislation.gov.uk/ukpga/2016/19/part/5/enacted>

36 At the time of the inspection, unaccompanied asylum seeking children made up 0.11% of Kent’s total child population. It was therefore considered as a region in its own right to allow more transfers to be made from the area.

37 These are regional partnerships funded by the Home Office. The SMPs work with partners to develop and support local migrant worker and asylum seekers and refugee networks, encompassing grass roots organisations and a network of multi-agency fora and specialist and task groups.

- 5.27 Social workers employed by Local Authorities decide whether to request that a particular child is transferred. Their decision should prioritise the child's 'best interests', and consider factors such as medical treatment, family ties, legal representation and advocacy, education, ethnic group, religion and continuity of care.
- 5.28 Between 1 July 2016 and 1 October 2017, 555 transfers had been completed under the NTS.

## Family Tracing

- 5.29 Home Office staff dealing with an asylum claim from an unaccompanied child have a responsibility under Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005<sup>38</sup> to attempt to trace the child's family at every stage of the asylum process.
- 5.30 Home Office guidance, 'Family Tracing',<sup>39</sup> published in July 2017, explains that "The responsibility begins once an asylum claim has been made and is designed to protect the best interests of the child". It sets out the purposes of attempting to trace the child's family:
- "restoring family links where they have been broken
  - maintaining established family links
  - obtaining information as to the family's current circumstances to assist in the identification of a durable solution"
- 5.31 The guidance states that a durable solution should be based on "an individual assessment of the child's best interests" and take into account the child's views, addresses all their protection needs, and "wherever possible and suitable, leads to overcoming the situation of the child being unaccompanied".
- 5.32 The Home Office divides family tracing into 6 stages:
1. Providing the child with information about the process
  2. Collecting and validating information relevant to family tracing from the child
  3. Assessing whether family tracing is appropriate
  4. Assessing what family tracing steps are available, feasible and appropriate
  5. Making enquiries to try to locate and, if possible, make contact with family members
  6. Notifying the child of the outcome"
- 5.33 The 'Family Tracing' guidance further explains that the "family tracing duty is distinct from and different in purpose to the substantive asylum process". Whether a person qualifies for asylum or humanitarian protection is determined by the criteria in the Refugee Convention<sup>40</sup> and the Qualification Directive (2004/83/EC)<sup>41</sup> alone.

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38 <http://www.legislation.gov.uk/uksi/2005/7/contents/made>

39 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/633768/family-tracing-v2\\_0EXT.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/633768/family-tracing-v2_0EXT.pdf)

40 <http://www.unhcr.org/uk/1951-refugee-convention.html>

41 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:en:HTML>

## Children's 'best interests' in asylum decisions

- 5.34 In the context of 'best interests', Home Office guidance 'Children's Asylum Claims' states that, in most circumstances, "a decision to grant permission to remain in the UK can be understood to be one that has taken into account the need to safeguard and promote that child's welfare".<sup>42</sup> When a decision is being considered that might have an adverse impact, such as an asylum refusal, the decision maker is required to consider the impact on the child. This consideration "must take account of the law and policy that requires such a decision, but must identify and address the impact on the child".
- 5.35 If a child does not qualify for refugee status, Humanitarian Protection, family or private life leave, or discretionary leave on any other basis, the Home Office must consider whether there are safe, adequate and sustainable reception arrangements in the child's home country. If so, the claim will fall to be refused outright. If not, and but for this it would be reasonable for the child to return, the caseworker must consider granting 'UASC leave' under paragraphs 352ZC-F of the Immigration Rules.<sup>43</sup> The leave is granted for 30 months or until the child reaches the age of 17.5 years of age, whichever is the shorter. Once the child reaches 18, the UNCRC requirement to take account of their 'best interests' no longer applies.
- 5.36 Between 1 July 2016 and 30 June 2017, 1,938 initial decisions were made on asylum claims from children (aged less than 18 years by at least 1 day on the date of their asylum claim). In 1,485 (77%) of these cases, the claimant received a decision before they turned 18, while in 453 cases (23%) the claimant was 18 (or over) by the time they received a decision. A breakdown of types of decisions made is at Figure 1:

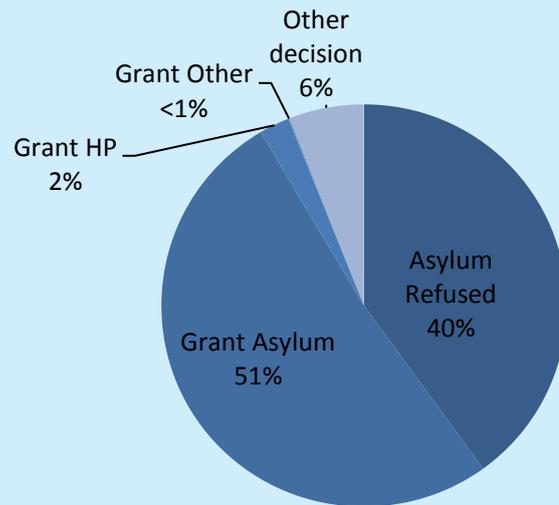
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<sup>42</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

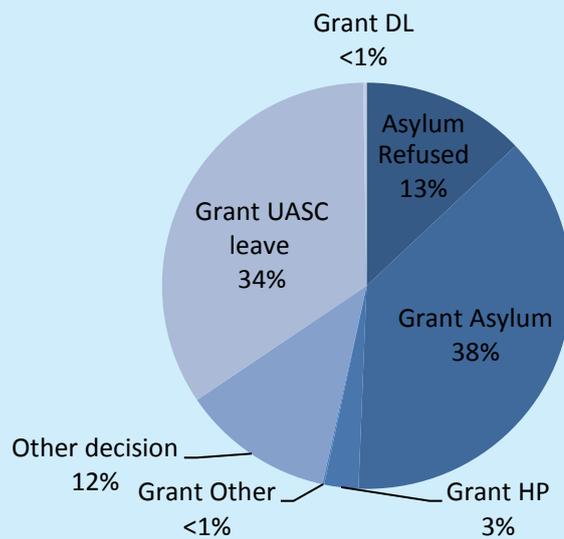
<sup>43</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>

**Figure 1: A breakdown of asylum decisions made between 1 July 2016 and 30 June 2017 where the claimant was under 18 by at least 1 day on the date of their claim<sup>44</sup>**

**Decision outcomes for unaccompanied children who were over 18 at the time of receiving their asylum decision from 1 July 2016 - 30 June 2017**



**Decision outcomes for unaccompanied children who were under 18 at the time of receiving their asylum decision from 1 July 2016 - 30 June 2017**



<sup>44</sup> 'Other' decisions include asylum applications where the claimant departed the UK prior to the asylum decision, withdrawn asylum claims and claims which were marked as void by the Home Office. 'Grant other' relate to asylum applications where the claimant was refused asylum and granted leave to remain on the basis of their family or private life in the UK.

## 6. Inspection findings – Reception and intake of unaccompanied asylum seeking children

### Published guidance

- 6.1 Guidance for children wishing to claim asylum is available on the GOV.UK website. ‘Claim Asylum in the UK’ states that: “If you don’t have an adult who is legally responsible for you, you should go to the police or social services, or you can walk into the asylum screening unit.”<sup>45</sup> Children already in the care of social services are told that: “you must book an appointment at the asylum screening unit by calling the appointment booking line.”<sup>46</sup>
- 6.2 Home Office guidance, ‘Children’s Asylum Claims’,<sup>47</sup> outlines that children can be encountered in the UK in a variety of ways. For example:
- “at ports of entry
  - in immigration enforcement operations
  - as clandestine illegal entrants
  - by attending the Asylum Intake Unit (AIU) in Croydon
  - by referral to the Kent Intake Unit (KIU)”
- 6.3 Children wishing to claim asylum do not have the same asylum screening interview<sup>48</sup> as adults, but must undergo an initial welfare interview. The purpose of the welfare interview is to “ensure a child understands what is happening and why, and to ensure necessary information about the child’s welfare is obtained”.<sup>49</sup>

### The national picture

- 6.4 Home Office data for 1 July 2016 to 30 June 2017 showed that 2,952 unaccompanied children claimed asylum in the UK. Figure 2 provides a breakdown of asylum claims registered by unaccompanied children in each Home Office business area in this period.

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45 <https://www.gov.uk/claim-asylum/children>

46 See footnote 45

47 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

48 For most adults, registration of an asylum claim involves a short ‘screening’ interview to establish the claimant’s personal details, capture biometric information, record in brief their reason(s) for claiming asylum, capture information on the claimant’s method of entry to the UK, and identify any vulnerabilities. Unaccompanied asylum seeking children and vulnerable adults are not required to have a screening interview.

49 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

**Figure 2: The number of asylum claims registered by unaccompanied children in each Home Office business area between 1 July 2016 – 30 June 2017**

Month 2016-17	National Asylum Intake Unit	Border Force (at port)	Immigration Enforcement (at a Local Enforcement Office)
July	104	20	104
August	110	13	116
September	126	36	73
October	274	24	76
November	253	23	62
December	311	18	105
January	126	36	34
February	75	28	40
March	111	16	68
April	117	17	41
May	101	18	49
June	123	28	76
<b>Total</b>	<b>1831</b>	<b>277</b>	<b>844</b>

### National Asylum Intake Unit (NAIU)

- 6.5 The NAIU received 62% of the claims made. The NAIU comprises 3 intake units: the Asylum Intake Unit (AIU) at Croydon, the Kent Intake Unit (KIU) in Dover and the Midlands Intake Unit (MIU) in Bedford. Of these, AIU registered 1,575 (86%) of the NAIU claims.
- 6.6 The KIU registered 256 (14%) asylum claims from unaccompanied children in the 12 months to 30 June 2017. KIU is responsible for registering claims from children (and adults) encountered in Kent by Border Force (BF), by Immigration Enforcement (IE), or by Kent Police.
- 6.7 Both AIU and KIU have dedicated officers, trained to carry out the initial welfare interviews of an unaccompanied asylum seeking children in line with the Home Office guidance 'Children's Asylum Claims'.<sup>50</sup>
- 6.8 The facilities at the MIU are suitable only for adults, so it does not deal with asylum claims from children.

### AIU

- 6.9 A Local Authority that is already caring for a child who wishes to make an asylum claim can use a dedicated telephone line to make an appointment at the AIU on behalf of the child. Children who are not in the care of a Local Authority can attend the AIU in person without an appointment. This is commonly referred to as a 'walk-in'. The number of 'walk-ins' is much smaller. The Home Office should refer any 'walk-ins' to Croydon Council.

<sup>50</sup> See footnote 49

- 6.10 As for adult asylum claimants, staff in AIU work to an internal target of registering asylum claims from children within 10 days of the claimant, or their social worker, calling the UK Visas and Immigration (UKVI) booking service to make an appointment, or the child attending the AIU as a 'walk-in'. AIU's performance against this 10-day target between July 2016 and June 2017 is at Figure 3.

**Figure 3: AIU's performance against the internal 10-day appointment target for unaccompanied children**

Month 2016-17	Average number of days for appointment
July	7
August	6
September	7
October	9
November	10
December	10
January	8
February	7
March	8
April	7
May	5
June	7

- 6.11 AIU managers and staff told inspectors that they would give children who arrived at the AIU to register their asylum claim priority, regardless of whether they had an appointment or were a 'walk-in'. However, they were concerned that there was "not enough resource" within AIU, which meant that some children waited for longer than was "acceptable". This echoed the 2017 'Asylum Intake and Casework' inspection,<sup>51</sup> where staff at AIU reported that they were being "pushed to the limit".
- 6.12 Senior managers in AIU conceded that resources were "more challenging" in 2017 than they had been during the previous year. While asylum intake had reduced overall,<sup>52</sup> this was not how it felt "on the frontline". Some AIU managers and staff believed this was because AIU resources were being deployed elsewhere, for example to conduct asylum screening interviews and welfare interviews in other regions.
- 6.13 AIU staff told inspectors that, since August 2016, they had worked to a second internal target: registering asylum claims from unaccompanied children who would be transferred under the National Transfer Scheme (NTS) within 3 working days.<sup>53</sup> This reflected the fact that Croydon Council had reached the 0.07% 'ceiling' for unaccompanied asylum seeking children as a percentage of its overall child population, and that the NTS 'Interim Protocol' did not permit transfers to take place until a child's asylum claim has been registered.<sup>54</sup>

51 <https://www.gov.uk/government/publications/inspection-report-on-asylum-intake-and-casework>

52 Between 1 July 2016 and 30 June 2017, the Home Office registered 27,893 asylum applications. In the year to 30 June 2016 it registered 36,465 applications.

53 The 'clock' started on the 3-day target when the claimant, or their social worker, called the UK Visas and Immigration booking service to make an appointment or the child attended AIU as a 'walk in'.

54 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/534258/Interim\\_National\\_UASC\\_transfer\\_protocol.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534258/Interim_National_UASC_transfer_protocol.pdf)

- 6.14 Inspectors were told that many Local Authorities in London were now reaching the 0.07% ‘ceiling’ and needed to request transfers. Local Authorities had expressed concerns that delays in children being able to register their asylum claim at the AIU was causing delays in NTS transfers, which could impact negatively on the child.
- 6.15 AIU’s performance against the 3-day target between 1 August 2016 and 31 July 2017 is at Figure 4.

**Figure 4: AIU’s performance against the internal 3 working day appointment target for NTS cases between 1 August 2016 – 31 July 2017**

Month 2016-17	Average number of working days for appointment for NTS cases
August	3
September	4
October	4
November	4
December	7
January	5
February	5
March	7
April	7
May	6
June	6
July	5

- 6.16 AIU managers and staff told inspectors that the 3-day target had become “unmanageable”. Previously, AIU had a team dedicated to unaccompanied asylum seeking children (UASC). It had also liaised with Local Authorities and stakeholders, such as the Refugee Council and other non-governmental organisations (NGO).
- 6.17 Since May 2015, the AIU no longer had staff dedicated to UASC work. Instead, all AIU staff performed UASC team duties as part of their rostered shifts. Managers said this created “more flex” in their resources, as staff could move between the adult and UASC teams according to intake demands.
- 6.18 Some managers and staff felt that the loss of a dedicated UASC team meant that knowledge and expertise had been lost, and some of the former were concerned that staff with less experience of UASC cases were “making mistakes”, forgetting to follow UASC-specific processes, such as for age disputes.
- 6.19 Home Office managers at the AIU told inspectors that they “signed off” every initial welfare interview to ensure that it had been completed in line with guidance before it was given to the claimant. They had previously been allocated days within their shift patterns to carry out “quality control”, including observing initial welfare interviews. However, inspectors were told that quality checks were no longer taking place due to the strain on AIU resources.

- 6.20 At the time of the inspection, the Home Office was funding a social worker from Croydon Council to be on site in the AIU Mondays to Fridays. The social worker assisted with child ‘walk-ins’, providing support to the child when registering their asylum claim and finding them suitable accommodation following their initial welfare interview. This meant that unaccompanied children were, for the most part, quickly referred into Local Authority care.
- 6.21 AIU managers and staff and social workers told inspectors that they worked well together. However, the latter reported that the disbanding of the dedicated UASC team had caused some “teething” issues with information sharing. Inspectors were told that, on several occasions, the onsite social worker had not been notified of an unaccompanied child ‘walk-in’ at the unit for several hours, which had delayed the transfer of the child into their care.

## KIU

- 6.22 When an unaccompanied child is referred to the KIU, they are electronically ‘booked in’ by Tascor,<sup>55</sup> and served with an IS.91 paper form, a legal document giving the Home Office authority to detain. The child is then placed in a holding room and monitored by Tascor staff until an officer is available to carry out the initial welfare interview. Any immediate welfare needs the child may have, such as food and water, are looked after.
- 6.23 Once the initial welfare interview has been completed, and the child’s biometric details have been recorded by the Home Office, a referral<sup>56</sup> is made to Kent County Council (KCC) to attend the KIU and take the child into its care. The child is then moved from the holding room into the Atrium, to await the arrival of KCC.
- 6.24 The Atrium was created in November 2015, to increase capacity at the KIU. Previously, the KIU could hold 57 asylum claimants at any one time in a short-term holding room. The Atrium created a ‘non-detained area’<sup>57</sup> for 80 claimants to wait to be transferred to initial asylum accommodation.
- 6.25 Following their initial welfare interview, unaccompanied children are also referred to a Refugee Council Adviser. Since November 2015, the Refugee Council has had an Adviser onsite in the Atrium 24-hours a day, providing a safeguarding and advice service for unaccompanied children who arrive at the unit.
- 6.26 A report by HM Inspector of Prisons in August 2016 found that: “A separate area in the Atrium specifically for minors provided welcoming facilities and recreational activities for children and young people”.<sup>58</sup> In November 2017, ICIBI inspectors found that the Home Office and the Refugee Council had made considerable efforts to create a child-friendly environment in the Atrium, with a separate area for unaccompanied children and families, with a play area and comfortable seating.
- 6.27 Home Office staff and the Refugee Council Advisers at the KIU told inspectors that they worked well together to ensure that children’s immediate welfare needs were met within the KIU. The Refugee Council said their relationship with Home Office KIU staff was “an example of good practice, each respecting the other’s role and expertise with the best interests of children in mind”.

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<sup>55</sup> A company contracted by the Home Office to provide facilities management and custodial support at the KIU.

<sup>56</sup> This referral should be made by telephone and followed up in writing by Home Office staff.

<sup>57</sup> A temporary waiting area not covered by immigration detention centre rules.

<sup>58</sup> <https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2016/12/DOVER-SEAPORT-STHF-Web-2016.pdf>

6.28 Home Office KIU staff told inspectors that they worked to an internal target of referring all children who arrived at the unit to KCC within 90 minutes. This target, introduced in October 2015, was designed to ensure that KCC was notified promptly about unaccompanied children arriving at the KIU so that social workers could attend as quickly as possible. In addition, it aimed to ensure that KIU staff moved children out of the holding room as soon as practicable, in recognition that it was “not the ideal place for children to be held for protracted periods of time”, particularly during busy periods when adult claimants were also being accommodated in the holding room. The KIU did not capture average waiting times in the Atrium as at the point a child was moved to the Atrium they were no longer subject to Home Office processes.

6.29 KIU’s performance against the 90-minute target between July 2016 and June 2017 is at Figure 5.

**Figure 5: KIU’s performance against the internal target to refer unaccompanied children to Kent County Council within 90 minutes from 1 July 2016 – 30 June 2017**

Month 2016-17	Average referral time (minutes)
July	60
August	90
September	95
October	85
November	65
December	60
January	80
February	125
March	90
April	80
May	70
June	110

6.30 Some staff at the KIU felt that the 90-minute referral target could put “too much pressure” on the member of staff dealing with the child and the focus could become on “speed, not quality”. However managers said that they were able to relax the target where this was appropriate, for example, if the child needed to sleep before beginning their initial welfare interview. As long as a clear reason could be provided for exceeding the 90-minute target, managers were not concerned about any delay.

6.31 KIU managers and staff told inspectors that they aimed to ensure that children were detained for the shortest possible time, although they did not have a specific target for this. The KIU records detention as having ceased when a claimant is moved into the atrium, or from the holding room directly into the care of a Local Authority. KIU’s average detention times for unaccompanied children between July 2016 and June 2017 is at Figure 6.

**Figure 6: The average detention times for unaccompanied children at the KIU from 1 July 2016 – 30 June 2017**

Month 2016-17	Average detention time (hh:mm)
July	03:55
August	03:48
September	03:10
October	03:10
November	02:10
December	02:30
January	02:10
February	04:35
March	03:35
April	02:50
May	03:15
June	03:50

- 6.32 The Home Office informed inspectors that “extended” detention times were not always due to its processes. For example, a child may arrive at the unit at night, or there may be concerns that placing a child in the Atrium is not in the child’s ‘best interests’.<sup>59</sup> In these cases, the child would be kept in a family room within the holding room until KCC arrived, which could mean a delay.
- 6.33 The KIU referral to KCC usually includes a copy of the initial welfare interview and any other information relevant to the child’s welfare already obtained by the Home Office. Between Monday and Friday, KCC ring-fences staff to attend the KIU from their Dover offices, so that children can be referred into their care as quickly as possible.
- 6.34 KIU managers and staff told inspectors they felt they had a good working relationship with the KCC social workers who responded to referrals. Similarly, a senior social work practitioner from KCC told inspectors that the KIU staff “on the ground” were “committed to ensuring that the child’s immediate needs were met”, and they were satisfied that the KIU would share important information with social workers about the child, such as any welfare concerns.

### Asylum claims in other locations

- 6.35 The Asylum Policy Instruction ‘Registering an Asylum Application in the United Kingdom’,<sup>60</sup> states that children “who are in the care of social services may be treated discretionally and have their application recorded and screened regionally at a Local Enforcement Office”. This applies only to unaccompanied asylum seeking children “who cannot travel to the ASU<sup>61</sup> (i.e. due to the distance involved)”.

<sup>59</sup> The Home Office said this would apply specifically to Vietnamese children who were “a very high flight risk”.

<sup>60</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257459/registering-asylum.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257459/registering-asylum.pdf)

<sup>61</sup> The Asylum Screening Unit (ASU) is the old term for the AIU in Croydon

- 6.36 In August 2016, Immigration Enforcement (IE) notified UK Visas and Immigration (UKVI) that where UKVI had an office in one of its regions it would expect UKVI to take on the responsibility for the initial welfare interview of unaccompanied asylum seeking children. This reflected IE's belief that UKVI was better equipped to conduct these interviews, and that IE's priorities lay elsewhere - the arrest, detention and removal of illegal migrants. Meanwhile, in areas where there was an Immigration, Compliance and Enforcement (ICE) team but no UKVI presence IE would continue to conduct any initial welfare interviews.
- 6.37 AIU managers told inspectors that, as a result of this decision, there had been a number of instances where children were required to travel considerable distances, for example from the north of England, to register their asylum claims in Croydon. As a result, the AIU had received numerous complaints from NGOs and Local Authorities. However, an IE senior manager told inspectors that this was "misinformation", and said that they were aware of only one instance of where the wrong information had been given that had led to the child having to travel to Croydon for their initial welfare interview.
- 6.38 In its 'Review of Home Office Practices when interviewing unaccompanied migrant children',<sup>62</sup> the Home Office's Office of the Children's Champion (OCC) reported that legal representatives and social work leads had shared their concerns with the OCC in relation to children brought to London for interview even though there were potential safety and welfare risks. The OCC recommended that the Home Office "made the most" of all its options when selecting the interview location.
- 6.39 Local Authorities and other stakeholders told inspectors that IE's decision had had a detrimental impact on unaccompanied children living outside of London and the South East, citing numerous instances where children were required to travel significant distances to attend the AIU in Croydon in order to register their asylum claims. This was also placing strain on Local Authorities, who were usually required to send a social worker to accompany the child.
- 6.40 Local Authorities felt that the decision, and the rationale behind it, had not been effectively communicated to them, which had meant they had not been able to put plans in place to accommodate the change. The IE senior manager meanwhile argued that IE's operational decision had been "communicated clearly", but cited only IE's communications with UKVI.
- 6.41 The Home Office did not capture data in a way that enabled it to report how many unaccompanied children had been affected by the IE decision, so inspectors could not independently assess the scale and spread of the issues it had caused.
- 6.42 Home Office asylum policy officers expressed concern at the way in which the change had been communicated across the Borders, Immigration and Citizenship System (BICS).<sup>63</sup> They told inspectors that IE had not informed them about its decision and that new operational instructions had not been issued to staff dealing with the registration of asylum claims from unaccompanied children, so staff were unaware of the change in process and "the wrong advice" had been given to unaccompanied children attempting to register their asylum claims locally to where they were living.
- 6.43 At the time of this inspection, a senior manager in NAIU told inspectors that the Home Office was "committed to screening children locally" and UKVI would lead on this. NAIU was working with IE to move long-term towards a national screening system where all unaccompanied children could register their asylum claim locally, rather than have to travel to Croydon. This would include use of video conferencing.

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62 An internal Home Office document

63 BICS includes UK Visas and Immigration, Immigration Enforcement, Border Force, BICS Policy, plus HM Passport Office.

6.44 In the meantime, NAIU was deploying officers from Croydon to Leeds, Liverpool and Solihull so that some unaccompanied children would not need to travel to Croydon. Senior managers conceded that this was a “stop gap to plug a wider issue”, and progress needed to be made to ensure that no child was ever expected to travel a long distance to Croydon to register their asylum claim.

## Project Innerste

6.45 Inspectors were told that there had been incidents where children had been detained by the police and transferred to children’s services without IE attending to capture biometric details. If the child subsequently absconded from care, there was little or no data available to support a missing persons enquiry, “thus posing significant risk to these children and all agencies involved”.<sup>64</sup>

6.46 Home Office guidance, ‘Children’s Asylum Claims’ states that, when an unaccompanied child is first encountered, Home Office staff are responsible for ensuring that: “the child understands what is happening and why, and to ensure that necessary information about the child’s welfare is obtained”. This includes “recording biometrics” and carrying out “a meaningful booking-in process (including bio-data)”.<sup>65</sup>

6.47 IE told inspectors that it had worked with the police to develop a “multi-agency welfare form”. This focused on safeguarding unaccompanied children and enabled the initial welfare interview to be carried out by the police where they were the “first responders”.

6.48 Using the new form, the police would capture biometric information about the child, which would be transferred to IE and the information uploaded onto Home Office IT systems. This data could be used to identify a child later if found after going missing, or if they committed a crime or were trafficked.

6.49 Hertfordshire Constabulary had agreed to pilot this new approach. ‘Project Innerste’, which was launched on 1 August 2017, ran for 3 months. During that time, 6 unaccompanied children were encountered by the force and should have been dealt with under this new process.

6.50 IE’s evaluation of the pilot found that, overall, it had been successful in capturing the necessary information to safeguard the child. However, there had been some communication issues, for example one child was not dealt with via the new process as the frontline police officers involved were not aware of it. The evaluation also noted that children’s services had “raised some concerns” in all 6 cases, due to their lack of awareness of the pilot.

6.51 At the time of the inspection, IE told inspectors that they were “in talks” with a number of police forces who were interested in using this new approach, with a view to a national roll-out in 2018.

## The initial welfare interview

6.52 Before November 2016, an unaccompanied child wishing to claim asylum would have an asylum screening interview, during which the child would be asked questions about the basis of their claim. The answers the child provided could be used to assess the credibility of their asylum claim when the Home Office came to make an asylum decision.

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64 From IE’s December 2017 evaluation of Project Innerste

65 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

- 6.53 In the judgment of AN and FA,<sup>66</sup> the Court of Appeal considered how the UK dealt with unaccompanied children on arrival. It held that, in addition to recording biometrics, the Home Office should ask questions on arrival only to obtain information which is essential for:
- “a meaningful booking-in process (including bio data)
  - identifying welfare concerns
  - identifying trafficking concerns”
- 6.54 In response to this judgment, in November 2016, the screening interview was replaced with an initial welfare interview. The HO guidance ‘Children’s Asylum Claims’ provides information to staff on how to carry out the initial welfare interview:
- “The welfare form [...] cannot be used to examine the basis of the claim for asylum [...] 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”<sup>67</sup>
- 6.55 Stakeholders working in the asylum field told inspectors that they supported the introduction of the initial welfare interview. They felt the new process gave children the chance to seek legal advice and “recuperate” before discussing the basis of their asylum claim.
- 6.56 Inspectors found that Home Office staff understood the purpose of the initial welfare interview and were in most cases following the guidance relating to it. However, staff expressed frustration at the “restrictive” nature of the initial welfare form, which was used to carry out the interview. They told inspectors that they felt bound by the questions on the form, and raised concerns that it did not adequately cover safeguarding issues, such as trafficking.
- 6.57 Managers leading on safeguarding issues within the NAIU felt that staff were “inhibited” by what they could ask when carrying out initial welfare interviews, and they would “welcome more freedom” to address safeguarding concerns at an early stage. One manager cited instances where safeguarding issues relating to unaccompanied children had not been identified at the initial welfare interview as “the right questions had not been asked”. At the AIU, managers told inspectors that they had needed to create an additional safeguarding form so that safeguarding questions could be asked and welfare issues would not be missed.
- 6.58 Home Office staff and managers were also concerned that the initial welfare interview could not be adapted to the individual child, and did not allow staff to tailor their approach according to the child’s age and current circumstances. The initial welfare interview form was the same for unaccompanied children who had “just arrived off the back of a lorry” as it was for ‘looked after’ children (LAC)<sup>68</sup> who were already in the care of social services. Staff and managers felt some of the immediate welfare questions on the form could confuse LAC, whose immediate welfare needs had already been met by a Local Authority.
- 6.59 The Home Office’s Office of the Children’s Champion (OCC) ‘Review of Home Office practices when interviewing unaccompanied migrant children’<sup>69</sup> examined 11 initial welfare interviews at the AIU and found that:

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66 <http://www.bailii.org/ew/cases/EWCA/Civ/2012/1636.html>

67 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

68 The term used by Local Authorities to describe children who are being cared for.

69 An internal Home Office document, produced in November 2017.

“most of the welfare interviewers we observed were very matter of fact, at times robotic, in the way they asked questions and responded to the answers given. Interviews focused mainly on following a script which meant interviewees were rarely encouraged to elaborate or reveal more”

- 6.60 Senior managers within asylum policy conceded that the the initial welfare form might be “too heavily weighted” towards children who had just been encountered by the authorities in the UK. However, they disagreed with the view that the form was inflexible, stating that it was “not prescriptive” and staff could ask additional questions if required.
- 6.61 The Home Office told inspectors that it intended to begin reviewing the initial welfare interview form in spring 2018, working with frontline staff to reflect the different circumstances in which unaccompanied asylum seeking children were encountered.

### Refugee Council referrals

- 6.62 All unaccompanied children encountered in England must be referred to the Refugee Council’s Children’s Panel Advice Service within 24 hours of the Home Office becoming aware of them. The Home Office contracts the Refugee Council’s Children’s Panel Advice Service to provide asylum advice and support to unaccompanied children. In 2017-18 (April-March), the Home Office grant for this service was £1.4m.
- 6.63 The ‘Inspection into the handling of asylum applications made by unaccompanied children’,<sup>70</sup> found that the duty to refer children to the Refugee Council was not consistently met. It recommended that the Home Office
- “Refers all unaccompanied children who apply for asylum to the Refugee Council within the agreed timing, and keeps accurate records of notification.”
- 6.64 UKVI’s Operational Assurance and Security Unit (OASU) provided inspectors with an update on the progress made against the recommendations contained in the 2013 report. The recommendation relating to Refugee Council referrals had been ‘closed’ by the Home Office on 31 October 2013. The accompanying note stated that:

“As the report acknowledges the Home Office has already looked into the issue of Children’s Panel referrals and we have amended mandatory staff training to increase awareness of the need to make referrals. We have also reminded all case-working staff of the importance of making prompt referrals to the Children’s Panel in all cases involving unaccompanied children. We will track the impact of this training and monitor the situation on referrals, primarily to ensure that unaccompanied children are properly supported during the asylum process, and also to ensure that we are getting best value for the taxpayer from the Refugee Council grant agreement”

- 6.65 Inspectors examined 47 case records, from the period 1 July 2016 to 30 June 2017, where a Refugee Council referral was required. Of the 47 cases, 17 contained no evidence that a referral had been made. Meanwhile, the Refugee Council estimated that approximately 30% of all unaccompanied asylum seeking children were not referred to them.

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<sup>70</sup> Published October 2013. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct_2013.pdf)

- 6.66 Managers carrying out local assurance checks on initial welfare interviews at the AIU told inspectors that they had recognised that Refugee Council referrals were sometimes missed or were incomplete. They had invited the Refugee Council to speak to staff at the unit to raise awareness of this issue.

## Scottish Guardianship Service

- 6.67 In September 2010, the Scottish Government introduced a trial of the Scottish Guardianship Service, jointly operated with the Scottish Refugee Council and Aberlour Child Care Trust.<sup>71</sup> The Service was intended to “help local authorities with the specific issues that affect separated children” and offer “support, first and foremost, to children and young people both on welfare and immigration matters and specific support with the immigration process to local authorities.” This support “enabled separated children to learn about the welfare and immigration processes directly, making the information relevant to their specific circumstances”.<sup>72</sup>
- 6.68 The trial ended in March 2013. A review<sup>73</sup> was conducted and concluded that the “voices of young people were strong and clear”. They believed that the Service put them – rather than the processes to which they were subjected – at the centre and that the guardians “provided them with a level of acceptance and support which, for complex reasons, they were unable to secure from other adults in their lives”.
- 6.69 The Scottish Government announced that it would continue to part-fund the scheme from April 2013, and has continued to do so. Local Authorities are required to refer any unaccompanied asylum seeking child who registers a claim in Scotland to the Scottish Guardianship Service.
- 6.70 Home Office staff based in Scotland told inspectors that, while the Home Office was not required to ensure that referrals took place, they acted as a safety net, reminding Local Authorities of this duty. Social workers continued to be the main point of contact and go-between for the Home Office and the Scottish Guardianship Service. Direct contact was limited.

## Information provided at the point of claim

- 6.71 A number of Local Authorities and NGOs highlighted that unaccompanied children may not be equipped to deal with the asylum process, and that it was essential to their ‘best interests’ that children were given information to help them to understand all stages of the process and their rights.
- 6.72 Home Office guidance, ‘Children’s Asylum Claims’,<sup>74</sup> outlines the documents that should be given to an unaccompanied child once their initial welfare interview is completed:
- “a copy of the welfare interview form
  - an IS.96 which grants temporary admission to the UK
  - a Statement of Evidence Form (SEF)<sup>75</sup> noted with a return date of no later than 60 days from the date of the completion of the welfare form”

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71 Aberlour is a Scottish charity which focus on children’s issues. Further details available at: <https://www.aberlour.org.uk/>

72 The Scottish Guardianship Service, Scottish Government website. Available at: <http://www.gov.scot/Topics/People/Young-People/protecting/lac/guardianship>

73 ‘She Endures with me’ An evaluation of the Scottish Guardianship Service pilot; Helen Crawley and Ravi KS Kohli, 2013. Available at: <file:///C:/Users/Duffya/Downloads/Final%20Report%202108.pdf>

74 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

75 The SEF gives the child the opportunity to provide details about the basis of their asylum claim prior to their substantive asylum interview and is usually completed on their behalf by their legal representative or social worker.

- 6.73 Local Authorities and NGOs told inspectors that the documentation provided to a child when they claimed asylum, all of which was in English only, was not “child-friendly” and did very little to explain what would happen next. This meant that children were often unclear about the process and their rights as an unaccompanied asylum seeking child.
- 6.74 They also told inspectors that they felt that the Home Office relied on other “actors” and agencies, such as social workers and legal representatives, to explain the asylum process to the child once the asylum claim had been registered. This was of particular concern to Local Authorities in areas with less experience of caring for unaccompanied asylum seeking children, as they felt that they were not best placed to provide a child with accurate information about the asylum process.
- 6.75 Inspectors sought the views of 5 young people who had registered an asylum claim in the UK when under 18. Of the 5, 4 told inspectors that they felt “confused” about the asylum process when they registered their asylum claim and in their view they were not given any information about the onward asylum process by the Home Office.
- 6.76 Home Office staff and managers at the intake units said that their focus was to deal with the immediate welfare concerns of the child, registering their asylum claim and, if necessary, ensuring they were referred to children’s services as swiftly as practicable. They felt there was limited time to explain the asylum process to the child and that this role was best placed with the social worker or legal representative as once the child left the intake unit the Home Office staff there had “no further involvement in the child’s case”.
- 6.77 The Home Office acknowledged that it could do more to ensure that the child understood the asylum process and their rights as an unaccompanied asylum seeking child. It told inspectors it was working with a range of stakeholders “to produce an accessible and easy to understand document which provides information to unaccompanied children on their rights and entitlements, the role of the different agencies and people that they may come into contact with, and how to engage with the asylum process”.

## 7. Inspection findings – Age dispute and age assessment

### Adult or child

- 7.1 The Home Office has different policies, processes and rules for the treatment of adult and child asylum claimants. It therefore needs to establish for each claimant on initial encounter whether it is dealing with an adult or a child (under the age of 18).<sup>76</sup>
- 7.2 At this stage in the process, Local Authorities have the greater interest in establishing a child's age more precisely as they are responsible for taking children into care, and need to ensure they are allocated to the correct accommodation and services.
- 7.3 Home Office staff told inspectors that some adults claimed to be children in the belief that children were afforded more evidential and procedural safeguards. Where they doubted the age of a child claimant Home Office staff would dispute it.

### Determining age at initial encounter

- 7.4 The Home Office policy document 'Assessing Age',<sup>77</sup> last updated in June 2015, provides guidance to Home Office staff on what to do where there is little or no evidence to support the applicant's claimed age and their claim to be a child is doubted. It states:

“The applicant should be treated as an adult if their physical appearance / demeanour **very strongly suggests that they are significantly over 18 years of age.**”
- 7.5 The policy instruction states that asylum claimants considered to be “significantly over 18 years of age” by the Home Office fall to be considered under adult processes, and could be liable for detention. Home Office staff are therefore required to seek a second opinion. The 'Assessing Age' policy instruction states that: “Before a decision is taken to assess an applicant as significantly over 18, the assessing officer's countersigning officer (who is at least a Chief Immigration Officer (CIO)/ Higher Executive Officer (HEO)) must be consulted to act as a 'second pair of eyes'”.<sup>78</sup>

### Stakeholder concerns

- 7.6 Some stakeholders expressed concern that a judgement “based on an untrained visual assessment” that a claimant was “significantly over 18” put children at risk of being placed in adult accommodation or in detention, which was clearly not in the child's 'best interests'.
- 7.7 Stakeholders criticised the Home Office for not routinely capturing data for claimants assessed to be “significantly over 18”. This meant the picture of asylum applicants who claim to be children was incomplete and the Home Office, and others, were unable to track the outcomes of these claimants' cases.

<sup>76</sup> See 'Children's Asylum Claims' - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdfm](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdfm)

<sup>77</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257462/assessing-age.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf)

<sup>78</sup> See footnote 77

- 7.8 Several Local Authorities informed inspectors of recent cases where claimants, subsequently found to be children, had been assessed as “significantly over 18” and routed into adult asylum support provision without being referred to a Local Authority for a full age assessment.
- 7.9 The Home Office told inspectors that it did not routinely capture data about asylum claimants routed to adult asylum accommodation and support provision who were later found to be children. However, it reported that, between 1 July 2016 and 30 June 2017, it had recorded 13 cases where asylum claimants were detained as adults and later found to be children. Of these 13, 5 (38%) were detained as the CIO assessed them to be “significantly over 18”.

### The views of Home Office managers and staff

- 7.10 Inspectors found that some managers and staff at the National Asylum Intake Unit (NAIU) lacked confidence in the “significantly over 18” policy. They felt that it was “too vague” and the guidance was not clear. For example, there was no guidance about what physical features or types of behaviour would give an indication of age.
- 7.11 These managers and staff received no formal training in disputing the age of a claimant, which meant they were left to make judgements about age based on their “own experiences” of what children and adults looked like. The Home Office told inspectors that:

“There is no specific training for those conducting initial age assessments on the basis of physical appearance and demeanour. The initial age assessment – based on the basis of physical appearance and demeanour – is very difficult to conduct with a high degree of accuracy. That is why the policy is so stringent and includes robust safeguards – for example, for an individual to be assessed as an adult their physical appearance and demeanour must strongly suggest that they are significantly over 18. In addition, that assessment must be made separately by two officers, at least one of whom should be a HEO/CIO/HO.”

- 7.12 Inspectors found that views differed within the NAIU about when to use the “significantly over 18” option. Staff at the Asylum Intake Unit (AIU) told inspectors they would assess the claimant as “significantly over 18” if they saw them to be over 20,<sup>79</sup> whereas staff at the Kent Intake Unit (KIU) had no such rule of thumb.
- 7.13 Some managers felt that Home Office staff should not be involved in disputing age, given their lack of expertise in this field. At the time of the inspection, the Home Office said that it was reviewing the age assessment guidance and planned to include additional material about some of the indicators staff should consider when assessing physical appearance and demeanour. Inspectors were told that the updated guidance would be published in 2018.

### The benefit of the doubt

- 7.14 For claimants whose physical appearance and demeanour does not strongly suggest they are “significantly over 18”, but whose claim to be a child is nonetheless doubted, Home Office guidance requires that they are given “the benefit of the doubt” and “treated as children [...] until a careful assessment of their age has been completed.”<sup>80</sup> In such circumstances, the Local Authority is also required to treat the claimant as a child until they have completed a full age assessment.<sup>81</sup>

<sup>79</sup> In the Independent Chief Inspector’s report on ‘Asylum applications made by unaccompanied children’ published in October 2013, staff told inspectors that they would use the “significantly over 18” option in the guidance when perceiving a claimant to be at least 25 years old. See <https://www.gov.uk/government/publications/inspection-report-on-asylum-applications-made-by-unaccompanied-children-october-2013>

<sup>80</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257462/assessing-age.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf)

<sup>81</sup> In accordance with ‘Age Assessment Joint Working Guidance’, published by the Home Office and the Association of Directors of Children’s Services - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/432724/Age\\_Assessment\\_Joint\\_Working\\_Guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432724/Age_Assessment_Joint_Working_Guidance.pdf)

7.15 The Home Office states that its policy:

“is designed to safeguard the welfare of children. It does not indicate final acceptance of the applicant’s claimed age, which will be considered in the round when all relevant evidence has been considered, including the view of the local authority to whom unaccompanied children, or applicants who we are giving the benefit of the doubt and temporarily treating as unaccompanied children, should be referred.”<sup>82</sup>

7.16 Home Office managers and staff told inspectors that, because the guidance was “open to interpretation”, where they did not feel confident that a claimant was “significantly over 18” they would always “err on the side of caution”. They were aware of the risks of placing someone under 18 into the adult asylum process, including detention. Inspectors saw evidence of the “benefit of the doubt” policy being correctly applied by Home Office staff in the files examined for this inspection.

7.17 Inspectors also found evidence that Home Office staff and Local Authorities sometimes disagreed about whether a claimant should be given “the benefit of the doubt”. Social workers told inspectors that Home Office staff could “too readily” apply “the benefit of the doubt” and would not always take into account the views of the social worker if the latter believed the claimant to be an adult.

7.18 The social workers felt this was a result of the vagueness of the “significantly over 18” guidance, which meant Home Office staff did not have the confidence to assess a claimant as over 18. On some occasions, this meant that adults were placed into accommodation for children until a full age assessment was carried out. This had cost implications for the Local Authority, and risks associated with accommodating adults with children.

## The national picture on age disputes

7.19 Home Office data<sup>83</sup> indicated that between 1 July 2016 and 30 June 2017 it had received 2,952 applications for asylum from unaccompanied children. In the same period, it had raised 705 age disputes, roughly 1 in 4. Of the 705, 618 had been resolved. In 216 (35%) of these 618 cases, the Local Authority assessed the claimant to be under 18, and in 402 (65%) cases they were assessed to be over 18 (an adult).<sup>84</sup> Compared with the previous 12 months, the percentage of disputes raised was down (from c.30%) as was the percentage (32%) found to be children.

7.20 The Home Office informed inspectors that claimants who were immediately identified as adults,<sup>85</sup> including those considered to be “significantly over 18”, were not defined as age disputes and should not be flagged as such on its Case Information Database (CID). However, inspectors found 4 examples in the 23 case records examined for this inspection of incorrect age dispute flags on CID where the claimant had been assessed as “significantly over 18”, casting some doubt on the Home Office’s statistics.

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[Guidance April 2015 Final agreed v2 EXT.pdf](#)

82 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257462/assessing-age.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf)

83 When the Home Office raises an age dispute, staff record it by applying an ‘Age Dispute Flag’ on the Case Information Database (CID). When the age dispute is resolved, the flag is closed. This flag is used by the Home Office’s Performance, Reporting & Analysis Unit (PRAU) to provide data reports on age disputes.

84 The numbers do not match exactly because the process of resolving an age dispute may not be completed in the same period for which the data for disputes raised is collected.

85 These included claimants deemed to be “significantly over 18” by the Home Office, claimants whose documentary evidence showed them to be aged 18 or over and those claimants which a Local Authority had assessed to be aged 18 or over using a Merton-compliant age assessment.

## The Local Authority 'Age Assessment' (Merton) Process

- 7.21 Where the Home Office affords a claimant the “benefit of the doubt”, it makes a referral to the Local Authority caring for the child to carry out an age assessment. Assessments must be “Merton-compliant”.<sup>86</sup> This requires an age assessment to be carried out by 2 social workers, and to consider family composition, schooling, experience of life, ability to interact with others, and psychological development, alongside physical appearance and demeanour.
- 7.22 Local Authorities and other stakeholders told inspectors that determining age was “not an exact science” and pointed to the complexity of the process. Previous life experiences, genetics and culture may all play a role in how a child or young person presents. Some stakeholders said they would favour a “multi-disciplinary” approach, where the young person was examined by a range of agencies. They felt that a “holistic” process would make the age assessment more reliable. Stakeholders were opposed, however, to medical or dental examinations as they were “invasive” and the evidence could be “inaccurate by several years”.
- 7.23 Senior managers in the Home Office asylum policy team acknowledged the difficulties of determining age, saying that there was no “silver bullet” to improve the age assessment process. They told inspectors they were working with Local Authorities to consider the best ways of carrying out initial and full age assessments, and were in the early stages of reviewing potential options.

## Information sharing and record-keeping

- 7.24 Home Office guidance, ‘Assessing Age’,<sup>87</sup> details the steps to be taken when the age of a claimant is disputed:
- “Screening officers must complete forms IS.97M and BP7 (ASL.3596 - Disputed Age Contention) as soon as possible. The IS.97M must be served on the applicant and its contents sensitively explained (a copy must also be placed on file) and a BP7, which sets out the reasons why the applicant’s claimed age cannot at this stage be accepted, should be completed and held on file.”
- 7.25 The Home Office told inspectors that the IS.97M was also used to inform the Local Authority that a claimant’s age had been disputed so that they were required carry out a full age assessment.
- 7.26 The guidance goes on to state what should be recorded on CID, which includes:
- raising an age dispute flag
  - recording the individual’s claimed date of birth
  - recording the Home Office’s estimated date of birth for the claimant
  - recording the reason(s) why the claimant’s age has been disputed
- 7.27 Inspectors examined 23 case records where an age dispute flag had been raised and found:
- 5 cases where there was no evidence that an IS.97M<sup>88</sup> had been issued to the claimant, or that a referral had been made to the Local Authority to assess the age of the child

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<sup>86</sup> This refers to the case of B, R (on the application of) v London Borough of Merton [2003] EWCH 1689 (Admin) (14 July 2003) <http://www.bailii.org/ew/cases/EWHC/Admin/2003/1689.html>

<sup>87</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257462/assessing-age.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf)

<sup>88</sup> The IS.97M paper form explains why the applicant’s claimed age has not been accepted and the reason(s) for this.

- 11 cases where there was no evidence that a BP7 had been completed
- 6 cases where CID had not been correctly updated when the age dispute was raised

7.28 Once a Local Authority has carried out a full (Merton-compliant) age assessment, the ‘Assessing Age’ guidance states that:

“Case owners should discuss with the relevant local authority and obtain in writing, **at the very least** confirmation that their assessment conclusion, the reason on which their conclusion is based and an assurance that their assessment complies with the local authority’s assessment policy and the guidelines in the Merton case”

7.29 Case owners are then required to:

- Clearly minute the case file to say what evidence has been received (for example, a full age assessment or a signed declaration stating the claimant’s age and that the age assessment was Merton compliant), when, and from whom
- Update the claimant’s CID record

7.30 The guidance is clear that if the Home Office accepts the outcome of the Local Authority age assessment, CID should be updated with the claimant’s assessed date of birth and the age dispute flag should be closed. If the Home Office accepts that the claimant is a child, it is required to complete a ‘Confirm accepted as a child’ letter (ASL.2382), which should be served on the claimant’s legal representative or, if the claimant is not represented, on the claimant.<sup>89</sup>

7.31 Inspectors examined 13 case records where the age of the claimant had been assessed by a Local Authority and the Home Office had accepted the outcome. Of these:

- 6 did not have evidence on file or on CID that the age assessment received by the Home Office was Merton-compliant
- 4 did not have a closed age dispute flag
- 7 were cases where the Home Office had accepted that the claimant was a child, but none contained evidence that an ASL.2382 had been issued

7.32 Case Study 1 is an example of an incomplete record of an age dispute case.

### Case Study 1: Incomplete record of an age dispute case

#### Based on the CID record

#### The claimant

- on 30 August 2016, a Syrian male registered his asylum claim at the Asylum Intake Unit in Croydon, giving his date of birth as 10 November 1999, making him aged 16 years and 9 months

<sup>89</sup> See footnote 88

### **The Home Office**

- on 30 August 2016, referred the claimant into the care of children’s services, but made no referral to the Refugee Council
- on 30 August 2016, raised an age dispute on CID, recording the claimant’s date of birth as 10 November 1997
- on 31 August 2016, noted on CID “Claimed to be 16 but appearance is that of someone older – age disputed”

### **The claimant’s social worker**

- on 9 September 2016, called the Home Office to query whether it had disputed the claimant’s age

### **The claimant**

- on 13 February 2017, attended his substantive asylum interview. His solicitor provided the claimant’s full age assessment, which stated that his date of birth was 10 November 1999

### **The Home Office**

- changed the claimant’s date of birth on CID to 10 November 1999, but did not record whether the age assessment was Merton-compliant
- did not close the age dispute flag on CID
- did not issue an ASL.2382 to the claimant, his social worker or his legal representative

### **Independent Chief Inspector’s comment:**

There was no record on CID or the paper file that the Home Office had issued an IS.97M or a BP7 to the claimant, or that a referral had been made to a Local Authority to carry out an age assessment.

The poor record-keeping (and practice) in this case meant it was unclear whether the Home Office had made the claimant aware that his age was disputed or of the Refugee Council’s services for advice and assistance. The Local Authority was also initially unclear whether it was expected to carry out an age assessment.

The Home Office’s record-keeping did not improve once the full assessment was produced and the claimant’s date of birth altered to reflect that he was a child.

Such failures could seriously compromise an claimant’s ‘best interests’.

## **The experience of the child**

- 7.33 The Association of Directors of Children’s Services (ADCS) ‘Age Assessment Guidance’ for social workers highlights that “children and young people have often said that even when they have been assessed to be a child, at their claimed age or at a different age, they found the process very difficult and upsetting and it had left them with feelings of distrust.”<sup>90</sup>

<sup>90</sup> [http://adcs.org.uk/assets/documentation/Age\\_Assessment\\_Guidance\\_2015\\_Final.pdf](http://adcs.org.uk/assets/documentation/Age_Assessment_Guidance_2015_Final.pdf)

- 7.34 Inspectors spoke to 3 young people who had been through the age assessment process as unaccompanied asylum seeking children. They said they had felt “distressed” and “anxious” when the Home Office had disputed their age. Two of them said that they were confused about why the Home Office did not believe their age and they did not feel that this had been properly explained to them. Instead, they had relied on their social workers, support workers or legal representatives to explain the age dispute process and what this would entail. Stakeholders confirmed that this was typical.
- 7.35 Several social workers told inspectors that children and young people often did not understand that their age had been disputed, particularly those who had just arrived in the UK. The information provided by the Home Office to the children and young people whose age had been disputed was not “child-friendly”.

## 8. Inspection findings – National Transfer Scheme

### Background

- 8.1 The National Transfer Scheme (NTS) was implemented on 1 July 2016 in an attempt to relieve the pressure on so-called ‘gateway authorities’, such as Kent County Council and Hillingdon London Borough Council, of having to care for increasing numbers of unaccompanied asylum seeking children.
- 8.2 The NTS was designed by a broad range of national, regional and local stakeholders, including the Home Office, Department for Education, Department for Communities and Local Government, Local Government Association (LGA), Association of Directors of Children’s Services (ADCS), Strategic Migration Partnerships (SMPs), and Local Authorities.
- 8.3 At the time of the inspection, it covered England only, and Local Authorities who were prepared to receive children had to opt in to the scheme.

### Responsibilities

- 8.4 Local Authorities in England are covered by 10 regional Strategic Migration Partnerships (SMPs). The SMPs are Local Authority-led partnerships that manage the transfer process. They are funded by the Home Office.
- 8.5 The Home Office’s Central Administration Team decides which SMP to approach with a transfer request, but a regional administrator based within the SMP decides which Local Authority to invite to take the child.
- 8.6 The SMPs offer guidance and training to Local Authorities on supporting unaccompanied asylum seeking children and liaise with them about placements and support services, and try to ensure that transfers occur as quickly and smoothly as possible, which was a key concern of those involved in designing the NTS.

### Interim National Transfer Protocol

- 8.7 The ‘Interim National Transfer Protocol’ for Unaccompanied Asylum Seeking Children 2016-17<sup>91</sup> was created to enable the safe transfer of those children from one Local Authority to another. It does not prescribe fixed timescales for the process, but states:

“The entry local authority will make the transfer decision as soon as practicable and suitable - ideally within 48 hours (2 working days) of the child’s arrival in to the care of the entry local authority.”

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<sup>91</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/534258/Interim\\_National\\_UASC\\_transfer\\_protocol.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534258/Interim_National_UASC_transfer_protocol.pdf)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/534258/Interim\\_National\\_UASC\\_transfer\\_protocol.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534258/Interim_National_UASC_transfer_protocol.pdf)

8.8 The Protocol mentions that a ‘receiving’ authority may need to “defer” a transfer, but states that:

“The receiving local authority administration lead will as soon as possible (ideally within 1 working day of receiving the transfer allocation): acknowledge allocation by email to the receiving regional administration lead and confirm transfer acceptance to the entry local authority, entry regional administration lead, and central admin team...”

8.9 A revised Protocol was drafted in July 2017. At the time of the inspection, it had not been published. However, inspectors noted that it retained the “ideal” timescales for transfer decisions and confirmation of transfer acceptance.

8.10 The key transfer ‘rules’ in the revised document are:

- a. If the region in which the child first presents is under the ceiling of 0.07% then the child would be expected to be transferred to a participating local authority within that region unless there is good reason to transfer to another region (for example, if they are a potential victim of trafficking and if it is in their best interests to be placed away from the alleged trafficker who may reside in that region)
- b. If the region is over the ceiling of 0.07% then the child would be expected to be transferred to another participating local authority **out of** the region using the transfer protocol
- c. Due to the preponderance of unaccompanied children arriving in Kent, the county of Kent will be treated as a region in itself until further notice. This will allow transfers from Kent to be effected to all other areas where capacity is available, including other parts of the South East”

## Performance to date

8.11 Inspectors found that the NTS had largely done what it had set out to do. Between 1 July 2016 and 21 October 2016, at the start of the scheme, 149 unaccompanied asylum seeking children were referred to Kent County Council. Of these, 101 were transferred into the care of 36 other Local Authorities.

8.12 According to Home Office data, by 7 September 2017, 549 transfers had been completed.<sup>92</sup> Of the 549, 502 were male and 47 female.

8.13 Figure 7 shows the number of transfers completed between 1 July 2016 and 7 September 2017.

**Figure 7: Number transfers completed between 1 July 2016 – 7 September 2017**

‘Receiving’ Local Authority Region	Total
East Midlands	48
East of England	148
London	4

<sup>92</sup> The figure had risen to 555 by 1 October 2017.

North East	23
North West	52
South East	86
South West	87
Wales	1
West Midlands	38

## Delays in transfers

- 8.14 Stakeholders told inspectors that they regarded the scheme as a good idea in principle, but it was not working effectively in practice, largely due to delays in transfers taking place.
- 8.15 The Central Administration Team said it aimed to transfer cases within 5 days. When the NTS was implemented cases were being transferred within an average of 8 days, but by November 2017 the average had become 30 days.<sup>93</sup> The NTS Progress Report, dated 19 December 2017, recorded the overall average number of days to complete a transfer.<sup>94</sup> The same report showed that transfers to the East of England were quickest, an average of 19 days, and to London slowest, an average of 109 days – see Figure 8.

**Figure 8: Average number of days for a transfer to each region  
1 April 2017 – 19 December 2017**

'Receiving' region	Average days to complete a transfer from 1 April to 19 December 2017 (average to 13 October shown in brackets)
East of England	19 (14)
London	109 (94)
East Midlands	49 (42)
North East	20 (20)
North West	34 (29)
South East	44 (40)
South West	44 (38)
West Midlands	51 (43)
Yorkshire and Humber	35 (32)
<b>Overall average</b>	<b>(27)</b>

- 8.16 During meetings with inspectors, several Local Authorities referred to “delays of 3 months”, while an SMP cited occasional delays of 150 days, and another delays of 100 days.

<sup>93</sup> Average days are calculated from the Unique Unaccompanied Child Record receipt date, or latest resumption date, to the date the unaccompanied asylum seeking child arrives in the 'receiving' Local Authority.

<sup>94</sup> The national average is not worked out using the regional averages. Rather, it is an average of all recorded transfer completion times from 1 April 2017 – 19 December 2017.

## Impact of delays

- 8.17 Stakeholders told inspectors that the impact of delays should not be underestimated. A non-governmental organisation (NGO) said that transfers should take place ideally within 5-10 days, because delays were not in the 'best interests' of the children. They affected a child's well-being, and their access to education, support, and legal advice at both the 'entry' and 'receiving' ends. Delays can mean difficulties with school enrolment, tuition in English for Speakers of Other Languages (ESOL), or receipt of specialist healthcare, particularly mental health services.
- 8.18 Delays can cause long waits for legal advice, where services are already stretched. One refugee children's group explained that the lack of legal aid providers is especially serious in the East of England, where waiting times of 2-3 months for an appointment with a solicitor are commonplace. In the South West, 59 children had been transferred to Devon by October 2016. However, immigration advice is available only in Plymouth, and nowhere else in the county.
- 8.19 Stakeholders said that the inability to access legal advice can slow the progress of a child's asylum claim, and this can affect the child's mental health. One charity for asylum seekers described some children as being in a "limbo legal situation". Months after lodging their asylum claim, they still needed to find a solicitor, send in a Statement of Evidence Form (SEF) and begin the asylum process.
- 8.20 Children can find their attempts to obtain legal advice are also hampered by the lack of interpreters in some regions. One SMP argued for cross-government action to ensure legal advice and interpreters were available throughout the country for the NTS to grow and to secure children's 'best interests'.
- 8.21 The Home Office told inspectors it had recognised the problems with legal advice for unaccompanied asylum seeking children, and that there were plans for the Legal Aid Agency to increase the number of legal aid solicitors in areas of the country where there were not enough.
- 8.22 Inspectors were told that, while waiting to be transferred, children form links in the 'entry' Local Authority area and become settled. As a result, they may be reluctant to move, especially to areas away from London. Stakeholders highlighted that if a child remains in the 'entry' area for a matter of months the likelihood of them going missing when they are told they are being transferred increases. The NTS Progress Report dated 13 October 2017 showed that 31 children had gone missing during the transfer process.<sup>95</sup> Stakeholders recommended that if a child was not transferred within 2-3 months, they should remain where they were.
- 8.23 Inspectors were told of one transfer request made to the East Midlands that was declined because the child was regarded as settled. The child had arrived in the UK and been given an initial placement in May 2017, but had not been referred through the NTS until September 2017. No information had been provided to explain why the transfer request had taken so long, or why it was in the child's 'best interests' to move.
- 8.24 One stakeholder highlighted that more children were taking legal action to stay in the area where they were first placed. With the assistance of the Children's Society, inspectors organised an interview with a 16-year old boy, who had done this. He said he had been told on his first day in the UK, at the end of May 2017, that he might be transferred out of his 'entry' Local Authority area under the NTS. He was notified in the middle of June that he would be transferred the next day. By then, he was living happily with a foster family and did not want to move. The case went to court, and in October 2017 the judge ruled that he could stay with his foster family.

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<sup>95</sup> The report did not specify over what period.

## Local Authority capacity and enthusiasm for the NTS

- 8.25 Stakeholders told inspectors they believed placement capacity in ‘receiving’ Local Authorities was a major factor in transfers of unaccompanied asylum seeking children taking longer. Central Administration Team staff agreed. Two reasons were identified - cost and competing demands on services, including from ‘spontaneous’ arrivals of migrants.
- 8.26 Stakeholders believed the Home Office failed to appreciate the range of demands on Local Authorities from asylum, migration and resettlement programmes, and had little understanding of Local Authorities’ capacity to meet all of these demands. As an example, they cited out-of-area placements<sup>96</sup> and care leavers as falling outside the NTS 0.07% ‘ceiling’, yet both had an impact on capacity locally to support and protect children.<sup>97</sup>
- 8.27 One charity for asylum seekers described the 0.07% figure as “arbitrary”. The Home Office Central Administration Team staff accepted that the 0.07% formula was not always an accurate way of gauging a Local Authority’s capacity. The Home Office had taken account of other migration pressures when deciding on a regional model for the NTS.<sup>98</sup> Nonetheless, the perceived failure to consider the wider picture had contributed to what one SMP described as a “loss of appetite” for the scheme amongst ‘receiving’ Local Authorities.
- 8.28 Funding was an issue. An unaccompanied asylum seeking child costs a Local Authority approximately £55,000 a year, of which the Home Office provides £41,610 a year for each child under the age of 16, and £33,215 a year for each child aged 16 or 17. According to one refugee children’s group, most Local Authorities estimated that Home Office funding was meeting around 50% of the true costs of supporting a child under the NTS.
- 8.29 One SMP pointed out to inspectors that the Home Office funding did not include costs incurred on education and health “outside of mainstream budgets”, whereas the Vulnerable Children’s Resettlement Scheme (VCRS) did include funding specifically for education and health. A senior manager at the Central Administration Team noted that some Local Authorities appeared more inclined to accept other types of cases in preference to NTS ones, and that this could be because of how they were funded.
- 8.30 One stakeholder reported that many councils were having to find placements for children from the NTS with independent foster carers rather than with “in-house” ones<sup>99</sup> because of the national shortage of foster carers, which had been estimated at 9,000 fewer households than were needed across the UK as a whole.<sup>100</sup> That had created a ‘suppliers’ market’ in the Independent Fostering Agency sector, which had pushed costs significantly above the rates provided by the Home Office.
- 8.31 Another stakeholder said that the problems with the NTS were essentially down to funding. They saw the “togetherness” of the Local Authorities who had opted to join “dissipating”. As at September 2017, approximately 90 Local Authorities had joined the NTS. The Home

96 Unaccompanied asylum seeking children and other Looked After Children (LAC) placed by a Local Authority in another Local Authority’s area.  
97 A joint Department for Education and Home Office work-plan on unaccompanied asylum seeking and refugee children, dated 19 September 2017, included the aim to provide a suitable level of funding for Local Authorities for 2018-19 to meet the costs incurred for the provision of services to ‘looked after children’ and for children leaving care support.

98 Prior to the start of the NTS, the Immigration Minister wrote to the leaders of Local Authorities: “The very clear feedback we have had is that national transfer should be based on a regional model, rather than a council by council one, and should use existing structures wherever possible. Adopting a regional model facilitates a joined up approach to the different migratory pressures – such as supporting adult asylum seekers, including those who qualify for leaving care entitlements, as well as the Syrian resettlement scheme – and allows greater flexibility in deciding the most suitable host authority for an asylum seeking or refugee child based on local considerations. A regional model will allow local authorities to pool resources and share expertise; something which I know happens day in day out.”

99 Foster carers recruited by the Local Authority.

100 <https://www.thefosteringnetwork.org.uk/media-release-news/2016/over-9000-more-fostering-households-urgently-needed-during-2016>

Office would like all Local Authorities in England to register, to help ensure a fair distribution of unaccompanied asylum seeking children, but was aware that some were opting out, such as Leicestershire and Nottinghamshire County Councils, primarily due to funding issues. The former estimated that the scheme would cost it an extra £2.03 million a year after Home Office contributions had been taken into account. Home Office senior managers were working with SMPs to try to encourage Local Authorities to opt back in, and to persuade new ones to register.

- 8.32 Speaking in November 2017, asylum policy officers told inspectors they believed that “political buy-in” had been an issue. Convincing Local Authorities to opt in had been difficult from the outset, and the NTS had “slipped off the radar” recently.
- 8.33 On 7 December 2017, the Home Office announced its intention to introduce secondary legislation to extend the NTS to the whole of the UK, signalling its hope that Local Authorities in the devolved administrations would register for the scheme.
- 8.34 The Immigration Act 2016<sup>101</sup> empowered the government to introduce a mandatory transfer scheme, but Home Office asylum policy officers indicated that this was not the preferred option. Senior managers overseeing the NTS agreed. They believed collaboration with Local Authorities would be more efficient and effective if the scheme remained voluntary. Only the high intake Local Authorities seemed to favour a mandatory scheme, attributing some of the delays to the scheme’s voluntary nature.

## Data

- 8.35 All of the stakeholders who spoke to inspectors said they had received little or no data from the Home Office about the NTS. One believed that the Home Office did not know how many unaccompanied asylum seeking children there were in their region. Another was told that if they wanted data about the scheme they should speak to their SMP counterparts, and another said the Home Office was simply unwilling to share what information it had. Their frustrations were compounded by the lack of a feedback mechanism. The result was a lack of trust in the Home Office.
- 8.36 A Director of Children’s Services told inspectors the lack of trust that the system was fair at a regional level was the reason some Local Authorities had opted out of the scheme: they did not want to accept NTS transfers unless it was clearly their turn. East of England operated a rota system considered fair by all the regions’ Local Authorities, and for 2017-18 year-to-date was quicker than other regions to complete transfers.
- 8.37 In October 2017, the LGA and ADCS told inspectors that they had received no information about transfers or unaccompanied asylum seeking children numbers since the end of 2016. They explained that Local Authorities needed the information to be able to plan effectively for the long-term, to ensure that there was sufficient capacity for new arrivals, and to assure themselves that local services were not facing unsustainable pressures.
- 8.38 A refugee children’s charity said that better information-sharing would help the organisations providing services to unaccompanied asylum seeking children to secure extra funding, as charitable trusts often provided funds in advance. It pointed out that in order to build an effective support network around unaccompanied asylum seeking children the communities they were living in needed to be given as much information as possible. The charity said that data was particularly important in helping a voluntary scheme to demonstrate its value.

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<sup>101</sup> <http://www.legislation.gov.uk/ukpga/2016/19/contents/enacted/data.htm>

- 8.39 The original Interim Protocol made a commitment to the regular provision of data, and the joint Department for Education and Home Office work-plan on unaccompanied asylum seeking and refugee children recorded that stakeholders had been pressing for it. The work-plan referred to the publication of data on the number of children transferred, the 'entry' and 'receiving' locations, and the time taken to complete transfers. It mentioned that provision of the data would encourage greater participation in the NTS from Local Authorities and would assist them in finding the most suitable placements for children.
- 8.40 Asylum policy officers acknowledged to inspectors that the failure to publish the relevant data had caused issues. There had been concerns that publishing the performances of the Local Authorities would set them against each other, and result in some doing more but others doing less. However, it had not been published as early as it should have been. Senior managers in the Central Administration Team told inspectors that it had been difficult to get the data quality assured.
- 8.41 The first NTS data set was published in December 2017, after inspectors had completed the evidence gathering for this inspection, and therefore too late to capture stakeholders' views of its usefulness.
- 8.42 Internally, inspectors also found issues with information-sharing. Staff at the Kent Intake Unit did not know anything about the NTS, nor did asylum decision-makers in Leeds. Senior managers at the Central Administration Team conceded that there was work to do to raise the scheme's profile and ensure effective internal communication.

### Unique Unaccompanied Child Record and 'best interests'

- 8.43 The Unique Unaccompanied Child Record (UUCR) is used to effect the transfer process. It has 5 parts:

**Part A: Reception information** – to be completed by the 'entry' Local Authority and submitted to the Central Administration Team

**Part B: Transfer request** – to be completed by the 'entry' Local Authority and submitted to the Central Administration Team, 'in-region' transfer requests must also be submitted to the Regional Admin Lead

**Part C1: Transfer allocation** – to be completed by the Central Administration Team where an 'out of region' transfer is appropriate, and submitted to the Regional Admin Lead

**Part C2: Transfer allocation** – to be completed by the Regional Admin Lead where an 'in-region' transfer is appropriate, or a transfer into the region has been identified at C1, and submitted to the 'receiving' Local Authority to which a transfer is requested

**Part D: Transfer acceptance** – to be completed by the 'receiving' Local Authority and sent to the 'entry' Local Authority, the Regional Admin Lead, and the Central Administration Team

**Part E: Looked after status update** – to be completed by the 'receiving' Local Authority and sent to the Central Administration Team to notify of changes in circumstances of the unaccompanied child (as set out in the Protocol and funding instructions for unaccompanied asylum seeking children).

- 8.44 Stakeholders were unanimous that the UUCR did not deal effectively with the child's 'best interests'. The form did not require information about the 'best interests' determination made by the 'entry' Local Authority, nor did it require confirmation that those interests had been taken into account in concluding that a referral to the NTS should be made. Often, the justification recorded for the transfer was inadequate. Some believed that attaching 'best interests' assessments to the form could potentially improve the confidence of a 'receiving' Local Authority that a transfer was, indeed, in the child's 'best interests'.
- 8.45 The lack of emphasis on the child's 'best interests' in the UUCR had led to some erroneous allocations. The East Midlands SMP highlighted that it had been allocated several cases by the Home Office, despite the forms indicating that the transfers were unlikely to be in the 'best interests' of the children. Inspectors were told of one instance when the 'entry' Local Authority social worker had stated that a transfer within London was needed, and that the child was displaying signs of psychological trauma. Nevertheless, the case was allocated to the East Midlands without any further information on the UUCR to explain why.
- 8.46 One stakeholder told inspectors that, owing to the frequent delays in the transfer process, it was important that the form was seen as a "live" or "working" document, which should be updated regularly. Staff at the Central Administration Team agreed. They said that the form reached them early in the process, and although changes occurred to cases when there were delays the team did not receive regular updates, so the information on the form quickly became out of date.
- 8.47 Several stakeholders expressed concerns that the individual child's 'best interests' were not the primary consideration when the 'entry' Local Authority was deciding whether to propose a transfer. Instead, it appeared to be assumed a transfer would normally be in any child's 'best interests'. Stakeholders also raised concerns that when a decision to transfer had been proposed but was then delayed there was no review of whether it was still in the child's 'best interests' to proceed.
- 8.48 Inspectors were told that, because there was no review process for decisions to transfer, there had been instances of inappropriate transfers where, for example, the 'receiving' Local Authority was unable to meet the child's cultural and religious needs, or where the child required specialist medical treatment at a particular hospital. Some transfer requests had "bounced around" from one potential 'receiving' Local Authority to another, creating and prolonging delays.
- 8.49 In responding to the inspection, the LGA and ADCS produced a list of specific needs of unaccompanied asylum seeking children, that could help with a review of whether a placement was in a particular child's 'best interests':
- "A range of accommodation to meet differing needs
  - Availability of translation/interpreter services as essential for all discussions, case management and the ascertaining of child's view about their care
  - Access to ESOL classes in the right location and timing
  - School places and in particular schools that are able to support those arriving mid-term with additional language needs and in some cases, limited previous access to formal education
  - Communities that can support the child's heritage and a possible need for cultural orientation support in new communities
  - Access to specialist trauma-recovery and mental health services given the greater prevalence amongst unaccompanied children of post-traumatic stress related symptoms and emotional

needs, combined with possible impacts on a child's mental health of anxieties about their immigration status

- Specialist training for foster carers
- Social workers with experience of supporting children through the immigration system, including age assessment"

## The child's 'voice'

- 8.50 Stakeholders told inspectors that there was nowhere on the UUCR form to capture the child's 'voice'. They argue that consideration of the child's 'best interests' could be better catered for if the form had a section for the unaccompanied asylum seeking child's views on a proposed transfer. This could also be used to record that the child understood the transfer process, had been told of any delays, and had been given information about their planned destination.
- 8.51 Stakeholders said that this would also help to reduce those occasions where children did not know they were being transferred, or why, or were resistant to moving, all of which could lead to them going missing.
- 8.52 Senior managers and staff at the Central Administration Team agreed that it would be helpful to have children's views recorded on the UUCR form. They found the present form to be badly structured and not asking the right questions. The team had fed this back to policy colleagues and, at the time of the inspection, the form was being modified.
- 8.53 The amended template attached to the draft revised Protocol gave examples of specific requests for the transfer request (Part B). The original one did not. It reminded social workers to consider a child's family or any wish to stay with another unaccompanied child.

## Quality assurance of the transfer request

- 8.54 The Central Administration Team's role in checking requests for transfer was not clear. Staff did not appear to have a recognised quality assurance function in relation to UUCRs. They explained to inspectors that they sometimes went back to an 'entry' Local Authority for further information, reminded them how long a child had been in their care, or noted a child's request to be placed near family. The Local Authorities preferred them not to communicate with the child, and they felt removed from the actual transfer preparation process and relied on the social workers to support the 'best interests' of the child.
- 8.55 Senior managers said that work was, however, being done on improving communications. A handbook about the NTS had been developed for children, and they had considered producing destination "city packs" like those used in the Syrian Vulnerable Persons Resettlement Programme.<sup>102</sup> A 'point of claim' leaflet was also being prepared. It will advise children on the asylum process and the NTS, including preparing them for the possibility of transfer.
- 8.56 Stakeholders had criticised the absence of guidelines setting out the minimum standards for completion of the forms by social workers. Guidelines could ensure consistency amongst the Local Authorities, help to reduce delays, and assist the Home Office with the allocation process. Although some UUCRs were completed thoroughly and contained a lot of useful information,

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<sup>102</sup> The Syrian Vulnerable Persons Resettlement Scheme (VPRS) was launched in January 2014 and intended to provide sanctuary to "several hundred" vulnerable Syrians over 3 years. It was extended in September 2015 with the commitment to resettle 20,000 refugees from the conflict by 2020. (<https://www.gov.uk/government/news/over-10000-refugees-resettled-in-the-uk-under-flagship-scheme>)

some 'receiving' Local Authorities had complained that they had to send the forms back to the Home Office because information, vital to securing the best possible placements for the child, were missing. One SMP mentioned that a case had 13 important pieces of information missing from the UUCR. Another kept being sent forms stating that the young person had family in the UK. It refused to accept the transfers so that the possibility of reunification could be assessed.

## Age Assessments

8.57 The 'Interim National Transfer Protocol' states:

"Where the age of a child is disputed (but accepted as being under 18 years of age or treated as being under 18 years of age until further assessment of their age has been completed), the receiving local authority will conduct the Merton and further case law compliant age assessment."<sup>103</sup>

8.58 However, inspectors found different practices on the ground with 'receiving' Local Authorities. Some reported cases arriving with age assessments already completed, which some preferred. Some had rejected transfer requests because an age assessment had not been completed. Others felt they had the experience to conduct them and preferred to complete their own assessment.

8.59 Until a Merton-compliant age assessment had been completed, the 'receiving' Local Authority had to treat the unaccompanied asylum seeking children in line with their claimed age. However, suitable placements for unaccompanied asylum seeking children awaiting age assessments were limited, and Local Authorities also had to consider their safeguarding responsibilities towards other children placed with an age-disputed unaccompanied asylum seeking child who may later be assessed as an adult. Some 'receiving' Local Authorities have argued that the Protocol should allow them to conduct an age assessment while the age-disputed unaccompanied asylum seeking child is still in the care of the 'entry' Local Authority.

8.60 The Central Administration Team confirmed that the 'receiving' Local Authority should complete the age assessment, and was aware of some NTS delays because the 'entry' Local Authority was completing an age assessment. Staff wondered whether responsibility for age assessments might sit better with the latter, leaving the 'receiving' Local Authority to concentrate on placement arrangements. However, managers considered it better that responsibility remained with the 'receiving' Local Authority. Senior managers saw both arguments, and suggested that where an assessment was done should be determined by the child's 'best interests'.

8.61 The revised Protocol, drafted in July 2017, appeared to have recognised the need for greater flexibility, as the age assessment paragraph referred to at 8.57 now reads:

"Where the age of a child is disputed – but accepted as being under 18 years of age or treated as being under 18 years of age until further assessment of their age has been completed – the receiving local authority will conduct the Merton and further case law compliant age assessment. In some cases the entry local authority may agree to conduct the case law compliant age assessment before transfer has been agreed."

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<sup>103</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/534258/Interim\\_National\\_UASC\\_transfer\\_protocol.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534258/Interim_National_UASC_transfer_protocol.pdf)

## Record-keeping

- 8.62 Inspectors examined 23 case records where the child had been entered into the NTS. They found that some CID entries had not been updated by the Central Administration Team. For example, details of the child's social workers or their address were not always correct. This contributed to delays in the asylum process, with claimants not appearing for interviews or providing requested documentation because the Home Office had sent correspondence to the wrong address or the wrong Local Authority. It also meant that important information about the child was not available to other Home Office teams – see Case Study 2.

### Case Study 2: Incomplete record-keeping, lack of information sharing and delays in the National Transfer Scheme

#### Timeline:

- on 30 September 2016, an Albanian boy aged 14 years and 9 months entered the care of a Local Authority in London
- on 20 October 2016, he attended an appointment at the Asylum Intake Unit (AIU) to register his claim for asylum as an unaccompanied child
- on 25 October 2016, the Local Authority sent a transfer request to the Central Administration Team
- on 9 November 2016, the Central Administration Team allocated the case to the Yorkshire and the Humber NTS region who rejected it – no reasons were recorded on CID by the Central Administration Team
- on 24 November 2016, the Central Administration Team allocated the case to the South East region - there was no record of any assurance by the Central Administration Team of whether this 'new' transfer was in the 'best interests' of the child
- on 28 November 2016, a note on CID recorded that during the claimant's case review event the social worker had told the Home Office's Asylum Intake and Casework (AIC) that "the minor is stressed out due to the plan of dispersal. He is unsure of whether he is going to stay in London or somewhere else. He is unsettled due to this" - there was no record that AIC fed this information back to the Central Administration Team
- on 6 December 2016, the child was transferred to the South East region
- on 15 December 2016, the Central Administration Team received details of the child's new social worker - CID was not updated with these details
- on 9 May 2017, the asylum decision letter was drafted, but could not be served because the Home Office had not received a current circumstances form<sup>105</sup> from the social worker
- on 16 May 2017, the Home Office wrote to the social worker recorded on CID (that is not the social worker appointed in December 2016) to ask that they complete a current circumstances form - no response was received
- on 19 September 2017, the Home Office contacted the Local Authority in London who had been caring for the child until his transfer to the South East region. They confirmed that the child had moved and provided details of the new social worker
- on 25 September 2017, the Home Office received a current circumstances form
- on 9 October 2017, the child received his asylum decision

<sup>104</sup> This form must be completed by the claimant's social worker when they are to be refused outright.

**Independent Chief Inspector's comment:**

This unaccompanied asylum seeking child waited almost a year for an asylum decision, the last 5 months of which were the direct result of poor Home Office record-keeping.

With regard to the NTS, the 'entry' Local Authority requested a transfer within 3 weeks of taking the child into care, but the transfer was not completed for another 7 weeks. The Central Administration Team was initially slow to allocate the request, and then failed to record why its first choice region rejected the transfer, or if its second choice was in the child's 'best interests'.

Overall, the uncertainties created by the handling errors and delays in this case will have added to the child's reported "unsettled" state, and it is hard to see how the child's 'best interests' were preserved.

**Home Office comment:**

While it is correct that the Central Administration Team did not seek assurance that the 'new' transfer was in the child's 'best interests' (see 24 November 2016 above) "at no point was the Team informed by the Local Authority that it was not in the child's best interest to transfer. The NTS protocol explains that it is the responsibility of social workers in the initial Local Authority to make referrals into the scheme where they deem it in the child's best interest only. The NTS team are guided by this and do not make the best interest assessment for the child. We would not expect a child to be referred into the scheme where it was not in their interest. If this assessment by the entry authority changed based upon their assessments and observations of the child, then the child is withdrawn from the scheme in line with this amended best interest determination".

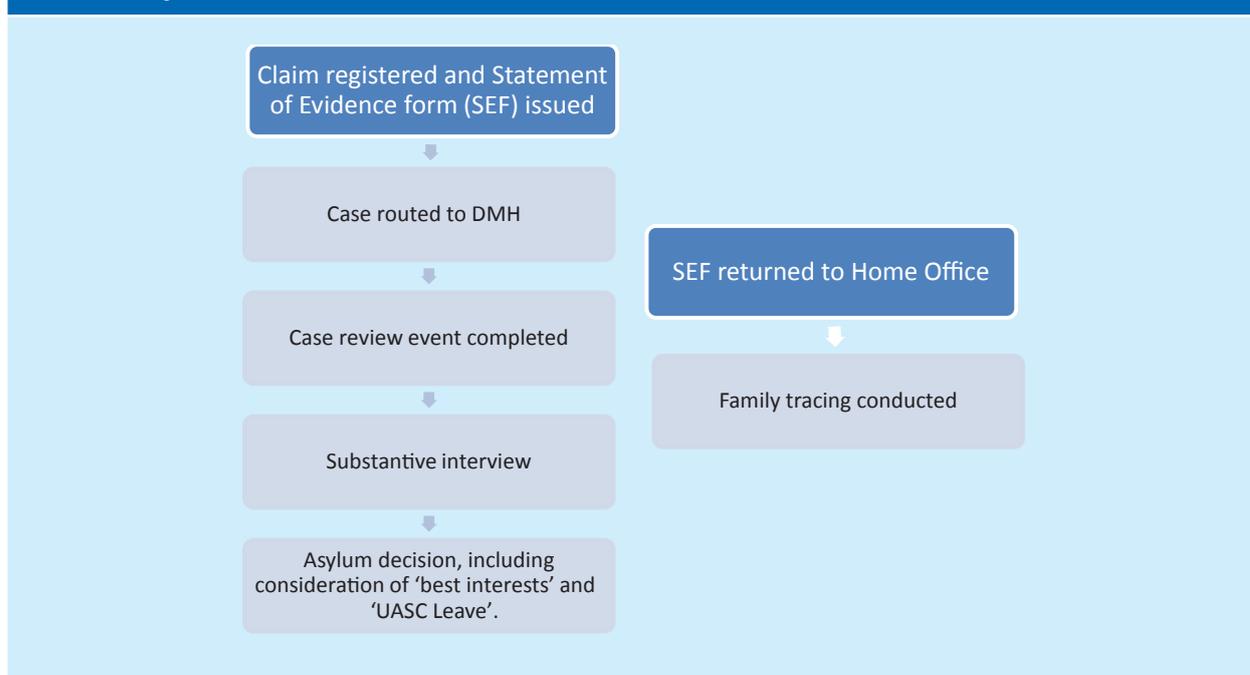
- 8.63 Central Administration Team managers and staff explained that CID errors were corrected where they were identified, but they had no formal quality assurance procedures. Senior managers told inspectors that record-keeping had improved since the team had started working with CID (rather than with spreadsheets), but they acknowledged that records, particularly the 'Notes' section on CID, were not always as complete as they should be.

## 9. Inspection Findings – Decision making

### Responsibility for managing asylum claims

- 9.1 All asylum claims, including those made by unaccompanied children, are managed by the Asylum Intake and Casework unit (AIC), part of UK Visas and Immigration (UKVI) directorate. Between 1 July 2016 and 30 June 2017, the Home Office registered 2,952 asylum claims from unaccompanied asylum seeking children, representing 11% of the overall intake of 27,983 claims.
- 9.2 Once an asylum claim is registered, UKVI's National Asylum Allocation Unit (NAAU) determines which decision-making unit will be responsible for managing the claim.
- 9.3 With the exception of those cases managed by the Third Country Unit<sup>105</sup> and the Non-Suspensive Appeals Hub,<sup>106</sup> responsibility for managing asylum claims from unaccompanied children and making initial asylum decisions falls to one of the AIC's Decision-Making Hubs (DMH). These are located in Belfast, Bootle, Cardiff, Croydon, Folkestone, Glasgow, Hounslow, Leeds, Liverpool, Newcastle, Sheffield and Solihull.
- 9.4 Home Office guidance, 'Children's asylum claims',<sup>107</sup> summarises the process that DMHs should follow when managing asylum claims from unaccompanied children in a flowchart - see Figure 9.

**Figure 9: Summary of the process for managing asylum claims from unaccompanied children**



<sup>105</sup> Under international agreements, the Third Country Unit will decide whether the claim should be considered by another EU Member State.  
<sup>106</sup> A claimant from a designated Non-Suspensive Appeal (NSA) state can appeal against refusal of asylum only when they have left the UK. This is different to the normal in-country appeals process and is aimed at reducing the cost of support for claimants and the financial burden on the Home Office. The NSA hub deals predominantly with NSA designated states.

<sup>107</sup> 'Children's Asylum Claims'; available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

## Case reviews

9.5 Once an asylum claim from an unaccompanied child has been routed to a DMH, AIC staff must:

“contact the child’s social worker to arrange a case review meeting. The timing of the case review is flexible but it should be a reasonable time before the substantive interview so that there is sufficient time to follow up on any actions arising.”<sup>108</sup>

9.6 ‘Children’s Asylum Claims’<sup>109</sup> describes the purpose of a case review as to:

- “• explain the asylum process
- explain the family tracing process
- ensure the child has legal representation
- check on progress in completing the statement of evidence form (SEF), if not completed already
- reiterate the purpose of 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
- answer any questions the social worker may have about the asylum process”

9.7 AIC staff told inspectors that, in practice, case reviews were not routinely conducted. They attributed this to 3 main factors:

- lack of time to conduct a case review
- difficulty in locating the child’s social worker, either because the child had been transferred between Local Authorities under the National Transfer Scheme (NTS) or the case had been transferred between DMHs
- social workers not attending arranged case reviews

9.8 AIC managers accepted that case reviews did not happen as frequently as they should. They attributed this to the difficulty of identifying and liaising with social workers outside their own regions.

9.9 Inspectors examined 47 asylum case records for unaccompanied children where a case review should have taken place. They found evidence that 16 case reviews had taken place. It was not possible from the records to determine why a case review had not taken place in the other 31 cases.

## Family tracing

9.10 Regulation 6(1) of the Asylum Seekers (Reception Conditions) Regulations 2005<sup>110</sup> required that:

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

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108 ‘Children’s asylum claims: Unaccompanied asylum seeking children case review events’. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

109 See footnote 108

110 Available at: <http://www.legislation.gov.uk/uksi/2005/7/regulation/6/made>

9.11 The Home Office guidance document, 'Family Tracing',<sup>111</sup> is intended to help decision-makers to meet this requirement. It defines family tracing as:

“the process of searching for a child’s family for the purposes of:

- restoring family links where they have been broken
- maintaining established family links
- obtaining information as to the family’s current circumstances to assist in the identification of a durable solution.”

9.12 The guidance makes it clear that: “the search for a durable solution for a child begins with assessing the possibility of family reunification, provided that it is in the best interests of the child”. It also explains that the duty imposed by Section 6(1) commences at the point an asylum claim is registered until the child turns 18 years of age, leaves the UK, “ceases to be unaccompanied”, or where family tracing has been successful.

9.13 The guidance also specifies the minimum information that must be held on case records – whether or not family tracing was conducted, the rationale for that decision, action taken to trace the family and any outcomes.

9.14 In 2013, 'An inspection into the handling of asylum claims by unaccompanied children',<sup>112</sup> found that “the Home Office was failing to meet its legal obligation with regard to family tracing in a majority of cases”. It recommended that the Home Office “ensures that it meets its legal obligation regarding family tracing and retains a records of the steps it has taken”.

9.15 For the 2017 inspection, UKVI’s Operational Assurance and Security Unit (OASU) provided inspectors with an update on the progress made against the recommendations in the earlier report. On 23 May 2014, the Home Office had recorded the recommendation relating to family tracing as “closed”. The accompanying note stated:

“Family tracing guidance has been updated and we will review the practicality of specialised teams once decision units are fully staffed and operating under their new structures. Separately we are also exploring the potential of replicating the NRM (Trafficking) Hub model for UASC decision making, this would see UASC interviews conducted by trained decision makers in each decision unit with the asylum decision made by a UASC Hub in one location. This would allow for increased consistency of decision making, DQ and case work actions (like family tracing) and would provide a single point of contact for applicants and stakeholders on UASC cases and issues.”

9.16 Inspectors examined 52 case records in which a decision was made between 1 July 2016 and 30 June 2017 in which family tracing should have been undertaken:

- 8 contained evidence that family tracing had been undertaken, but no family members had been found
- 4 contained evidence that family tracing had been undertaken, but did not record the outcome
- 40 contained no evidence of family tracing having been undertaken

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111 Home Office guidance document 'Family Tracing v2.0', published 28 July 2017. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/633768/family-tracing-v2\\_0EXT.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/633768/family-tracing-v2_0EXT.pdf)

112 Published October 2013. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/546850/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-Oct_2013.pdf)

9.17 AIC staff told inspectors that family tracing was “routinely considered, but rarely conducted”. As in 2013, they attributed this to the lack of information about family members provided by the child and the limited options available to them to try to locate family members. They said that where family members were located they were often unwilling to engage with the Home Office. Senior managers agreed that the options for family tracing were limited, and it was extremely rare that such efforts were successful.

## Asylum Decisions – ‘best interests’ considerations

**Figure 10: Breakdown of asylum decisions for unaccompanied children between 1 July 2016 and 30 June 2017**

Number (and % <sup>113</sup> ) of asylum claims					
Granted Asylum	Refused and other form of protection <sup>114</sup> granted	Refused and ‘UASC leave’ granted	Refused and no other form of leave granted	Other decision <sup>115</sup>	Total
793 (41%)	58 (3%)	508 (26%)	373 (19%)	206 (11%)	1,938 (100%)

9.18 Section 55 of the Borders, Citizenship and Immigration Act 2009<sup>116</sup> requires the Secretary of State 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”.

9.19 The Home Office guidance document, ‘Children’s asylum claims’, informs decision-makers that, where the child meets the Refugee Convention criteria, “it will usually be clear that their best interests are served by remaining in the UK”. For those who do not meet the Refugee Convention criteria, decision makers must “make an overall assessment of the child’s best interests [...] balanced against the need to provide effective immigration control”.

9.20 ‘Children’s Asylum Claims’ states that:

“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, decision makers 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.”

9.21 Inspectors examined 13 case records where the Home Office had refused the child’s asylum claim. In 12 of these asylum was refused, but there was no evidence that the Home Office had gathered information from the social worker as required by the guidance, and in all 12 the case records contained little evidence that the decision makers had made a “full and rounded best interests consideration”.

113 Percentages have been rounded to the nearest whole number.

114 Other forms of protection granted includes grants of Discretionary Leave, Humanitarian Protection and private life/leave outside of the rules.

115 ‘Other’ decisions include asylum applications where the claimant departed the UK prior to the asylum decision, withdrawn asylum applications and applications which were marked as void by the Home Office.

116 Available at: <http://www.legislation.gov.uk/ukpga/2009/11/section/55>

- 9.22 The refusal decision letters in these 12 cases simply stated that it was in the child's 'best interests' "to be reintegrated" into their own country. This 'formula' appeared to be drawn from a template. In one of the cases the relevant paragraph was evidently a 'cut and paste' from another decision letter as the text referred to the wrong country of origin.
- 9.23 AIC staff told inspectors that they felt they had insufficient time to conduct a detailed 'best interests' consideration, which they attributed to their performance targets. They pointed out that they were allocated less time to complete asylum decisions for unaccompanied children (444 minutes) than adult asylum refusals (555 minutes). Managers told inspectors that the timings were based on the results of a time in motion study<sup>117</sup> and they were confident that the time allocated was sufficient.
- 9.24 In 11 of the 12 cases the child was granted an alternative form of leave to remain in the UK. Of the 11, 8 appealed the asylum refusal, 5 successfully, with 1 appeal dismissed. At the time of the inspection, the other 2 appeals were outstanding.
- 9.25 In the 12<sup>th</sup> case, the claimant had not been granted an alternative form of leave, referred to by decision-makers as an "outright refusal", but was successful in appealing the refusal decision and was granted refugee status.

### 'UASC Leave'

- 9.26 The Home Office told inspectors that granting 'UASC Leave' was the most effective way to balance the competing priorities of meeting the 'best interests' of the child while maintaining effective immigration control. This echoed the Immigration Minister, who in 2013 stated that granting 'UASC Leave' "demonstrates that we put their best interests first, as that is not what we do with adults".<sup>118</sup>
- 9.27 Inspectors received submissions about 'UASC leave' from a wide range of stakeholders, including from Local Authorities and non-governmental organisations who work with unaccompanied asylum seeking children. The consensus was that 'UASC leave' did not act in the 'best interests' of children, as they were not provided with any certainty about their long-term status.
- 9.28 Stakeholders considered that this uncertainty caused the child unnecessary distress, particularly for those who had to make a further leave application at the age of 17 and a half years old. They told inspectors that this was a critical age for children, especially since 2015, when Section 2 of the Education and Skills Act 2008<sup>119</sup> requiring children to remain in education or training until their 18th birthday took effect, meaning that children were at the point where they were taking examinations or completing training or apprenticeship programmes. The requirement to make a further leave application, and delays in receiving an outcome of that application, meant children could not plan for their future – they were not eligible to take a university place or gain employment until their status had been resolved.
- 9.29 Stakeholders also highlighted that children did not always understand that 'UASC leave' was not a grant of permanent leave, and this needed to be better explained to them. They considered it was in the child's 'best interests' to be fully informed of their options at all stages, and the Home Office needed to provide much clearer information to children about the limitations of 'UASC leave'.

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117 Carried out in 2016

118 Evidence provided by the then Immigration Minister, Mark Harper MP, to the Joint Committee on Human Rights' inquiry 'Human Rights of unaccompanied migrant children and young people in the UK'. Published 12 June 2013. Available at:

<https://publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/9.pdf>

119 Available at: <https://www.legislation.gov.uk/ukpga/2008/25/part/1>

- 9.30 ‘Children’s asylum claims’ does state that ‘UASC leave’ is “not a permanent grant of leave to remain in the UK” and that “the child will be expected to make a further leave application when that period of leave expires or leave the UK.” However, stakeholders told inspectors that very few unaccompanied asylum seeking children successfully obtained a grant of further leave. Data provided by the Home Office appeared to support this view. Between 1 July 2016 and 30 June 2017, only 20 applications for further leave were granted to claimants who applied for further leave when they were aged between 17 and 18 years.<sup>120</sup>
- 9.31 Inspectors examined Home Office data on returns. Between 1 July 2016 and 30 June 2017, the Home Office removed<sup>121</sup> 402 adults who had previously claimed asylum as a child. Of the 402, 49 (12%) departed the UK when aged 18 years, while almost half (49%) were removed 5 years or more after they reached 18 – see Figure 11.

**Figure 11: Breakdown of the age ranges of former asylum seeking children removed between 1 July 2016 and 30 June 2017<sup>123</sup>**

Age range at removal	Number (and percentage) <sup>124</sup> of individuals removed
18 years of age	49 (12%)
19 – 22 years of age	156 (39%)
23 – 27 years of age	111 (28%)
28 – 37 years of age	86 (21%)

## Serving the decision

- 9.32 ‘Children’s Asylum Claims’<sup>124</sup> provides guidance to Home Office staff on how to notify unaccompanied children when they have made a decision on their asylum claim:

“The decision on the claim for asylum should either be served in person with the child’s legal representative, social worker and responsible adult present or by post.

Copies of the decision letters should also be sent by post to the child’s legal representative and to their social worker, who should also be sent a Notification of Final Outcome of an Asylum Claim letter (ASL1950).”

- 9.33 Where applicable, the decision-maker must also notify the following individuals of the asylum claim outcome:

- “the guardian (Scotland)
- the independent child trafficking advocate (if applicable and in one of the 3 Early Adopter Sites) [or] the trafficking advocate (if applicable)<sup>125</sup>

120 This includes both unaccompanied and accompanied children. The Home Office told inspectors that 15 out of 20 of these claimants had been marked on the Case Information Database as an ‘Unaccompanied minor’, indicating that they had been an unaccompanied child at some point during their asylum claim.

121 The data provided by the Home Office included both enforced returns and voluntary departures, but did not differentiate between the two.

122 This includes both accompanied and unaccompanied children.

123 Percentages have been rounded to the nearest whole number.

124 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

125 Between 8 September 2014 and 7 September 2015, the Home Office contracted Barnardo’s to conduct a trial to ascertain whether independent advocates, known as the ‘trafficking advocate’, would better support children who were potential victims of trafficking. On conclusion of the pilot, 3 regions; Wales, Greater Manchester, and Hampshire and the Isle of Wight, became ‘early adopters’ of a permanent scheme. More information can be found at: <http://www.barnardos.org.uk/cta.htm>

- Refugee Council’s Children’s Panel
- any individual with a formal role<sup>126</sup> in the child’s life<sup>127</sup>

- 9.34 Inspectors examined 24 cases where an asylum decision had been made. None contained any evidence that the Refugee Council’s Children’s Panel had been notified of the outcome. None of the other ‘actors’ listed in the guidance had a role in any of the 24 cases.
- 9.35 Home Office staff told inspectors that it rarely served decisions directly to an unaccompanied child. The relevant paperwork was issued and sent by post to the child’s legal representative, social worker and responsible adult. Stakeholders argued that a reliance was placed on other ‘actors’, such as the child’s social worker, to explain the asylum decision and what action the child needed to take next, for example to lodge an appeal.
- 9.36 Of the 5 children to whom inspectors spoke, 4 had received their asylum decision. All 4 said that their decision was explained to them by their social worker or their legal representative and the Home Office had not been involved.
- 9.37 In Scotland, the Home Office and stakeholders considered that the Scottish Guardianship Service played a vital role in supporting the child throughout the asylum process, including when they received their asylum decision. The Guardianship Service advised inspectors that it was conducting its own research in an attempt to evidence whether anecdotal views that their role had driven up asylum grant rates, at initial decision and appeal, were correct.
- 9.38 Data on decision outcomes by the DMH in Glasgow did not differentiate between cases “owned”<sup>128</sup> by Glasgow DMH and those transferred from another DMH. Inspectors were therefore unable to verify whether the Scottish Guardianship Service had an impact on grant rates. The data indicates, however, that Scotland did not have an exceptionally high grant rate – 46% against a 41% grant rate overall. The DMHs in the North West region (87% grant rate), North East region (50%) and Sheffield (67%) all had higher grant rates during the same period.

<sup>126</sup> In practice, this means social workers.

<sup>127</sup> Home Office guidance document ‘Children’s asylum claims’. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650514/children\\_s-asylum-claims-v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650514/children_s-asylum-claims-v2_0.pdf)

<sup>128</sup> When an AIC unit has more claims than it can handle it may transfer the case to another less busy unit to decide. Glasgow receive a large number of claims originally registered with other AIC units.

# 10. Inspection findings – Previous inspections

## Progress with recommendations from previous inspections

- 10.1 ‘An inspection into the handling of asylum applications made by unaccompanied children February – June 2013’ made 9 recommendations for improvement, all of which the Home Office “Accepted”.<sup>129</sup> This earlier inspection focused on the handling of asylum claims from unaccompanied children, with a particular focus on safeguarding. It looked at how the Home Office dealt with children on first encounter and the processes for disputing and assessing age. It also looked in detail at the decision-making process when an unaccompanied child made a claim for asylum.
- 10.2 The inspection report was laid in Parliament on 31 October 2013.

**Figure 11: ‘An inspection into the handling of asylum applications made by unaccompanied children February – June 2013’  
Full list of recommendations and Home Office responses**

We recommend that the Home Office:		Home Office Response
1	Applies the law consistently and correctly to children’s asylum claims regardless of where they are considered	Accepted
2	Ensures that it meets its legal obligation regarding family tracing and retains a record of the steps it has taken	Accepted
3	Decides children’s asylum claims in a timely manner regardless of where they are considered	Accepted
4	Ensures that new performance targets for children’s asylum claims are realistic, evidence-based and comply with the Immigration Rules	Accepted
5	Develops validated statistics for all cases where asylum applicants claimed to be unaccompanied children	Accepted
6	Establishes a systematic and comprehensive monitoring system to ensure the timeliness and quality of recorded data	Accepted
7	Improves the quality of refusal letters by ensuring they are logical, concise and tailored to the applicant	Accepted
8	Adopts a clear and consistent approach to the initial interview with asylum-seeking children, while continuing to take account of individual needs	Accepted
9	Refers all unaccompanied children who apply for asylum to the Refugee Council within the agreed timing, and keeps accurate records of notification	Accepted and already implemented

<sup>129</sup> <https://www.gov.uk/government/publications/inspection-report-on-asylum-applications-made-by-unaccompanied-children-october-2013>

- 10.3 In January 2018, the Home Office provided inspectors with a document summarising the progress it had made against each of the recommendations from the 2013 inspection, together with its own assessment of whether action was complete. This recorded that the Home Office considered all 9 recommendations to have been ‘closed’.

## Re-inspection

- 10.4 In 2016-17, the Inspectorate began a programme of re-inspections, examining what action the Home Office had taken in response to recommendations. The current inspection of the treatment of unaccompanied asylum seeking children was not intended as a formal re-inspection of the 2013 recommendations, but it did provide the opportunity to look at what actions the Home Office had taken.

## Recommendation 1

- 10.5 Recommendation 1 related to the 2013 inspection’s findings that there were disparities in asylum grant rates between London and Solihull, as evidenced in the sample of case records examined by inspectors at the time. The Home Office closed this recommendation in May 2015 after carrying out an analysis of the case records examined by inspectors. It found it was satisfied that the case outcomes in London and Solihull were comparable. The progress document did not contain the evidence on which this finding was based.
- 10.6 Since the 2013 inspection, the Asylum Intake and Casework (AIC) business model had changed. Many asylum claims were now moved between decision-making units, so that claimants were interviewed at one unit and have their asylum claim decided elsewhere – see ‘An Inspection of Asylum Intake and Casework’,<sup>130</sup> published in November 2017. This meant it was much more difficult to identify regional differences in decision-making quality, and the reasons for them.
- 10.7 While the action taken may have been sufficient to close Recommendation 1 in 2015, both 2017 asylum inspections identified inconsistencies in record-keeping and gaps in data collection, indicating that the Home Office needs to do more to ensure that it could demonstrate correct and consistent application of the law (along with policies and guidance) in all asylum cases.

## Recommendation 2

- 10.8 The Home Office closed Recommendation 2 in May 2014, on the basis that caseworkers were being provided with additional practical guidance on family tracing and training.
- 10.9 The current inspection found that family tracing was “routinely considered, but rarely conducted”. As in 2013, the Home Office attributed this to the lack of information about family members provided by the child and the limited options available to the Home Office to try to locate family members. Recommendation 2 therefore requires further consideration by the Home Office and an updated response.

## Recommendations 3 and 4

- 10.10 Recommendation 3 was closed in May 2014 and Recommendation 4 in May 2015, both on the basis that new asylum customer service standards had been introduced.

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<sup>130</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/662769/An\\_Inspection\\_of\\_Asylum\\_intake\\_and\\_casework.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662769/An_Inspection_of_Asylum_intake_and_casework.pdf)

- 10.11 Since April 2014, the Home Office had published a customer service standard of providing an initial decision on asylum claims within 6 months of registration of the claim. For those asylum claims considered to be ‘non-straightforward’, the Home Office aims to make a decision within 12 months, although this is an internal target rather than a published service standard.
- 10.12 The Home Office’s performance against its published service standard and internal targets was considered in detail in ‘An Inspection of Asylum Intake and Casework’.<sup>131</sup> That inspection found that the number of claims awaiting an initial decision rose during the business year 1 April 2016 – 31 March 2017, and that many claimants whose asylum claims were deemed to be ‘non-straightforward’ were subject to prolonged delays in receiving an initial decision.
- 10.13 The current inspection of unaccompanied asylum seeking children also found evidence of delays. In the year 1 July 2016 – 30 June 2017, unaccompanied asylum seeking children whose claims had been categorised as ‘non-straightforward’ were waiting an average of 458 days for an initial decision.
- 10.14 In November 2017, the ‘Asylum Intake and Casework’ inspection recommended that the Home Office introduce and publish a 12-month customer service standard for ‘non-straightforward’ asylum claims. The Home Office “Partially accepted” this recommendation and wrote:

“Whilst the six month service standard was necessary, in 2014, to ensure the Home Office maintained control and focus over the asylum system, as a result of previous high intake, we accept that this may have had unforeseen consequences for other elements of the process.

The Home Office will continue to manage non-straightforward cases in line with the guidance, which we are revising. However, we have commenced a review of current service standards and whether they are appropriate in the current climate.

This review will identify potential new customer service standards and will be put to Ministers for them to consider in December 2017.”<sup>132</sup>

- 10.15 The Home Office should make the outcome of the review known as soon as possible.

### Recommendations 5 and 6

- 10.16 Recommendations 5 and 6 related to data capture and record-keeping specifically in respect of age disputes and age assessments. The Home Office advised that it had delivered refresher training to staff to ensure that age dispute flags were raised only when this was appropriate. It also suggested that it would amend the ‘Assessing Age’ instruction to address issues with record-keeping. The Home Office ‘closed’ Recommendations 5 and 6 in May and August 2015 respectively.
- 10.17 The current inspection found that the Home Office did not capture data for those who claimed to be an unaccompanied child but were assessed to be “significantly over 18”. The examined case records also indicated that some age dispute flags were raised inappropriately, calling into question the quality of the age dispute data published by the Home Office. In general, record-keeping for age assessments was found to be inconsistent.
- 10.18 Therefore, the Home Office needs to review its data requirements (and those of its partners and stakeholders) and ensure that the relevant data is being captured. It also needs to do more to raise record-keeping standards.

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<sup>131</sup> See FN 130

<sup>132</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/662748/Home\\_Office\\_response\\_ICIBI\\_report\\_on\\_Home\\_Offices\\_Asylum\\_Intake\\_Casework.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662748/Home_Office_response_ICIBI_report_on_Home_Offices_Asylum_Intake_Casework.pdf)

### Recommendation 7

- 10.19 The Home Office closed Recommendation 7 in March 2015. Its progress document stated that “The new refusal letter has been implemented and introduces a standard structure with standard paragraphs which can be tailored for individual consideration for each case”.
- 10.20 ‘An Inspection of Asylum Intake and Casework’ reported on the quality of refusal letters, including those that had used a new assisted decision making (ADM) tool, intended to act as a guide to the decision-maker and help ensure that the claim was considered fully and consistently,<sup>133</sup> and found that improvements to decision quality were still needed.
- 10.21 The current inspection found that the explanation of ‘best interests’ considerations in asylum refusal letters were not always “full and rounded” or tailored to the individual child.
- 10.22 Although the Home Office considered Recommendation 7 “closed” in 2015, in 2017 two inspection teams found that refusal letters required improvement, so it needs to revisit this.

### Recommendation 8

- 10.23 In relation to Recommendation 8, the Home Office’s progress document advised that it was planning to introduce a revised unified approach to initial interviews for unaccompanied asylum seeking children that complied with its safeguarding responsibilities and with current case law. The Home Office closed Recommendation 8 in May 2016.
- 10.24 The initial welfare interview was introduced in November 2016. The current inspection found that Home Office staff were conducting initial welfare interviews in line with guidance. However managers and staff expressed concerns with the form, feeling that it did not allow them to probe safeguarding issues sufficiently and could not be tailored to the individual child. At the time of this inspection, the initial welfare interview form was in the process of being revised.
- 10.25 In light of the most recent findings, Recommendation 8 should not be considered ‘closed’ until the question of the form’s design and intention in relation to probing safeguarding issues has been clarified.

### Recommendation 9

- 10.26 The Home Office closed Recommendation 9 in October 2013. It advised that it had amended mandatory staff training to increase awareness of the requirement to make Refugee Council referrals, and had reminded all case-working staff of the importance of making prompt referrals in all cases.
- 10.27 The Home Office said that: “it would track the impact of this training and monitor the situation on referrals, primarily to ensure that unaccompanied children are properly supported during the asylum process, and to ensure that it was getting best value for the taxpayer from the Refugee Council grant agreement”.
- 10.28 The current inspection found that the Home Office was failing to refer all unaccompanied children to the Refugee Council’s Children’s Panel Advice Service. Managers in the Asylum Intake Unit (AIC) had identified this as an issue. Therefore, the Home Office has further work (in terms of training and quality assurance) to do to ensure that this happens in every case.

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<sup>133</sup> Introduced in October 2016

# Annex A: Criteria used in this inspection

Inspectors used all ten of the ICIBI inspection criteria:

## Operational Delivery

- Decisions on the entry, stay and removal of individuals should be taken in accordance with the law and the principles of good administration
- Customs and Immigration offences should be prevented, detected, investigated and where appropriate, prosecuted
- Resources should be allocated to support operational delivery and achieve value for money
- Complaints procedures should operate in accordance with the recognised principles of complaints handling

## Safeguarding Individuals

- All individuals should be treated with dignity and respect and without discrimination in accordance with the law
- Enforcement powers should be carried out in accordance with the law and by members of staff authorised and trained for that purpose
- All border and immigration functions should be carried out with regard to the need to safeguard and promote the welfare of children
- Personal data of individuals should be treated and stored securely in accordance with the relevant legislation and regulations

## Continuous Improvement

- The implementation of policies and processes should support the efficient and effective delivery of border and immigration functions
- Risks to operational delivery should be identified, monitored and mitigated

## Annex B: Role and remit of the Independent Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48-56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality and customs by the Home Secretary and by any person exercising such functions on her behalf.

The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions. However, functions exercised at removal centres, short-term holding facilities and under escort arrangements are excepted insofar as these are subject to inspection by Her Majesty's Chief Inspector of Prisons or Her Majesty's Inspectors of Constabulary (and equivalents in Scotland and Northern Ireland).

The legislation directs the Independent Chief Inspector to consider and make recommendations about, in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on section 19D of the Race Relations Act 1976 (c. 74) (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

- In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within eight weeks of receipt, subject to both Houses of Parliament being in session. Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

As soon as a report has been laid in Parliament, it is published on the Inspectorate's website, together with the Home Office's response to the report and recommendations.

# Acknowledgements

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