



Home Office

# Children's asylum claims

Version 2.0

# Contents

Contents.....	2
About this guidance.....	6
Contacts .....	6
Clearance .....	6
Changes from last version of this guidance .....	6
Introduction .....	7
Purpose of guidance.....	7
Training for Home Office staff dealing with children .....	8
Policy intention .....	8
Definitions.....	9
Relevant legislation and legal framework.....	10
The Refugee Convention.....	10
The 1989 Convention on the Rights of the Child .....	10
The European Convention on Human Rights (ECHR) and Human Rights Act 1998 .....	10
European Legislation .....	10
Dublin Regulation.....	10
Qualification Directive (2004/83/EC) .....	10
Child specific provisions in domestic legislation .....	11
Section 55 of the Borders, Citizenship and Immigration Act 2009 .....	11
Immigration Rules .....	11
Children Act 1989.....	12
Immigration Act 2016 .....	13
Asylum Seekers (Reception Conditions) Regulations 2005 .....	13
Further reading .....	13
Use of interpreters.....	15
The role of the Home Office interpreter .....	15
The role of the legal representative’s interpreters.....	16
Other requirements.....	17
Advice, support and welfare for children who claim asylum .....	18
Privately fostered children .....	18
Responsible adult .....	20
Refugee Council Panel of Advisers: Children’s Panel .....	22
Scotland .....	22

Legal representation .....	23
Missing children .....	23
Modern slavery .....	23
How to deal with an asylum claim from a child who may have been a victim of modern slavery.....	24
First encounter and the welfare interview.....	25
General principles.....	25
Immediate welfare concerns.....	26
CID .....	26
Notifying local authorities of the arrival of a child in their area .....	27
Unaccompanied children .....	27
Accompanied children .....	28
Safeguarding referrals to local authorities .....	30
Children accompanied by a legal representative .....	31
Welfare form .....	31
Actions to take after completing the welfare form .....	32
Age dispute .....	32
Fingerprinting an asylum seeking child .....	32
Third Country Unit referral.....	32
Referral to the National Asylum Allocation Unit.....	33
Documents to be given to the child .....	33
Unaccompanied asylum seeking children case review events.....	34
The purpose of a UASC case review.....	34
Family tracing.....	36
Case actions .....	38
Visa application form (VAF) checks.....	38
Actions to take to prepare for a child’s substantive asylum interview .....	38
Non-completion of SEF.....	39
Considering whether to conduct a substantive asylum interview.....	39
Considering whether to interview children under 12 years old.....	40
Gathering information and evidence in children’s claims.....	41
Obtaining information from family members .....	41
Interviewing children.....	43
General principles of interviewing children .....	43
Timing and location of an interview.....	43
Conducting the substantive asylum interview .....	43
Welfare of the child during an interview .....	45

Where an interview is not possible .....	45
Where an interview is not conducted .....	45
Role of the legal representative and responsible adult during interviews .....	46
Re-documentation interviews .....	47
When a child turns 18 before the substantive interview.....	47
How to assess claims from children .....	48
Decision making principles .....	48
Age and maturity.....	48
Family circumstances of an asylum seeking child .....	49
Burden and standard of proof in children’s claims .....	49
Assessing credibility in children's claims.....	49
Assessment of risk in children’s claims – well-founded fear and persecution.....	50
Addressing the child's awareness of fear .....	51
Child specific persecution .....	51
Harmful traditional practices.....	52
Child soldiers.....	52
Child abuse .....	53
Assessing Convention Reasons in Children’s Claims.....	53
Religion .....	53
Political opinion .....	54
Membership of a particular social group .....	54
Sufficiency of protection and internal relocation in Children’s Claims .....	54
Actors of persecution and access to protection.....	54
Internal relocation.....	55
Asylum claim outcomes.....	56
Best interests consideration.....	56
Continuing to work with local authorities.....	57
Refugee status .....	58
Humanitarian protection.....	59
Article 8 family and private life .....	59
Discretionary leave .....	59
Age.....	60
Arrival circumstances .....	60
Barriers to removal.....	60
Indefinite leave to remain (ILR).....	61
UASC Leave under paragraph 352ZC to F of the Immigration Rules .....	61
Certification under section 94 .....	62

How to make detailed best interests of the child consideration (a section 55 consideration) .....	63
Further potential case outcomes .....	65
Withdrawal of asylum claim.....	65
Article 1F exclusion .....	65
Non-compliance .....	66
Consideration of reception arrangements .....	67
Return to family.....	67
Consideration of reception arrangements.....	68
Reception upon arrival and onward travel arrangements .....	68
Consideration of best interests .....	69
Refusal and curtailment of UASC Leave .....	69
Serving the decision .....	71
Implementing a decision to grant leave .....	71
Serving the adequacy of reception arrangements and the section 55 consideration .....	72
The decision letter .....	72
Appeals .....	73
The return process .....	74
The return discussion .....	74
Arranging the discussion.....	74
Conducting the discussion.....	75
Options for departure.....	76
Voluntary return accepted .....	76
Voluntary departure declined .....	76
Welfare of the child.....	77
Contact management .....	77
Pre-departure arrangements .....	78
Ownership of the return decision .....	78
Missing children and absconders.....	78
Applications for further leave.....	80
How to consider best interests as part of a child's application for further leave....	80
How to deal with applications for further leave from children aged under 18.....	81
Further protection based claims.....	82
Applications for further leave from those over 18 years old.....	82
Cases excluded under Article 1F .....	82
What to do when a child fails to apply for an extension of leave.....	82

# About this guidance

The guidance tells Home Office staff about how to process and assess asylum claims from children. It primarily deals with claims from unaccompanied asylum seeking children (UASC), but also covers children who may be accompanied, but are making an asylum claim in their own right.

## Contacts

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

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

## Clearance

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

- version 2.0
- published for Home Office staff on **09 October 2017**

## Changes from last version of this guidance

This guidance has been updated following its previous publication in interim format in July 2016. The entire document has been reviewed with changes throughout.

### Related content

[Contents](#)

# Introduction

## Purpose of guidance

This guidance is for Home Office staff and decision makers who deal with claims from unaccompanied asylum seeking children (UASC) and other children claiming asylum in their own right.

Although intended for Home Office staff it is a public document and parts of it may be useful to others working with UASC - for instance, staff in children's services departments of local authorities, and social workers dealing with unaccompanied children.

An asylum claim can be made by or on behalf of a child in their own right whether accompanied or unaccompanied, and must only be processed by a decision maker who has received appropriate training for that role.

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

This guidance must be read in conjunction with the specific guidance on particular situations. For instance:

- [section 55](#)
- assessing credibility and refugee status
- humanitarian protection
- discretionary leave
- curtailment
- families
- family tracing
- assessing age
- [working together to safeguard children](#)
- victims of modern slavery
- identifying people at risk (enforcement)
- [UASC National Transfer Protocol](#)

For information on asylum claims from European Economic Area (EEA) nationals, please refer to guidance on EU / EEA asylum applications.

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

Case working of an asylum claim from a child is covered in [First encounter and the welfare interview](#), [Gathering information and evidence in children's claims](#), [How to assess claims from children](#) and [Asylum claim outcomes](#).

Private fostering arrangements may feature in some cases involving children and are covered in the [Children Act 1989](#) or in children's legislation in the devolved territories and guidance produced by the Department for Education or relevant devolved administration. See [Privately fostered children](#) for further information.

## Training for Home Office staff dealing with children

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

- foundation training programme (FTP)
- tier 1 Keeping Children Safe – e-learning
- tier 2 Keeping Children Safe – classroom based
- tier 3 Keeping Children Safe – classroom based safeguarding and asylum specific

Staff must be aware that other agencies are involved in the welfare of the child. Whilst the Secretary of State for the Home Department remains the decision maker with regard to the asylum claim and with regard to immigration status, Home Office staff are encouraged to liaise with other agencies and organisations both from the public and private sectors to ensure that the welfare of the child is safeguarded at all stages of the immigration process. The role of other agencies may include providing factual information that will assist in safeguarding the child. Agencies with whom it is permissible to disclose personal information on the child and to what extent are specified within this asylum instruction.

## Policy intention

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

- immigration, asylum, nationality and customs functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the UK, including that the best interests of the child are a primary consideration at all times
- the welfare of the child is paramount at all times with the child being cared for by appropriate adults or agencies with safeguarding responsibilities being met
- protection is granted swiftly to those who need it
- information about the asylum claim is collected in an appropriate way with decisions made promptly and communicated to the child in a way that acknowledges their age, maturity and particular vulnerabilities
- staff are constantly alert to any signs that the child is at risk of harm or abuse or may have been trafficked- if staff have any doubts whatsoever about such a potential risk to a child, they must refer the case immediately to a senior manager (minimum Chief Immigration Officer or Higher Executive Officer)
- children who have been trafficked or who are at risk with regard to modern slavery are identified as early as possible, are provided with the necessary support, and are referred to the National Referral Mechanism (NRM)



---

**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

---

**Official – sensitive: end of section**

---

## Definitions

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

An unaccompanied asylum seeking child is defined by paragraph 352ZD of the [Immigration Rules](#) as one who is:

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

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

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

### Related content

[Contents](#)

### Related external links

[Children Act 1989](#)

[Social Services and Well-being \(Wales\) Act 2014](#)

[Children \(Scotland\) Act 1995](#)

[Children \(Northern Ireland\) Order 1995](#)

# Relevant legislation and legal framework

The legal framework for processing asylum claims from unaccompanied children consists of the UK's international obligations and the safeguarding and welfare provisions that are found in legislation and the Immigration Rules.

## The Refugee Convention

The [1951 United Nations Convention Relating to the Status of Refugees](#) and the [1967 Protocol](#) ('the Refugee Convention') is the primary source of the framework of international refugee protection.

## The 1989 Convention on the Rights of the Child

The [United Nations Convention on the Rights of the Child](#) (UNCRC) is an international treaty which sets out the rights of children. The UK signed the convention on 19 April 1990 and it came into force on 15 January 1992.

## The European Convention on Human Rights (ECHR) and Human Rights Act 1998

Under section 6(1) of the [Human Rights Act 1998](#) a public authority is bound to act in a way which is compatible with the [European Convention on Human Rights](#) (ECHR).

## European Legislation

### Dublin Regulation

Article 6(4) of [Regulation \(EU\) No 604/2013](#) ("Dublin Regulation") states that the member state in which an unaccompanied child has lodged a claim for asylum must, as soon as possible, take appropriate action to identify the family members in the territory of all member states, whilst protecting the best interests of the child. Article 6(4) is directly effective in UK law.

### Qualification Directive (2004/83/EC)

The [Qualification Directive](#) requires consideration of the personal circumstances of an asylum applicant when determining the availability of internal protection under Article 8 (2):

"In examining whether a part of the country of origin is in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant..."

Article 20.3 on the content of international protection:

“When implementing this Chapter [on the content of international protection], Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors,”

## Child specific provisions in domestic legislation

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

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State to make arrangements for ensuring that immigration, asylum and nationality functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the UK. It came into force on 2 November 2009 and is how the UK gives effect to the United Nations Convention on the Rights of the Child (UNCRC) in immigration matters that affect children.

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

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

## Immigration Rules

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

- paragraph 349, which allows for a child (defined as a person who is under the age of 18 or, in the absence of any documentary evidence, appears to be under that age):
  - to be included as the dependant of an asylum claimant
  - to make an asylum claim in their own right and for that claim to be considered separately
- paragraph 350, which requires that in the case of unaccompanied children, particular priority and care be given to the handling of their cases
- paragraph 351, which sets out what is required from decision makers when considering whether a child qualifies for asylum
- paragraph 352, which sets out the requirements for undertaking asylum interviews with children

- paragraph 352ZA, which sets out the requirements for the provision of assistance to a child during the interview process
- paragraph 352ZB, which requires that the decision on the asylum claim is taken by a person trained to deal with asylum claims from children
- paragraphs 352ZC to ZF, which covers the leave to be granted to an unaccompanied child following the refusal of asylum and humanitarian protection in cases when return to the country of origin is not possible

## Children Act 1989

Local Authorities in England have a duty under sections 17 and 20 of the [Children Act 1989](#). Similar duties are placed on local authorities in Scotland under sections 22 and 25 of the [Children \(Scotland\) Act 1995](#). 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](#). In Northern Ireland 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](#).

Unaccompanied asylum seeking children will be ‘children in need’. In England, section 17 places a general duty on every local authority to safeguard and promote the welfare of children in need within their area by providing services appropriate to those children’s needs. Section 20 requires every local authority to provide accommodation for children in need within their area who appear to them to require accommodation because:

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

The type of accommodation provided to the child will depend on the child’s circumstances and the local authority’s assessment of their needs. A child aged under 16 is likely to be placed with a foster parent or in a children’s home.

Statutory guidance and care planning regulations in England clearly set out that in some cases, a child aged over 16 can be suitably placed in accommodation termed as “other arrangements”. This is ‘unregulated’ in the sense that it is not inspected by Ofsted in the same way that a registered children’s home or foster care provider is regulated and inspected. However, it is covered by statutory guidance and regulations explaining when and how local authorities might use them. Appropriate local authority use of “other arrangements” is looked at, as appropriate, by Ofsted as part of the single inspections of any local authority children’s services. Where there has been an assessment of need of a young person 16 or over and the best match to their needs is in “other arrangements” the placement could be supported lodgings, supported accommodation or shared accommodation. This is a decision for the local authority not the Home Office.

The local authority must be satisfied that any such placement is in the best interests of each individual young person, with practice in line with all relevant statutory guidance and care planning regulations.

It is important that suitable emergency accommodation can be accessed directly at any time of the day or night where there is sufficient supervision and monitoring by on-site staff to keep the child safe. Bed and breakfast (B&B) accommodation is not suitable for any child, even on an emergency accommodation basis. Such accommodation can leave the child particularly vulnerable to risk from those who wish to exploit them and does not cater for their protection or welfare needs.

A child placed in local authority accommodation under section 20 will become a looked after child after 24 hours.

## Immigration Act 2016

[Part 5 to the Immigration Act 2016](#) relates to the transfer of responsibility for unaccompanied asylum seeking children and other migrant children from one local authority to another.

## Asylum Seekers (Reception Conditions) Regulations 2005

To protect the best interests of the child, the Home Office has a duty under regulation 6 of the [Asylum Seekers \(Reception Conditions\) Regulations 2005](#) (the 2005 regulations) to endeavour to trace the families of unaccompanied asylum seeking children as soon as possible after a claim for asylum is made.

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

Staff must also ensure they are familiar with the obligation to family trace.

## Further reading

The government believes that the safeguarding and welfare of unaccompanied migrant children is best assured when all relevant agencies with a formal role in that child's life co-operate and work together. To that extent the government welcomes the views of a number of stakeholders. In particular:

- [UNHCR: Safe and Sound](#)
- [UNHCR: The Heart of the Matter](#)
- chapter 5 "Interpreter-mediated Interviews with Children" in The Heart of the Matter, Assessing Credibility when Children Apply for Asylum in the EU
- [credibility Assessment in Asylum Procedures – a multidisciplinary training manual, volume 2](#)

These views are independent of government and where they differ from the content of this guidance, Home Office staff must follow this guidance only.

**Related content**

[Contents](#)

**Related external links**

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

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

[Children Act 1989](#)

[Social Services and Well-being \(Wales\) Act 2014](#)

[Children \(Scotland\) Act 1995](#)

[Children \(Northern Ireland\) Order 1995](#)

# Use of interpreters

This section provides guidance for staff on the use of interpreters in claims for asylum made by children. This section should be read in conjunction with section 8 of the Asylum interviews guidance.

Home Office staff, as well as the interpreters used by the Home Office, must be aware of particular factors set out within this section of guidance which need to be considered when interpreting during a child's asylum interview. This is in addition to the general guidance offered to all interpreters. The purpose of this section is to draw attention to the Home Office's commitment to safeguarding and promoting the welfare of children in the context of asylum interviews.

## The role of the Home Office interpreter

The interpreter is employed by the Home Office to interpret what is said at interviews in a verbatim manner. The Home Office interpreter must provide an impartial interpretation of the claimant's account. Home Office interpreters are expected to interpret, in direct speech, the questions asked by the interviewing officer and the responses given by the claimant.

Home Office interpreters are only permitted to intervene during an interview to ask for clarification or to point out that a party may not have understood something and to alert the interviewing officer to a possible missed cultural inference. Should the Home Office interpreter deviate from the specific question in order to seek clarification, the Home Office interpreter must inform the interviewing officer exactly what is being said.

Interpreters are expected to follow the terms and conditions set out in the [Code of conduct for registered interpreters](#).

In cases involving children, the interpreter plays a vital role in facilitating a child's right of expression as in article 12 of the [Convention on the Rights of the Child](#). Any guidance on best practice when working with children does not seek to override the general principles for interpreting during interviews. It is intended to support the interpreter's facilitation of good rapport between the interviewer and the child.

Therefore, interpreters must interpret questions verbatim in interviews involving children. The interpreter must ensure adequate and appropriate interpretation of child-friendly and age-appropriate language is being used. It might be the case that children require more clarification in order to understand the questions posed to them. In this case, the interpreter should proactively inform the interviewing officer of the child's initial response, and then indicate that the child might not have fully understood the question. The interviewer will decide whether or not a follow-up question is required.

During interviews with children, it is necessary for the interpreter to pay extra attention to their body language and demeanour. If body language is intimidating or

threatening, this could have significant implications on what information the child chooses to reveal or conceal. Body language might be improved by demonstrating attentiveness to what the child is saying and avoiding expressions of frustration when the child's speech is difficult to comprehend.

The interpreter must also demonstrate cultural awareness in terms of the way the child interacts with adults. In some cultures, for example, children demonstrate respect towards their elders by avoiding eye contact. Some children, particularly younger children, may automatically view the interpreter as a cultural authority figure, role model and even a parental substitute in the interview situation. In those cases, the interpreter can raise this as a point of concern which may mean that the interview needs to be terminated and subsequently rescheduled with an adult from the child's care situation or culture present to act as the authority figure / role model, freeing the interpreter to return to their role as interpreter.

Impartiality is still central to the role of the interpreter in interviews with an unaccompanied child. Whilst children must be dealt with sensitively, the interpreter must always maintain a neutral standpoint.

For guidance on what action to take in cases where the child is having difficulty in understanding the interpreter or the interviewer has concerns over the interpreter's conduct or ability, refer to the languages at interview section within the Asylum interviews asylum instruction.

## The role of the legal representative's interpreters

The Home Office will always provide a qualified and professional interpreter for each stage of the asylum process if the claimant is unable to speak English. However, subject to approval from the Home Office, legal representatives may also bring their own interpreters. Home Office staff will try to accommodate requests for interpreters to be in attendance if it is in the child's best interests to allow an additional interpreter into the interview. Factors that will be taken into account will include the number of people wishing to attend the interview and the impact on the child. A decision to exclude an interpreter must be rational and non-discriminatory. If a decision is taken to exclude an interpreter from the interview, Home Office staff must:

- notify a senior manager (minimum Senior Executive Officer (SEO) or Her Majesty's Inspector (HMI))
- fully explain the decision to the legal representative
- explain in full the reasoning for excluding the interpreter within the interview record

The legal representative's interpreter is there to observe and they may make comments at the end of the interview but only insofar as they relate to a serious discrepancy in translation or because the child has not understood something.

It is the responsibility of the legal representatives to ensure that their interpreters have the relevant clearance from the Disclosure and Barring Service (DBS) and are legally entitled to work in the UK. Home Office staff can ask legal representatives to



provide evidence that the interpreter is being engaged by that legal firm. If, however, Home Office staff still have concerns about the interpreter, they must contact the legal representative's office for further information.

## Other requirements

Home Office staff must ensure that the child is not left alone with an interpreter at any point. Home Office staff must also ensure that all interpreters are aware that they cannot retain any notes they make during the interview. Notes taken by the Home Office interpreter must be retained by Home Office staff at the end of the interview and destroyed. Notes taken by the legal representative's interpreter are the property of that legal representative.

### Related content

[Contents](#)

### Related external links

Best practice in interpreting in minors cases

[Chapter 5 "Interpreter-mediated Interviews with Children" in The Heart of the Matter, Assessing Credibility when Children Apply for Asylum in the EU](#)

# Advice, support and welfare for children who claim asylum

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

At each stage of the asylum process, decision makers and staff must consider the following questions:

- Is the child I am dealing with safe while they are in the UK?
- Am I and other Home Office colleagues dealing with the child in an age sensitive, child friendly way that also reflects the child's maturity and vulnerability?
- Have I taken appropriate account of the child's best interests in making decisions that affect them and their future?
- Have I addressed the child's physical and medical needs (including mental health) appropriately?
- Is their emotional and behavioural development supported?
- Am I being mindful of the child's age and maturity?
- Have they experienced mental or emotional trauma?
- Am I considering the child's right to preserve their identity, including nationality, name and family relation?

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

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

## Privately fostered children

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

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

“(a) A privately fostered child” means a child who is under the age of sixteen and who is cared for, and provided with accommodation [in their own home] by, someone other than -

- (i) a parent of his
- (ii) a person who is not a parent of his but who has parental responsibility for him; or
- (iii) a relative of his; and

(b) ‘to foster a child privately’ means to look after the child in circumstances in which he is a privately fostered child as defined by this section.

(2) A child is not privately fostered child if the person caring for and accommodating him -

- (a) has done so for a period a period of less than 28 days; and
- (b) does not intend to do so for any longer period.”

Similar provisions are found in the [Children \(Northern Ireland\) Order 1995](#) and the [Foster Children \(Scotland\) Act 1984](#).

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

Home Office staff must contact the relevant local authority administration lead and social care team so that appropriate checks can be made to confirm the suitability of care for a child, if:

- they come into contact with a child who is with an adult
- the adult is not a parent, a relative or someone who has parental responsibility for the child

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

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

If there are immediate and / or significant concerns, for example about the fostering or care arrangements, Home Office staff must refer the case immediately to the social worker.

Home Office staff who consider a child to be a potential victim of trafficking or slavery should refer them to the National Referral Mechanism (NRM). In such cases they should also refer to the child to the local authority. The police should be notified at this stage if Home Office staff consider the potential victim appears to be in immediate danger. Refer to Victims of modern slavery – frontline staff guidance for further information.

If the child is in an Early Adopter Site (Greater Manchester, Hampshire, the Isle of Wight and Wales) then a referral should also be made to the Independent Child Trafficking Advocate. See: [Interim guidance on the roles and responsibilities of Independent Child Trafficking Advocates](#).

When Home Office staff members become aware that a child is in a private fostering arrangement they must make enquiries to confirm that the relationship is genuinely one of welfare and that it is recognised and appropriately monitored by local authority children's services. Staff must be aware that children may have made their way to the UK by seeking help and advice from strangers or newly formed contacts and so must be prepared to:

---

**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

---

**Official – sensitive: end of section**

- bring the child to the attention of the local authority in which the child is living

Full details of all actions taken that relate to the sponsor or family member must be recorded on CID and where documentary notes are available they must be attached to the Home Office file.

## Responsible adult

A responsible adult must be present when:

- fingerprints are taken from a child under 16 years of age
- a child is interviewed about the substance of their asylum claim

Where possible, a responsible adult may also attend the welfare interview.

The responsible adult must be entirely independent of the Home Office. Suitable people to perform this role include, but are not limited to:

- a social worker
- a local authority key worker
- a relative
- a foster carer
- a Refugee Council representative or charity worker
- a guardian provided by the Scottish Guardianship Service (Scotland)

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

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

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

Home Office staff must verify the identity of the adult if this has not already been done earlier in the process. For example:

- in all cases the adult must be asked to show either:
  - a passport
  - a photo card driving licence
  - Home Office documentation (if appropriate)
  - local authority / key worker social worker ID card (if appropriate)
- where the adult works for a local authority, Refugee Council, a charity or Scottish Guardianship Service, Home Office staff must establish that they work for the organisation as claimed by asking for documentary proof
- where the child claims to be related to the adult, Home Office staff must satisfy themselves that it is likely that they are related as claimed

---

**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

---

**Official – sensitive: end of section**

Documentation presented must be carefully examined and verified. The details must be recorded on CID and the case file, including:

- their name

- relationship to the child
- current immigration status in the UK (if applicable)
- documentation provided

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

The role of the Panel of Advisers, often referred to as the Children's Panel, is to advise and assist unaccompanied children through the asylum process, and to support them in their interactions with the Home Office and other central and local government agencies (such as local authorities). The adviser will not offer legal advice but does have the authority to act as a responsible adult.

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

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

Refugee Council Children's Panel of Advisers contact details:

Email: [Refugee Council](#)

Telephone: 020 7346 1134

Fax: 020 3070 0660

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

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

## Scotland

In Scotland, the Scottish Guardianship Service is a statutory service that works with children and young people who arrive in Scotland unaccompanied and separated from their families who are seeking asylum or who have been trafficked.

Guardians support young people by helping them navigate the immigration and welfare processes, and feel supported and empowered throughout the asylum process. Guardians support them with their interactions with the Home Office and local authorities and other important agencies.

Unaccompanied children in Scotland should be referred to the Scottish Guardianship Service and in many cases this will be done by the local authority. Home Office staff should check that this has been done and make a referral if it has not.

Contact details for the Scottish Guardianship Service:

Scottish Guardianship Service

C/o Scottish Refugee Council  
5 Cadogan Square  
Glasgow  
G2 7PH  
Email: Scottish Guardianship Service  
Telephone: 0141 4458659  
Fax: 0141 2432499

Useful websites:

- [Aberlour](#)
- [Scottish Refugee Council](#)

## Legal representation

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

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

## Missing children

If, at any stage there is reason to believe a child pursuing a claim for asylum is likely to go missing or has gone missing, staff must consult the Identifying people at risk (enforcement) guidance.

Home Office staff dealing with asylum claims from children must ensure that the contact details given for a child are current and that the child is living where records indicate they are by calling the child's carer, social worker or foster carer. If the details are not current, the case file and CID must be updated. If staff members have any concerns, they must contact the local safeguarding officer for further guidance.

## Modern slavery

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

For information on indicators of modern slavery see:

- victims of modern slavery: frontline staff guidance
- National Referral Mechanism: guidance for child first responders

Home Office staff in Scotland will need to be aware of the different arrangements in place. In addition to the NRM guidance for child first responders, further information can be found in the following guidance documents:

- [National Guidance for Child Protection in Scotland](#)
- [Inter-Agency Guidance for Child Trafficking](#)

[Safeguarding referrals to local authorities](#) provides detailed guidance on situations where Home Office staff must make a referral to local authorities as part of their safeguarding duty.

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

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

All staff should refer to the:

- victims of modern slavery: competent authority guidance
- National Referral Mechanism: guidance for child first responders
- victims of modern slavery: guidance for frontline staff

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

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

### Related content

[Contents](#)

### Related external links

[Children Act 1989](#)



# First encounter and the welfare interview

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

## General principles

This section replaces previous guidance referring to children's screening interviews. Children do not have the same screening interviews as adults, but must undergo a welfare interview and a series of checks which are set out below.

Appropriate language and use of interpreters is key to the first encounter and 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.

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

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

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

Asylum seeking children can arrive or be encountered in the UK in a variety of ways. For example:

- at ports of entry
- in immigration enforcement operations
- as clandestine illegal entrants
- by attending the Asylum Intake Unit in Croydon
- by referral to the Kent Intake Unit

Regardless of how or where a child claims asylum, the principles contained in the [Introduction](#) section of this document must be at the heart of how Home Office staff deal with children.

Staff must always remember that a child may have been travelling for a long time before arriving in the UK. They must be offered regular refreshments and comfort breaks during the welfare interview.

Staff must explain clearly to the child what is happening at all stages of the process and outline the next steps in the process, including information about accessing a legal representative (if not already instructed), the Statement of Evidence Form (SEF), the case management review and substantive interview. This must be done in a way that takes account of the child's age, maturity and vulnerability.

## Immediate welfare concerns

In all cases, the immediate welfare of the child must be considered, safeguarded and promoted. Any modern slavery or urgent welfare concerns must be dealt with as a matter of priority involving senior managers and other agencies, such as local authority children's services or the police. If immediate safeguarding concerns are identified, the local safeguarding officer must be advised and the UKVI safeguarding children guidance followed. If the local safeguarding officer is unavailable, a senior manager (no lower than Her Majesty's Inspector (HMI) or Senior Executive Officer (SEO)) must be contacted. If further advice is needed, staff must consult the UKVI safeguarding children network.

For further information on what to do if there are concerns that the child might have been a victim of trafficking or modern slavery, please refer to Victims of modern slavery: guidance for frontline staff. If you are in one of the Early Adopter Sites (Greater Manchester, Hampshire and the Isle of Wight and Wales) you should also refer to the Independent Child Trafficking Advocate [interim guidance](#).

## CID

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

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

Where 2 or more unaccompanied children are seeking asylum and are related, they must each be treated as an individual claimant. The case files, once created, must normally be linked (by "blue-taping" them together on CID) and considered at the same time.

The local authority must also be made aware of any family connection if not already known as this will form an important part of their consideration about appropriate placements.

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

Home Office staff must always notify the relevant [local authority children's services contact](#) of the arrival of an asylum seeking child in their area, whether accompanied or unaccompanied, or intending to join family, at the earliest possible point so that the local authority can consider the best course of action for that specific case.

The specific course of action to take in notifying the local authority will depend on the child's individual circumstances. However, where staff have welfare or safeguarding concerns about a child, they must immediately refer the child to the local authority children's service, regardless of the amount of detail available at that stage. The earlier a local authority is made aware of the presence of children who will need their assistance, the earlier arrangements for the collection, accommodation and care of those children can begin. As more information is obtained, the local authority children's services must be kept updated. Communication with local authorities must be open and updates must be provided as soon as relevant information becomes available.

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

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

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

Accurate records must be kept on both CID and the case file of what information is relayed, who is spoken to and when. Children's services in different parts of the UK will have different processes which they would like us to adhere to for full referrals. Wherever possible, and certainly if referrals are frequent, agreement should be sought locally with them so that a means of achieving quick referrals with the relevant information and timely collection of the child can take place.

Home Office staff must also be mindful of the Unaccompanied Asylum Seeking Child (UASC) National Transfer Scheme (see [National Transfer Protocol](#)) and can contact the UASC Central Admin Team for further information and advice.

## Unaccompanied children

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

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

## Accompanied children

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

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

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

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

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

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

If a child has been referred to a local authority because of concerns about the accompanying adult, Home Office staff must confirm what action is being taken by the local authority and agree a timeframe for the local authority to complete or review their checks. All details regarding the nature of the concerns, discussions with other agencies and details of decisions reached must be recorded on CID and the file and updated whenever necessary. Home Office staff must request written confirmation by letter, fax or email from the local authority that they are satisfied with the child's living arrangements. If this is not received within the agreed timeframes, Home Office staff must immediately request an update from the local authority and ensure that appropriate action is being taken.

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

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

The following checks must be made in all cases where children make applications for asylum in their own right:

- CRS
- CID

---

**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

---

**Official – sensitive: end of section**

In cases where there is an adult sponsor, the following additional checks must be carried out:

- CRS
- CID

---

**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

---

**Official – sensitive: end of section**

We should satisfy ourselves that they are an appropriate person to care for the child and to ensure that we can identify them at a later date if necessary. If adverse information is obtained from any of the above sources or checks, or the adult refuses to comply with the Home Office's checks, the case must immediately be referred to:

- a manager (minimum Chief Immigration Officer (CIO) or Higher Executive Officer (HEO) or a HMI or SEO where there is judged to be a serious safeguarding risk to the child)
- the local authority children's services
- others as appropriate

A decision on how to continue with the case must be made jointly by the Home Office and the other agencies (such as children's services or police) that are involved in safeguarding children.

## Safeguarding referrals to local authorities

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

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

Home Office staff must:

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

When making a referral, Home Office staff must:

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

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

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

## Children accompanied by a legal representative

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

If representatives of non-governmental organisations (NGOs) attend with children, they must show evidence that they are an employee of that organisation and the child must confirm that they are content to be accompanied by the adult.

## Welfare form

Once any immediate welfare concerns have been addressed, the welfare form (ASL.5097) must be completed. If fingerprints are not being taken at the same time as the welfare interview or fingerprints are being taken but the child is not under 16 years of age, it is not necessary to have a responsible adult present, but if one is present they may attend. If, however, fingerprints are also being taken from a child under 16 years of age, a responsible adult must be present.

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

It cannot be used to examine the basis of the claim for asylum.

Paragraph 352 of the [Immigration Rules](#) states that a parent, guardian, representative or another adult who is independent of the Secretary of State and who has responsibility for the child must be present when an unaccompanied child is interviewed about the substance of their claim. Therefore a child must not be asked to explain or elaborate on why they are afraid to return to their home country when completing the welfare form. Home Office staff must take particular care to ensure that questioning does not go beyond inviting a response to the questions on the form. The child must be informed that they will have an opportunity to explain these details at a later date.

It may be that details or information relating to the substance of their asylum claim are nevertheless volunteered by an unaccompanied child on initial encounter or while the welfare form is being completed. Although this information can be recorded on the welfare form, asylum decision makers must never rely on information obtained from an interview where no responsible adult or legal representative is present unless this information has also been explored and raised with the claimant during the substantive asylum interview in the presence of a responsible adult or



legal representative. The child must be given an opportunity to explain any related issues or inconsistencies.

If the child provides any information that raises concern, for example about trafficking or exploitation issues, reference must be made to a senior manager (minimum SEO or HMI). If the child has been identified as a potential victim of trafficking they should be referred to the National Referral Mechanism (NRM). If located in one of the Early Adopter Sites (Greater Manchester, Hampshire and the Isle of Wight and Wales) the child must also be referred to an Independent Child Trafficking Advocate. If the information relates to criminal activity, the officer must contact the police as a matter of urgency.

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

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

## Actions to take after completing the welfare form

### Age dispute

Where the age of the claimant and therefore their status as a child is in doubt, reference must be made to the detailed Assessing age guidance.

### Fingerprinting an asylum seeking child

Staff must refer to fingerprinting guidance for further details. All children aged 5 or over must have their fingerprints taken. Children under the age of 5 should not be fingerprinted, however their photographs must always be taken.

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

### Third Country Unit referral

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

Where the child indicates they have family or relatives present in another EU member state or states (including Iceland, Norway, Switzerland or Liechtenstein), a referral must also be made to TCU. This is because the child may potentially be



reunited with family members in a different EU member state where the family or relatives are present under the provisions of the Dublin III Regulation.

Further information can be found in the Third Country Cases: Referring and Handling guidance.

## Referral to the National Asylum Allocation Unit

Once the welfare form has been completed, the details of the child must be referred to the National Asylum Allocation Unit who will allocate the case to a decision making team. The most appropriate decision making team will depend on whether the child remains within the local authority area or is transferred to the care of another local authority under the UASC National Transfer Scheme. They will allocate the case to an appropriate team.

## Documents to be given to the child

All children must be issued with the following documents:

- a copy of the welfare form
- an IS96 which grants temporary admission to the UK
- a SEF noted with a return date of not later than 60 days from the date of the completion of the welfare form (the appropriate return address will be communicated to the child through their social worker or legal representative):
  - staff should show some flexibility on this deadline if the child has transferred to the care of another local authority under the UASC National Transfer Scheme

Decision makers should complete the necessary actions to generate application registration card (ARC) production (see asylum instruction: application registration card). The child's ARC will be sent to the formal address recorded on CID.

Note that both fingerprints and an International Civil Aviation Organisation (ICAO) compliant facial image must be enrolled on the immigration asylum biometric system (IABS) for an ARC to be issued. The IABS BRS Livescan and Cardscan terminals have been adapted to record facial images for children under 5. Where the date of birth entered into the biometric recording station (BRS) shows the subject as under 5, a photograph of the applicant under 5 can be enrolled and a children under 5 (CUF) ARC issued.

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

### Related content

[Contents](#)

### Related external links

[AN and FA](#)

[Local authority contact](#)

# Unaccompanied asylum seeking children case review events

This section explains the purpose of unaccompanied asylum seeking children (UASC) case review event.

## The purpose of a UASC case review

The purpose of the case review event is to:

- explain the asylum process
- explain the family tracing process
- ensure the child has legal representation
- check on progress in completing the 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

Once a case is allocated to a decision making team, a member of that team should send the current circumstances form part 1 to the child's social worker and ask them to complete and return the form at least a week before the substantive asylum interview. The team must also 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 asylum interview so that there is sufficient time to follow up on any actions arising. The case review meeting will normally take place via a telephone call. In exceptional circumstances, for example where there are serious concerns about the child's safety or welfare, then this meeting may take place in person. In certain circumstances it may be appropriate for the child's legal representative and a member of the Children's Panel to be invited in addition to the social worker, although they are not required to attend (case review letter ICD.3391). In Scotland it may also be appropriate for a representative of the Scottish Guardianship Service to be involved in the case review.

During the meeting the staff member must confirm whether the child has legal representation and that the child has had the opportunity to meet with the legal representative to begin completion of the SEF. If not already on CID and the case file, the details of the legal representative must be recorded. If the child does not have any legal representation at this stage then the social worker must be advised that the child is entitled to free legal advice and the Home Office team member must recommend that the social worker discuss this with the child urgently. Legal firms offering immigration and asylum advice are regulated by the Office of the Immigration Services Commissioner. Refer to [Find an immigration adviser](#) for further details.

At the case review, the Home Office member of staff must:

- confirm the language or dialect the child would like to be interviewed in and whether there is a preference for a male or female interviewing officer
- explain what will happen during the asylum interview and answer any questions the social worker (and anyone else attending) may have
- make the social worker aware that they can contact the Home Office or the child's legal representative if necessary if there are any questions or concerns prior to the interview
- check whether the child is ready to be interviewed
- check that the child has been referred to the [Refugee Council Panel of Advisers: Children's Panel](#) and to do it urgently if that has not happened
- confirm the social worker or legal representative has the correct address for return of the completed SEF in light of any transfer under the UASC transfer protocol
- explain the family tracing process
- ensure the social worker has received the current circumstances form part 1 and will complete it by the agreed date
- allow the social worker (and anyone else participating) the opportunity to ask questions about the asylum process

If it is deemed appropriate, the child can attend the case review meeting, although this would normally only be in exceptional circumstances. If the child does attend, it should be a face to face meeting and should be conducted by a member of Home Office staff who has received the requisite children's training. Consideration should also be given to whether an interpreter should attend. Details of the meeting must be recorded on CID.

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

If at any stage of the process the local authority has indicated a reluctance to engage with the case review or the completion and return of the current circumstances forms:

- every effort should be made to explain why the local authority's contribution is important when considering the child's best interests
- reassurance should be given about how the information will be used

It should be made clear that the Home Office is responsible for deciding an individual's immigration status, but that it will use all relevant information when taking that decision. Where necessary this should be escalated with the local authority to establish any underlying reason for the reluctance to participate. Where a local authority has decided not to participate this should be noted on CID. It is important that this should not unduly delay the asylum process and careful consideration will need to be given about how to proceed in cases where the local authority has not participated in this process. For example:

- if the local authority refuses to cooperate with the case review event, consider collecting the required the information by other means, such as by telephone or email
- if the local authority refuses to complete one or both the current circumstances forms despite you providing an explanation for how the information they provide will be used and the importance of providing it, encourage the local authority to complete as much of the form as possible

## Family tracing

Where a child is not in contact with their family and it is safe to do so (for example, it would not be contrary to the safety of the child, the child's family or the child's well-being in any way) the Home Office may take appropriate steps to endeavour to trace their family members. In such circumstances the child must be notified.

Home Office staff must be alive to the fact that for any child displaying indicators of trafficking, that trafficking may have been brought about by family members. If the child's family members are suspected of having facilitated the trafficking of the child, family tracing should not be conducted. The information which supports this suspicion should also be shared with the child's social worker. If the child has been identified as a potential victim of trafficking they should be referred to the National Referral Mechanism (NRM) as well. If located in one of the Early Adopter Sites the child must also be referred to an Independent Child Trafficking Advocate.

Where there are no issues in tracing the family, the social worker must be advised that they should notify the child of the British Red Cross' family tracing services in a way that is suitable for the age and understanding of the child. Contact details can be obtained from [the British Red Cross](#). The British Red Cross is an independent humanitarian organisation and does not undertake family tracing on the request of a third party, including the Home Office.

Instances where this signposting may not be appropriate include cases where the child has expressed a fear of certain close family members or where the child becomes distressed at the idea of contact with their family.

Requests for assistance from the British Red Cross must come directly from the child and of their own volition. Decision makers must not insist that children contact them. The British Red Cross considers the findings of its family tracing enquiries to be confidential and will only disclose the findings to the child.

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

For further information on family tracing, refer to the Family tracing guidance.

### Related content

[Contents](#)

**Related external links**

[British Red Cross](#)

# Case actions

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

## Visa application form (VAF) checks

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

CRS is used to store information about visa applications including:

- personal details of the child
- type of visa applied for
- sponsor's details
- photograph of the child
- details page from the child's passport
- question and answer interview notes or refusal notices associated with the application

CRS matches may therefore contain information which may assist in tracing the child's family in the country the family reside, help to determine whether or not the child came to the UK with a parent or accompanying adult, or, assist the decision maker in determining whether any members of the child's family are in the UK. It is also important to note that in some cases, children may not know that a visa has been applied for on their behalf. It is therefore important that any visa related evidence is presented to a child in a sensitive manner.

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

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

Before an interview, decision makers must:

- check whether the child has been able to secure legal representation and consider suspending the interview to allow time for this to be arranged
- in cases where the child does not want a legal representative to be present, explore the reasons carefully with the social worker or responsible adult to agree a course of action that is in the best interests of the child in the circumstances
- if a child continues to insist that they do not want a legal representative present for the interview, only proceed where it has been confirmed that the child, has

had the opportunity of access to legal representation and will continue to have the opportunity after the interview

- ensure the statement of evidence form (SEF) has been completed and returned, and if not, contact the legal representative and social worker urgently to arrange for its return
- ensure that the child has been asked if they prefer a gender specific interviewing officer and interpreter and that this has been accommodated
- use the SEF and current circumstances form part 1 to thoroughly prepare for the interview, including:
  - consulting any subjective or objective evidence considered appropriate
  - considering the level of detail and the language used in the SEF to understand the education, maturity and general background of the child, which will indicate what is reasonable to ask and expect at interview

## Non-completion of SEF

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

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

Further guidance can be found in the Withdrawing asylum claims instruction.

## Considering whether to conduct a substantive asylum interview

Before making a decision to conduct a substantive asylum interview with a child, decision makers must review all the available information, including in relation to their physical and mental health, to establish whether it is in the child's best interests to be interviewed.

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

Page 39 of 82 Published for Home Office staff on 09 October 2017

executive officer (SEO) or Her Majesty's Inspector (HMI)) to agree the best course of action.

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

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

## Considering whether to interview children under 12 years old

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

### Related content

[Contents](#)



# Gathering information and evidence in children's claims

## Obtaining information from family members

Consideration must also be given to information that could be obtained from the child's relatives, if there is an indication they could elaborate on elements of the child's claim which the child themselves appears to have had difficulty in explaining. It may be possible for the relatives to corroborate parts of the child's claim either through documentation or the provision of a written statement. If necessary, an interview can be arranged with a family member, but only in circumstances where it has not been possible to obtain the relevant information through other means. The child must be made aware of any additional interviews and the legal representative must be permitted to comment.

When it is necessary to contact third parties, legal representatives and social workers must be advised.

Decision makers must ensure that all available evidence in asylum claims is fully considered, including evidence provided by other family members. Where other family members are also claiming asylum, it will normally be appropriate to link relevant files (by "blue-taping" them together on CID) and consider claims from family members at the same time, even where separate claims have been lodged. This ensures all relevant factors have been considered, including an evaluation of protection needs in the family context as well as consistency in decision making.

Under the terms of the [Data Protection Act 1998](#) it is important to obtain informed consent from all members of a family providing evidence as part of an asylum claim.

Staff must at all times ensure they are aware of relevant disclosure policies including section 5.3 of the Dependants and former dependants guidance and also Data sharing.

Care must be taken where a family member has expressly stated that they do not want information they have provided being shared with other family members, for example a child with fear of a specific human rights violation, such as female genital mutilation (FGM), that they do not wish to share with other family members. For further information on how to deal with evidence from other family members including confidentiality and disclosure, see the Dependants and former dependants' guidance.

### Related content

[Contents](#)

### Related external links

[Data Protection Act 1998](#)

Dependants and former dependants

Data sharing

# Interviewing children

## General principles of interviewing children

The information in this section is relevant to every child and any method of obtaining information from a child for the purposes of resolving an asylum claim.

At all stages of the process, but with particular emphasis when obtaining and then assessing evidence from a child, Home Office staff must take account of the need to safeguard and promote the welfare of the child as expressed in section 55 of the Borders, Citizenship and Immigration Act 2009. In collecting information from children the following general principles must always be taken into account:

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

## Timing and location of an interview

If possible, all interviews with children must be scheduled for a time and location that is suitable for the child. If this is not possible, though, Home Office staff must discuss with the child's social worker, legal representative and responsible adult the best way to obtain the relevant information from the child. It may be the case it occurs in a suitable non-Home Office location, such as a local authority facility with which the child is familiar and comfortable.

## Conducting the substantive asylum interview

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

Any aspect of the child's claim such as credibility indicators lack detail, plausibility or inconsistencies in the child's subjective evidence or between the subjective and objective evidence must be put sensitively to the child during the interview to allow them an opportunity to explain further.

The child may have difficulties articulating their fear in an interview, therefore, decision makers must be prepared to look at other sources of information in order to investigate the child's claim. This may include obtaining evidence from teachers or social workers who may be able to provide pertinent information specific to the child. Additionally, the guardian or those with sustained contact with the child may be able to provide evidence. Reference to objective country information is also relevant. When considering the suitability of obtaining evidence from third parties you must ensure that such a course of action and the manner it is undertaken adheres to the Data Protection Act 1998 and the duty of confidentiality towards the child. Refer to Data sharing for further information.

If concerns arise during the interview which lead you to suspect that a person who is present at the interview, such as a family member, was involved in the trafficking or slavery of the child being interviewed you should stop the interview and refer to a senior officer (minimum Senior Executive Officer (SEO)). The Victims of modern slavery guidance should be consulted to see if the case should be referred to the National Referral Mechanism (NRM).

At the beginning of the substantive asylum interview decision makers must confirm:

- the identity of the child, checking against the immigration fingerprint bureau (IFB) photographic records attached to the file, and the application registration card (ARC) card
- that a responsible adult is available - a responsible adult must be present for the interview to go ahead
- that the child feels comfortable, and that any specific health and emotional needs are acknowledged and addressed
- in cases where an interpreter is present, that the interpreter and the child understand one another and that the interpreter's manner is appropriate

Decision makers must:

- introduce each individual in the room - including themselves - to ensure the child is clear on who is present and their role at the interview
- explain the asylum process and interview process to the child, including that they can:
  - speak to their legal representative and responsible adult at any time in the interview
  - say if they don't understand a question
  - say if they need a break
- set the framework in which child's legal representative and responsible adult may ask questions and make comments in the interview

- always interview in a sensitive manner using appropriate tone, body language and eye contact with the child during the interview and use vocabulary that is appropriate to the child's age, level of understanding and to their personal situation
- always address the child when asking them a direct question – not the interpreter
- take time to establish a rapport with the child, for example by means of a short informal conversation with the child on a topic unrelated to their claim, before starting the substantive interview as this:
  - helps the child to relax
  - increases the chances that the child will be open
  - assists with disclosure of relevant information to the interviewing officer
- be aware of the cultural sensitivity issues and acknowledge the fact that the child is giving information in an alien environment and may fear or distrust someone in authority

## Welfare of the child during an interview

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

If the child appears upset, decision makers must act quickly. They must pause the interview and assess the situation, including asking the child how they feel about continuing the interview. It may be sufficient for the child to have a break before continuing. However, if the child is unable to continue the interview, arrangements must be made to reschedule it for another date. In these circumstances consultation with the social worker and responsible adult (if different) will usually be appropriate.

## Where an interview is not possible

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

When considering the suitability of obtaining evidence from third parties you must ensure that such a course of action and the manner it is undertaken adheres to the Data Protection Act 1998 and the duty of confidentiality towards the child. Refer to Data sharing for further information.

## Where an interview is not conducted

If an interview at an alternative location is not possible, the decision maker must consider making a decision on the information already available. This must only be

done in the most exceptional circumstance and after detailed reference to a senior caseworker. The decision maker must also:

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

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

A responsible adult must attend the substantive interview with the child. It is not the function of the responsible adult to answer questions on behalf of the child, but they may intervene if they consider that the child is becoming distressed or tired and a break is required. If necessary, a short break allowing the adult and the child to speak privately must be offered, this should also be offered prior to the interview. The break must not add unduly to the overall length of the interview.

The child must be asked prior to the interview to confirm whether they are happy with the person acting as their responsible adult and the responsible adult must be content to act within the scope of their duties as described in this instruction.

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

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

At the conclusion of this interview, the decision maker will ask the child to confirm that they have understood all the questions and will give the child an opportunity to add any information that they would like to be considered. The responsible adult and legal representative will also have an opportunity to add any comments relating to the conduct of the interview process.

If it is clear to the decision maker that the responsible adult is not fulfilling their role and it is in the best interests of the child, they must consider suspending the interview. The incident must be discussed with a senior officer (minimum SEO / HMI) and if the interview has to be suspended, the reasons for it must be clearly recorded. The interview must be re-scheduled as early as possible.

In a case that a lawyer is disruptive, this should be addressed with them. If this cannot be resolved, the conduct of the interview should be discussed with a senior officer. In a situation with the most serious misconduct, the issue should be escalated to senior management and the relevant professional body.

## Re-documentation interviews

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

Any re-documentation interview must take place after the substance of the asylum claim has been examined. The decision maker must take into account factors such as the length of the interview so far, the age and views of the child, whether the child is tired and whether a short break is needed, whether an additional interview is called for, or whether that might itself be unreasonably onerous.

## When a child turns 18 before the substantive interview

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

### Related content

[Contents](#)

### Related external links

[UNHCR: The heart of the matter](#)

[UNHCR: The heart of the matter, training manual](#)

# How to assess claims from children

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

## Decision making principles

This section must be read in conjunction with the relevant section of Assessing credibility and refugee status. In addition, the following must be taken into account:

- children's claims must be considered within the framework set out at [paragraphs 349 to 352 of the Immigration Rules](#) and any other policy commitments made on children
- where a child meets the requirements for refugee status, humanitarian protection, leave under the family or private life rules, discretionary leave or unaccompanied asylum seeking child (UASC) leave, the appropriate leave must be granted
- the underlying factors that would affect a child's account in terms of detail, consistency, evidence, would be dependent on factors such as age, education, maturity, gender, the standing of the child's family in the community, their general life experience, trauma experienced and the cultural expectations and attributes of children in their country of origin
- the credibility of the claim taking into account any additional relevant child specific factors
- where relevant, be proactive in pursuit and consideration of objective factors and information relating to the child's claim
- Country of Origin Information (COI) must be obtained and referred to including child specific sections where available
- where there are clear discrepancies in an account given by a child, consider the ability of a child to be able to clarify these discrepancies and how far these should be pursued
- complex cases must be discussed with an appropriately qualified senior caseworker or Technical Specialist
- full consideration of the child's asylum claim must take place before consideration is given to any other forms of leave

## Age and maturity

More weight may need to be given to objective evidence of risk than to the child's state of mind or the oral or written evidence they are able to provide. Other factors to consider might include: documentary evidence, objective country evidence, evidence from people with knowledge of the child – including post-arrival connections in the UK. Any specifically prepared child psychological and / or physical health and development reports or information from welfare and health support professionals to whom the child may have disclosed relevant evidence, (such as trauma, mistreatment or violence) which they may not have felt able to disclose to others must also be considered as part of the overall consideration process.



In young or less mature children a different level of knowledge and information is to be expected and where the benefit of the doubt is being applied then the scope of this must reflect the child's understanding. An asylum claim made by a child must not be refused solely because the child is too young to understand their situation or to be able to understand that they have a well-founded fear of persecution. A child may not be aware that they have been persecuted. This may be especially relevant if they have been shielded by their parents from the exact nature of the persecution.

## Family circumstances of an asylum seeking child

The circumstances of family members may be central to a child's asylum claim. Whilst the child may have personally feared persecution, they may also fear, or are affected by, the experiences of other family members even though no harm may have come to the child and their fear is based upon what treatment family members have received. If the child has family in the UK, the decision making team must contact the social worker to establish if it is in the best interests of the child to have contact with the family members as this will depend on the circumstances of the family and the relationship the child has with them. Decision makers must be aware that there may be cases such as forced marriage or female genital mutilation (FGM) where the family are involved in the persecutory behaviour.

## Burden and standard of proof in children's claims

Every claimant, regardless of age has to show to the same standard (a reasonable degree of likelihood) that they have a well-founded fear of persecution for a convention reason – while taking into account the child-specific considerations and other factors that may impact upon the interpretation of these concepts.

In children's claims, the need to identify all the material facts and ascertain the potential risks on return may be more challenging. The expression of fear of return may not be as elaborate as in an adult's case and a very young child may not even have a fear of persecution on return. Where the child is of a young age or where a significant period of time has passed since the child's departure from their country of origin, decision makers should:

- allow for resolution of the claim based on available country of origin information
- supplement the information provided by the child themselves where pertinent information has been provided by other reliable sources

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

## Assessing credibility in children's claims

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

In particular circumstances or cases where benefit of the doubt would be exercised, it should be exercised with due allowance for the child's understanding, for instance where a child is unable to provide detail on a particular element of their claim. For further information, see *Assessing credibility and refugee status*.

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

Decision makers must demonstrate as part of the decision making process consideration of any distinct factors taken into account during the assessment of credibility in a child's claim. This will also apply to behaviours that fall within [Section 8 of the Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004](#), including:

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

A case by case approach will be required and if there is doubt, decision makers must discuss the case with a senior caseworker.

## **Assessment of risk in children's claims – well-founded fear and persecution**

In determining any claim for asylum, decision makers must consider whether the claimant meets the definition of a refugee as set out within the Refugee Convention. Although special care is required when assessing a child's claim for asylum, it must be considered in accordance with the guidance *Assessing credibility and refugee status*.

As in all asylum claims, if a child has already been subjected to persecution or serious harm, or direct threats of persecution or serious harm, [paragraph 339K of the Immigration Rules](#) makes it clear that this will be a serious indication of a well founded fear of persecution or real risk of suffering serious harm, unless there is good reason to believe that such ill-treatment will not be repeated.

Decision makers should also be aware that a level of ill-treatment that does not amount to a need for protection in the case of an adult, may amount to such a need in the case of a child due to their inability to protect themselves. Such cases will be

fact specific, as the court found in the case of [JA \(child – risk of persecution\) Nigeria \[2016\] UKUT 00560 \(IAC\)](#), but decision makers need to be prepared to consider this.

## Addressing the child's awareness of fear

As in all asylum claims, an assessment of fear relating to a child and whether it is considered well-founded should include consideration of both subjective and objective fear. Probing the reasons for the child's fear from their perspective allows for a better understanding of their personal experiences which themselves may well show that there is a reasonable likelihood that the harm feared by the applicant will materialise. However, it should be kept in mind that a child may have little or no concept of fear as parents or family members may not share their experiences or fears with their children. The child may have been sent to safety before having experienced any ill-treatment or without their understanding as to why they were being sent away. Children may also be too young to comprehend what constitutes a risk, and what does not. Awareness of 'fear' and the reasons for it will depend on the child's individual level of maturity and understanding.

An analysis of the child's well found fear of persecution, particularly in children's claims, will be based primarily on the objective element (even a very genuinely held extreme subjective fear will not be an indicator of the risk or forms of harm faced by the claimant, which is the objective of the well-founded fear analysis).

See also above section on [Burden and standard of proof in children's claims](#).

## Child specific persecution

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

Children may also be subjected to specific forms of persecution that are influenced by their age, lack of maturity or vulnerability. The fact of being a child may be a central factor in the harm inflicted or feared. Child-specific forms of persecution may include:

- forcible or underage recruitment into military service
- family or domestic violence
- infanticide
- forced or underage marriages
- discrimination against street children
- female genital mutilation (FGM)
- forced labour
- child sexual exploitation
- images of child abuse

- trafficking
- children born outside of strict family planning laws and policies

## Harmful traditional practices

In some countries harmful traditional practices exist such as female genital mutilation (FGM), forced or under-age marriages. These may be carried out at the request of, or even arranged by family members. The fact that such harm is based on widespread social customs or conventions does not mean that it is not persecution. In such cases the efforts of the state and its willingness and ability to protect a child against these harmful practices, as well as the actions taken towards its eradication, must form part of the consideration of future risk. Even though a particular state may have introduced measures prohibiting such practices, it may nevertheless continue to condone, tolerate or ignore the practice and may be unable or unwilling to stop it effectively. In such cases the practice might still amount to persecution, if it is based on one of the convention reasons and the child is unable to avail themselves of the protection of the state. Country guidance information is especially relevant in this context.

## Child soldiers

The forced conscription of a child into armed forces under the age of 18 is inconsistent with international law [ILO Convention on the Worst Forms of Child Labour 1999 \(Article 3\)](#) and [CRC Optional Protocol on the Involvement of Children in Armed Conflict \(Article 2\)](#). A child recruited by non-state armed groups may also fall within this category. The serious long term physical and psychological effects on the child's development and welfare mean that the use of children in hostilities constitutes a serious form of persecution. For further information see section 3.2.1 of No Peace Without Justice and UNICEF Innocenti Research Centre's book titled: [International criminal justice and children](#).

Where the 'voluntary' recruitment of children aged 15 to 18 years forms part of the claim, consideration must be given to the extent to which other factors may also have been involved, such as where there was vulnerability to recruitment due to poverty or separation from family.

Decision makers must consider the likely treatment of former child soldiers on return to their country of origin as a relevant factor in the assessment of future risk. They may be in danger of re-recruitment or military punishment, or may be subject to stigmatisation, harassment, or ill treatment by their community because of their past activities. Decision makers must refer to the relevant country policy information for specific information. The state of mind of former child soldiers needs careful consideration. Characteristics of this vulnerable group of children may include distrust of adults, guilt and fear of reprisal.

Staff may also need to refer to exclusion guidance. The circumstances in which this may be applied to a child are likely to be complex and policy advice should be sought as part of the process.

## Child abuse

Where a claim from a child includes allegations of abuse, this must be handled sensitively. Where the alleged abuse is central to the claim for asylum or humanitarian protection, decision makers must consider the following:

- is the alleged abuser a state or non state agent?
- is the alleged abuser a family member?
- is the child at future risk of abuse for a convention reason for example political opinion?
- are there adequate child protection safeguards in place, for example, sufficiency of protection?
- can the child be relocated either with the family or with assistance from social services?
- if the child is returned, would there be a future risk or can they be returned to a safe environment?

Any allegations of abuse disclosed by a child must be referred to the local authority and / or police in all circumstances. Decision makers must also be vigilant and aware of the possibility that where there has been abuse by family members, this may be on-going in the UK. Caseworkers must discuss any doubts or concerns with a senior caseworker.

## Assessing Convention Reasons in Children's Claims

As with adult asylum seekers, it is necessary to establish whether or not the child's well-founded fear of persecution is linked to one or more of the 5 grounds listed in Article 1A(2) of the [1951 Refugee Convention](#). It is sufficient that the convention ground be a factor relevant to the persecution, but it is not necessary that it be the sole, or even dominant, cause. It is possible that children may not be able to understand that their claim meets the definition of a convention reason for the purposes of the Refugee Convention in the same way that an adult could.

## Religion

In some states, a person's religion requires them to behave in a certain way and this can apply to a child. If a child does not behave as expected, for example a female refusing to wear a particular type of religious garment or refusing to obey prescriptive gender roles, they may have a well-founded fear of being persecuted for reasons of religion.

There is frequently an overlap between the grounds of religion and political opinion in age related claims, especially regarding imputed political opinion. Religious tenets may require certain kinds of behaviour and contrary behaviour may then also be perceived as evidence of an opposed political opinion that threatens the basic structure of power. This is particularly true in societies where there is little separation between religious and state institutions and laws and doctrines. Decision makers must also bear in mind that children may not be aware of why their particular religion

faces persecution even if they have been subject to the consequences. For further guidance see the religion section in the Assessing credibility and refugee status instruction.

## Political opinion

Imputed or perceived political opinion may be relevant for a child as they may be targeted as a member of a politically active tribe, clan, community or family.

## Membership of a particular social group

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

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

For further guidance see 'Membership of a particular social group' in the Assessing credibility and refugee status instruction and the relevant country specific policy guidance.

## Sufficiency of protection and internal relocation in Children's Claims

### Actors of persecution and access to protection

The need for international protection only arises where a state is either unable or unwilling to provide protection. This may result from the fact that there is no effective means of legal recourse to prevent, investigate or punish the form of persecution feared. Some persecutory practices may be condoned or tolerated by the state, for example, FGM and other forms of child abuse. Whether or not the state or its agents have taken sufficient action to protect the child will need to be assessed on a case-by-case basis. Moreover, in some cases adults may not be protectors but may condone the harm, provide active encouragement, participate directly in it or threaten the child with the negative repercussions of non-cooperation.

The assessment will depend not only on the existence of a legal system that criminalises and provides sanctions for the persecutory conduct. It also depends on whether or not the authorities ensure that protection is effectively applied in practice. Hence, the enactment of legislation prohibiting or denouncing a particular persecutory practice against children, in itself may not be sufficient evidence to reject a child's asylum claim to refugee status. And, although a child may have the

knowledge of how to contact state agencies, they may be incapable of seeking their assistance. For further guidance see 'Actors of persecution' in the Assessing credibility and refugee status instruction.

## Internal relocation

Whether internal relocation is reasonable in the case of a child must be based on the country situation alongside the child's age and maturity at the time of the decision. Cases will be determined on a case by case basis.

An assessment of the issue of internal relocation contains 2 parts: the relevance of such an inquiry, and the reasonableness of any proposed area of internal relocation. The child's best interests inform both the relevance and reasonableness assessments. For further information regarding internal relocation see Assessing credibility and refugee status.

### **Related content**

[Contents](#)



# Asylum claim outcomes

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

Children, as with adults, must be granted the status and leave that they are entitled to in accordance with the relevant Immigration Rules. If the child meets the requirements of the Refugee Convention, refugee status must be granted. Decision makers must refer to drafting, implementing and serving asylum decisions for the correct outcome. In addition, the following points specific to children's cases must be taken into account.

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

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

## Best interests consideration

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

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

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

- protecting children from mistreatment
- preventing impairment of children's health or development (where health means “physical or mental health” and development means “physical, intellectual, emotional, social or behavioural development”)
- ensuring that children are growing up in circumstances consistent with the provision of safe and effective care



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

Although the duty is engaged whenever an immigration or asylum function is carried out, 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. Of course, any factors that are obviously in play and that suggest that the grant of leave to remain is contrary to the section 55 duty have to be considered, as do any additional factors relevant to the section 55 consideration that are specifically raised by the applicant. These need to be addressed if raised and especially if they are being relied upon to affect a decision. This would include cases where the claimant was potentially eligible for a more generous form or length of leave to remain and there was discretion in the assessment of eligibility or length. For example:

- where the child requested a longer period of leave granted outside of the rules (discretionary leave) than the length of leave you intend to grant
- they are excluded from protection under Article 1F of the Refugee Convention

In the contrary instance, when a decision is being considered that might have an adverse impact on a child, such as an outright refusal, consideration of the impact on the child is required. 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. A way to do this is by asking relevant questions as set out below.

## Continuing to work with local authorities

Decision makers should already be aware of the statutory agencies and people with a genuine, relevant involvement in the child's life and the importance of giving them the opportunity to provide information and expertise that can assist. For example, a local authority social worker may be able to offer, where relevant, an assessment of the child's degree of maturity and self care or living skills.

As soon as a decision to refuse has been made, the current circumstances form part 2 must be sent to the social worker who will be advised they have 14 calendar days to complete the form. The requirement to send the form only applies where the decision appears to be an outright refusal. The decision maker should ensure that the form has been completed and returned, or that reasonable time and opportunity to do so has been made available and must collate the information before making a decision. If reasons are raised as to why the child should be granted leave and not refused despite not meeting any of the criteria, these should be addressed, and further information sought if necessary.

In order to facilitate the exchange of relevant information, decision makers must seek the information contained in the current circumstances form part 1 and, if applicable, part 2, which should have been completed by the child's social worker, or if appropriate:

- a Scottish guardianship service appointed guardian
- a trafficking advocate

- a Northern Irish guardian
- an independent child trafficking advocate in the 3 pilot areas (Greater Manchester, Hampshire and the Isle of Wight and nationally in Wales)

Also, where they have been prepared, a request should be made to the Social Worker to provide a copy of the child's care plan and their independent reviewing officer's notes from the most recent looked after child (LAC) review meeting. To assist them in completing the form, they should be provided with information on the reception arrangements in the country of return.

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

The extent of the information provided and the weight attached to it will vary and will depend upon the particular circumstances and complexity of the case. It must be noted that in some cases, especially where the child is a recent arrival in the UK, the social worker may need further time in order to assess the relevant factors. In other, more complex cases, or where there are particular doubts as to a child's circumstances, decision makers may need to discuss with the social worker whether a case conference with all the relevant agencies or parties would be helpful to understand fully the best interests of an individual child.

Such meetings will be necessary in complex cases or cases where the best interests are likely to be finely balanced. Reference must always be made to a senior manager (minimum senior executive officer (SEO) or Her Majesty's Inspector (HMI)) when considering a case conference to ensure that the aims are clear and that all relevant parties are not only invited, but are also clear as to the information they will be expected to provide. The child must be informed about the exchange of information through their legal representative and depending on the child's age and maturity the social worker should seek to obtain their views.

## Refugee status

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

In cases where the child is found to be a refugee it will usually be clear that their best interests are served by remaining in the UK. Decision makers must ensure that local authorities are aware of the outcome, so that social workers can ensure that the child's pathway plan reflects the likelihood of long term residency. There may be

some cases where because the child has siblings or other family who are settled in a third country and would like to be reunited with these relatives, it is in the child's best interests to join them. Decision makers must discuss with social worker the possibility for the child to be resettled. For further information, including the length of leave to grant, see drafting, implementing and serving asylum decisions.

Staff may also want to be aware of the UNHCR publication [Guidelines on international protection](#) which contains the UNHCR's guidance on interpreting some of the terms used in the Refugee Convention and related international instruments.

## Humanitarian protection

When a child does not qualify for refugee status, decision makers must next consider whether they qualify for a grant of humanitarian protection (HP). As with a grant of asylum, a decision to grant HP will normally be in keeping with a duty to take account of the need to safeguard and promote the welfare of the child. As part of granting HP decision makers must liaise with the child's local authority social worker. See the asylum instruction on humanitarian protection.

## Article 8 family and private life

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

## Discretionary leave

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

DL may be granted to accompanied asylum seeking children who do not meet the requirements for UASC leave and who cannot be returned. In the vast majority of cases, a grant of 30 months is the maximum length of leave that should be granted at a time. However, if the child's circumstances are particularly exceptional and warrant a grant in excess of standard grant of 30 months, the exceptional grounds must take priority and the longer period of leave must be granted. Decision makers considering a grant in excess of 30 months must refer to a senior caseworker. The capacity to grant indefinite leave to remain exists and in very exceptional circumstances, it may be exercised. It is the responsibility of the claimant – or their legal representative – to provide the evidence to support a departure from the normal period of leave. In the case of unaccompanied children, the absence of adequate reception arrangements alone will not usually warrant a grant of DL on exceptional grounds, the UASC leave provision exists for these cases. See Discretionary leave for further details.

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

This can be a complex consideration and decision makers must always refer their proposal to grant DL on this basis to a senior manager (minimum SEO or HMI) prior to making the decision. There are a number of issues that decision makers must always consider with details recorded in full.

Additionally, the consideration must include, where submitted, reference to the current circumstances form part 2 provided by social workers where appropriate. The issues for consideration must include all of the following, but is not restricted to them. It should be based on all of them as well as any other issues that are relevant in the individual circumstances.

## Age

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

## Arrival circumstances

A balance will have to be struck between the uncertainty of safe and adequate reception arrangements and the grant of DL, if it has been determined that:

- the child was trafficked into the UK
- the child has suffered abuse or exploitation
- there is evidence that family members were complicit in making the arrangements for the child to come to the UK

In some cases, DL may be appropriate until safe and adequate reception arrangements can be assured, or it becomes clear that this is unrealistic. A case like this may require advice from the Office of the Children's Champion about whether to involve the local authority children's services.

## Barriers to removal

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

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

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

## Indefinite leave to remain (ILR)

There is scope for decision makers to consider and grant ILR, but the claimant must state the exceptional needs or circumstances that warrant such a course of action (see the guidance on length of discretionary leave).

## UASC Leave under paragraph 352ZC to F of the Immigration Rules

### Children under 17.5 years of age

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

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

- the claimant is an unaccompanied asylum seeking child under the age of 17.5 throughout the duration of leave to be granted in this capacity
- the claimant must have applied for asylum and been refused refugee leave and HP
- there are no adequate reception arrangements in the country to which they would be returned if leave to remain was not granted
- the claimant must not be excluded from a grant of asylum under [Regulation 7 of the Refugee or Person in Need of International Protection \(Qualification\) Regulations 2006](#) or from a grant of humanitarian protection under [paragraph 339D](#) (or both)
- there are no reasonable grounds for regarding the claimant as a danger to the security of the UK

- the claimant has not been convicted by a final judgment of a particularly serious crime, and the claimant does not constitute a danger to the community of the UK
- the claimant is not, at the date of their claim, the subject of a deportation order or a decision to make a deportation order

For further information on adequate reception arrangements, see guidance on the [Consideration of reception arrangements](#).

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

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

## Children over 17.5 years of age

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

Where removal is not appropriate, children who are refused outright because they are over 17.5, but are under 18 years of age, will be liable for removal on turning 18. This must be made clear in the reasons for refusal letter and gives the young person and their social worker up to 6 months to prepare for return to their country of origin.

If, following careful consideration as outlined in [consideration of reception arrangements](#) adequate reception arrangements are available and following approval from a senior manager (Grade 7), arrangements for return can be made, with full consideration of section 55 duty being taken at all times.

If, at any point, it becomes apparent the reception arrangements do not meet the standard needed, return must immediately be stopped. If no reception arrangements are available, the applicant must be advised that in the event no return arrangements can be made while they remain a child, once they reach 18 they will be expected to return home unless they qualify for leave to remain on other grounds.

## Certification under section 94

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



available in the country of return because the child is unlikely to be able to return to make an in time appeal. Such cases should lead to the grant of UASC leave and should not be certified under [section 94 of the Nationality, Immigration and Asylum Act 2002](#). For guidance, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

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

Considering the best interests of the child in a structured way is essentially a matter of asking the right questions, as well as evaluating the possible impact, positive or negative, of the decision about the child. In the case of [ZH \(Tanzania\)](#) the Supreme Court set out the factors that need to be considered when assessing the best interests of a child in the context of an immigration decision to remove or deport one or both of their parents from the UK. Although the circumstances of this case vary to those affecting UASC or accompanied asylum seeking children (AASC), which are more likely at this stage of the process to concern whether the child can be expected to return to their country of origin, the judgment set out 6 key questions, the spirit of which can be applied in the context of UASC and AASC:

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

Addressing all of these questions in an organised way will lead to a good consideration of the child's best interests. The information that goes into this consideration should be that which is provided by the child or their representative or by the social worker. If they indicate that they wish to provide more information then this opportunity must be provided with a reasonable deadline for providing this information, such as 5 working days. Decision makers must address these questions, and be willing to make additional considerations if it seems necessary. A balance must be struck though between following up on genuine indications and seeking information when none is forthcoming.

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

Alternatively, it may be apparent at this stage that the child's best interests can be met in an obvious way such as by returning to the country of origin. For example:

- where the family has been traced
- where it is clear that return arrangements can be made direct to parents
- there are no factors present that make this unsuitable

In other cases, the decision on whether to return when this is the consequence of having no basis of stay will be a matter of making a careful assessment of the child's best interests and balancing those interests against the wider public interests involved. It is not possible to give an exhaustive list of all of the factors that might be relevant to the balancing exercise in a particular case, but the following are examples:

- physical and mental health and medical needs
- level of education
- emotional and behavioural development
- family and social relationships
- self care skills
- the child's views
- the child's age and maturity
- experience of mental or emotional trauma
- compassionate factors
- the duration of absence from the home country and level of integration in the UK
- whether the child is settled in education in the UK and the disruption caused to those arrangements by a decision to refuse outright
- the desirability of continuity in the child's upbringing and to the child's ethnic, religious, cultural and linguistic background
- the child's right to preserve their identity, including nationality, name and family relations
- the availability of care arrangements, the safety and security of the living arrangements, and the socio-economic conditions
- the availability of education, work or training opportunities in the country of return

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

In the case of unaccompanied children, decision makers must also gather information from the child's social worker to enable a full and rounded best interest consideration to be made in the full knowledge of all the relevant facts. This must be done using part 2 of the current circumstances form. In Scotland, this form is also sent to the guardian and / or the trafficking advocate, as well as the social worker. They must be asked to return the form within 14 calendar days and if it has not been received by then, reference must be made to a senior manager (minimum SEO or HMI) and further efforts made to establish the cause of the delay and to ensure the form is returned as soon as possible. Care must be taken when the form is returned to check that it has been fully completed. If not, the case worker must contact the social worker as soon as possible to ensure that any missing information is provided within a timescale that is agreed with the social worker. If the social worker refuses to complete the form despite you providing an explanation for how the information they provide will be used and the importance of providing it, encourage them to complete as much of the forms as possible.



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

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

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

A detailed best interest consideration is an important and necessary process when a decision is being made that may lead to an adverse impact on the child such as requiring the child to leave the UK. It is essential that this consideration is clearly recorded on CID.

## Further potential case outcomes

### Withdrawal of asylum claim

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

### Article 1F exclusion

Children can be excluded under [Article 1F of the Refugee Convention](#), however, it is important that decision makers carefully consider the specific context of each case, for example the child's age and maturity, when considering how far the individual should be deemed liable for their own actions. Each case must be treated on its own merits. Personal circumstances, such as age or psychological functioning, may be relevant when investigating the level of knowledge a person had of what they were participating in as well as the child's ability or power to take alternative action. No decision to exclude a child must be taken without discussing the case with a senior officer (minimum SEO). The best interests of the child should be taken into consideration here. For further information see Article 1F and 33 (2) of the 1951 Refugee Convention.

## Non-compliance

If a child fails to submit information when requested without reasonable explanation or submits the information late, decision makers must make every effort to investigate the reasons before refusing the asylum claim on the grounds of non-compliance or even regarding it as withdrawn. Flexibility should be a provision for children that have been transferred. See *Assessing credibility and refugee status, drafting, implementing and serving asylum decisions and Withdrawing asylum claims* for further details.

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

Decision makers must contact the local authority to establish if the child is missing. If it is confirmed that the child is missing, using form IS.294, immediate referral must be made to the:

- police
- Scottish Guardianship Service (Scotland only)
- Refugee Council children's panel (England only)
- Missing Persons Bureau (National Crime Agency) must be made

Once form IS.294 has been completed, the decision maker must maintain regular contact with the local authority and the police at least on a weekly basis, but more often if circumstances require it, until the child is found.

In these cases, a durable solution must be identified in the child's best interests.

For further information, refer to the *Identifying people at risk* guidance.

### **Related content**

[Contents](#)

### **Related external links**

[UNHCR Guidelines on international protection](#)

# Consideration of reception arrangements

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

The Home Office has a policy commitment that no unaccompanied child will be removed from the UK unless the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be removed. In addition, the decision to return must take into account the section 55 duty to have regard to the need to safeguard and promote the welfare of the child, including that their best interests are taken into account in the decision.

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

- information collected by the Home Office during the course of the asylum process
- the current circumstance forms, parts 1 and 2
- country information (refer to the CPIT webpage for further information)
- family assessment results (if undertaken)

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

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

- family home where the child was cared for and lived previously
- home of a relative where the child was cared for and lived previously
- family or relative in a third country to whom the child would like to be reunited and whom are willing and able to receive and care for the child
- reception arrangements provided through the authorities in the country of destination

## Return to family

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

Family reunification must generally be regarded as being in the best interests of the child, but a full assessment must be made of this taking in to account the child's

individual circumstances and recorded on the file. Possible locations for family reunification must be taken fully into account.

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

## Consideration of reception arrangements

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

Where the Home Office has made arrangements with non-governmental organisations or other organisations overseas to provide specific assistance on return, it can be assumed that these arrangements are adequate. However, decision makers must nevertheless go on to consider whether return is appropriate to the individual child according to the guidance set out later in this section, taking particular account of the child's best interests.

The general position is that the obligation to the child's welfare in carrying out immigration functions has been followed if:

- the child is to be met on return by a representative of the authorities in that country who are charged with providing for the welfare of children
- the relevant country of origin information confirms that care, health, education and similar services are available to children

Any exceptional factors in the situation or circumstances must be addressed. For example, if the act of return is likely to lead to deterioration in mental health, this must be addressed, either through taking steps to mitigate the risk or ensuring that the risk is taken into account as part of the return decision.

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

## Reception upon arrival and onward travel arrangements

Careful consideration must be given to how the reception arrangements that need to be in place to enable return will be accessed on arrival, taking into account the child's age, vulnerability and overall best interests. In most cases (and in all cases where the child is under 16) the child will need to be met at the airport by a suitable person in order to be safely transported to the longer term reception arrangements, for example, the family home or alternative accommodation arrangement. In order to come to a view on the sort of reception arrangements that need to be in place the

decision maker may need to draw on information from other sources such as the local authority.

## Consideration of best interests

If adequate reception arrangements are confirmed, the decision maker must record the details, in particular about how the child is to be met on arrival and those responsible for providing for the child's welfare needs. The consideration of best interests should be carried out once the decision maker has assessed any information contained in the current circumstances form. If this has not been provided, the decision makers must urgently contact the social worker and arrange for its completion and return or an equivalent input.

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

## Refusal and curtailment of UASC Leave

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

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

The UASC leave eligibility decision and service of the reasons for refusal letter on the child should be delayed while this assessment is conducted, if based on the child's individual circumstances there is a realistic likelihood that:

- adequate reception arrangements are present in the country of return
- a decision on the adequacy of reception arrangements can be made within 6 weeks

However, where there is no reason to believe that adequate reception arrangements are present in the country of return or the assessment of adequate reception arrangements cannot be made within 6 weeks, grants of UASC leave and service of the reasons for refusal letter should not be delayed.

As soon as an assessment has been made that, based on the child's individual circumstances, there are adequate reception arrangements in their home country,

the child will cease to be eligible for UASC leave and curtailment should be immediately considered.

For further information, see guidance on [UASC leave under paragraph 352ZC to F of the Immigration Rules](#) and [applications for further leave](#). For information on curtailment, refer to the Discretionary leave asylum instruction and the Curtailment guidance. For details on revocation, refer to the revoking refugee status guidance.

In cases where a child is found to have obtained leave to enter by deception, and it is decided to take illegal entry action against that child (under [schedule 2 of the Immigration Act 1971](#)), their leave is no longer valid. Where children have obtained leave to remain under the UASC policy by deception, consideration should be given to curtailment action and they will then be liable to removal under [section 10 of the Immigration and Asylum Act 1999](#).

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

#### **Related content**

[Contents](#)

## Serving the decision

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

The decision on the claim for asylum 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). The content of the decision letters are relevant to the provision of services to the child by the local authority under the Children Act 1989. Letters containing sensitive personal information are being shared with the local authority in strictest confidence and in accordance with the principles of the [Data Protection Act 1998](#) and the duty of confidentiality towards the child. It must therefore be clearly marked "Not for onward disclosure without first seeking the consent of UK Visas and Immigration".

In all cases 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 three Early Adopter Sites)
- the trafficking advocate (if applicable)
- Refugee Council's Children's Panel
- any individual with a formal role in the child's life

## Implementing a decision to grant leave

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

For a child who is granted refugee leave or humanitarian protection for a period of 5 years, the pathway plan will most likely reflect the provisions of the [Children Act 1989](#) as amended by the [Children \(Leaving Care\) Act 2000](#). The act places a responsibility on local authorities to support care leavers until they reach the age of 21 or beyond if they remain in an approved programme of education or training. The agreed pathway plan will include the assessed or identified needs, identified timescales, action plan to meet these needs and the responsible person which assist the child to make the transition from care to the responsibilities of adulthood. It must be flexible and regularly updated. These matters will all be handled by the local authority.



Decision makers must close the case if refugee or humanitarian protection (HP) status is granted, and must review it either when an application for further leave is made or after 5 years to see whether an application for indefinite leave to remain or further leave to remain has been made. However, in cases that have been granted leave for a shorter period (most likely under [paragraph 352ZE](#)), decision makers must seek to agree an ongoing contact management strategy with the child and their social worker.

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

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

### The decision letter

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

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

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

### Related content

[Contents](#)



# Appeals

Cases which are granted unaccompanied asylum seeking children (UASC) leave qualify for a right of appeal under [section 82 of the Nationality, Immigration and Asylum Act 2002](#), Asylum appeals provides guidance on rights of appeal arising from decisions made on asylum cases.

Once a decision to refuse asylum and humanitarian protection (HP) has been served on the child, decision makers must:

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

If an appeal is lodged, decision makers must:

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

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

## **Related content**

[Contents](#)

# The return process

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

## The return discussion

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

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

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

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

If the case is owned by the non-suspensive appeals (NSA) hub team, that team will have responsibility for arranging and undertaking the discussion. If the case is owned by complex casework directorate (CCWD), CCWD will have responsibility for arranging the discussion, but should commission the Family Return's team to undertake the discussion.

## Arranging the discussion

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

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

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

- the child
- the child's social worker
- the Home Office interviewing officer
- an interpreter (if required)

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

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

It should be established if an interpreter is required to ensure that the child can participate fully, this must be a professional interpreter.

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

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

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

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

## Conducting the discussion

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

- share the minutes with the attendees including the child
- record the details of the return discussion in full on CID and in the Home Office case file
- update CID with the relevant outcomes and admin events
- update the immigration factual summary in line with guidance in EIG Chapter 60

Information on the reception arrangements in place should be provided to the attendees, verbally and in writing. The issues to be discussed at the discussion will

be determined by the individual circumstances, though the interviewing officer should usually:

- establish the child's views, needs, wishes and feelings about the consideration and consequences of return
- establish the child's thoughts on the reception and reintegration arrangements following return
- confirm options for departure: explain the available routes to departure to the child and the potential consequences of each route, for example, voluntary departure, assisted voluntary return and ensured return
- begin preparing the child for the eventuality that they will need to close down their UK life and prepare for life back home including saying goodbye to friends and getting educational certificates ready
- ask about legal challenges or further submissions to establish whether the child wishes to submit any further legal challenge or submissions
- discuss baggage and shipping to ensure that the child understands airline baggage restrictions and other methods for shipping possessions home
- provide the child with a Home Office point of contact – usually the case worker responsible for the case
- invite any additional questions from the child
- notify the child that if, following conclusion of the discussion, they think of any additional questions or obtain additional information relevant to their return, they should immediately notify the Home Office
- notify the child that they can also seek advice from their legal representative (if they have one) or from an independent organisation such as the local authority's advocacy service or the Refugee Council's Panel of Advisers or the Scottish Guardianship Service:
  - The Refugee Council's Panel of Advisers can be contacted at 13-14 Katharine Street, Croydon, Surrey, CR10 1NX, telephone: 0207 3461134, email: [The Refugee Council's Panel of Advisers](#)
  - Scottish Guardianship Service, 5 Cadogan Sq, Glasgow, G2 7PH, telephone: 0141 4458659, email the Scottish Guardianship Service

## Options for departure

### Voluntary return accepted

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

A voluntary return would utilise arrangements specific to the VRS procedure and therefore is separate to the remaining processes specified in this guidance.

### Voluntary departure declined

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

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

Refer to enforcement guidance for further information on the operational process for ensured removal of unaccompanied children.

## Welfare of the child

The return discussion can be a stressful process for the child. Staff present must be alert to any potential welfare or safeguarding concerns, such as the child:

- becoming depressed and withdrawn
- exhibiting erratic or angry moods
- expressing extreme feelings of hopelessness or suicidal thoughts
- making threats against themselves or those in attendance
- threatening to go missing (you must be mindful that the child's impending return is likely to increase the risk that they will go missing in order to prevent this from happening)

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

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

## Contact management

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

This may involve telephone contact or visits or meetings. It may also include the possibility of reporting with a view to minimising the risk that the child will go missing

from their care placement and ensuring that their welfare is safeguarded and promoted.

## Pre-departure arrangements

Following confirmation that an ensured removal is to be implemented the Home Office should proceed to making final arrangements for the child's departure from the UK. The tasks listed below should be undertaken in conjunction with the operational enforcement guidance.

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

In addition to operational enforcement guidance, the case owning team should note the following:

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

## Ownership of the return decision

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

## Missing children and absconders

When a child goes missing during any stage of the returns process, staff **must** immediately refer to [Missing children](#).

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

### Related content

[Contents](#)

# Applications for further leave

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

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

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

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

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

- enables a new family tracing step to become available
- improves the likelihood of success of a previously utilised family tracing step
- now makes family tracing potentially suitable
- makes adequate reception arrangements potentially available in the country of return

In such cases, staff must review the circumstances in accordance with the Family tracing guidance to assess what, if any, family tracing steps should be taken.

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

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

If a section 55 consideration was conducted prior to an earlier grant of leave, this can be used as a basis for this assessment, but up to date details must be obtained and assessed, as the child's circumstances may have changed since the previous assessment.

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



An important part of the best interests' consideration is that the Home Office will not remove any unaccompanied child from the UK, unless the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be removed.

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

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

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

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

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

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

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

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

---

### Official – sensitive: start of section

The information on this page has been removed as it is restricted for internal Home Office use.

## Further protection based claims

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

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

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

## Cases excluded under Article 1F

Some claimants will have been excluded from asylum and humanitarian protection as a result of their previous actions. Where removal from the UK is not possible, shorter periods of leave will have been granted and the case kept under review pending appropriate removal action. Where leave has been granted, the application process for further periods of leave is covered in the relevant guidance. See Restricted leave and Discretionary leave. All cases granted restricted leave are managed by the Special Cases Unit (SCU) and must be referred to SCU in the first instance. See [Article 1F exclusion](#) for further information on exclusion under [Article 1F of the Refugee Convention](#).

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

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

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

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

### Related content

[Contents](#)