



Department
for Education

Care of unaccompanied migrant children and child victims of modern slavery

Statutory guidance for local authorities

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Introduction

1. Unaccompanied migrant children and child victims of modern slavery, including trafficking, can be some of the most vulnerable children in the country. Unaccompanied children are alone, in an unfamiliar country and may be surrounded by people unable to speak their first language. Modern slavery includes human trafficking, slavery, servitude and forced or compulsory labour. Exploitation takes a number of forms, including sexual exploitation, forced labour, forced criminality, begging, organ harvesting and domestic servitude and victims may come from all walks of life.¹
2. Unaccompanied children are likely to be uncertain or unaware of their rights and whom they should trust. They are at increased risk of going missing, often leaving the care of those who would protect them to return to traffickers who will continue their exploitation. All groups may have experienced emotional trauma in their country of birth, on their journey to the UK or through their treatment by adults in the UK.
3. Local authorities have a duty to protect and support these highly vulnerable children. Because of the circumstances they have faced, unaccompanied migrant children and child victims of modern slavery, including trafficking, often have complex needs in addition to those faced by looked after children more generally. The support required to address these needs must begin as soon as the child is referred to the local authority or is found in the local authority area. It will be most effective where this support is provided through a stable, continuous relationship with the child.
4. This guidance sets out the steps local authorities should take to plan for the provision of support for looked after children who are unaccompanied asylum seeking children, unaccompanied migrant children or child victims of modern slavery including trafficking. Elements of this guidance will also be relevant for the care of looked after UK nationals who may also be child victims of modern slavery. It does not provide detailed guidance on steps that local authorities should take, in partnership with other agencies, to identify and protect child victims of modern slavery, including trafficking, before they become looked after. This is described in practice guidance *Safeguarding children who may have been trafficked*,² published by the Department for Education and Home Office in 2011.

¹ For a full explanation of modern slavery, see Modern Slavery Act statutory guidance, due to be published in 2017.

² <https://www.gov.uk/government/publications/safeguarding-children-who-may-have-been-trafficked-practice-guidance>

5. This is a complex area of practice, exemplified by the many different pieces of statutory and practice guidance, legislation and resources referenced below and at Annex A.

This guidance should be read alongside the following guidance:

- The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review.³
- Volume 3: Planning Transition to Adulthood for Care Leavers.⁴
- Volume 4 - Children Act 1989: fostering services.⁵
- Family and Friends Care: Statutory guidance for local authorities,⁶ published by the Department for Education in 2011.
- Statutory guidance on children who run away or go missing from home or care,⁷ published by the Department for Education in January 2014.
- Working together to safeguard children,⁸ published by the Department for Education in 2015.
- Interim Independent Child Trafficking Advocate Guidance: Early Adopter Sites,⁹ published by the Home Office in 2017.
- Victims of Modern Slavery – Competent Authority Guidance.¹⁰
- National referral mechanism: guidance for child first responders.¹¹

The following documents are not statutory guidance but local authority children's services professionals may also wish to familiarise themselves with them:

- The National Transfer Protocol for unaccompanied asylum seeking children.¹²
- Guidance on Processing Children's Asylum Claims which sets out the process immigration officials follow in determining an asylum claim from a child and the possible outcomes for that child.¹³

³ <https://www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review>

⁴ <https://www.gov.uk/government/publications/children-act-1989-transition-to-adulthood-for-care-leavers>

⁵ <https://www.gov.uk/government/publications/children-act-1989-fostering-services>

⁶ <https://www.gov.uk/government/publications/children-act-1989-family-and-friends-care>

⁷ <https://www.gov.uk/government/publications/children-who-run-away-or-go-missing-from-home-or-care>

⁸ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

⁹ <https://www.gov.uk/government/publications/child-trafficking-advocates-early-adopter-sites>

¹⁰ <https://www.gov.uk/government/publications/victims-of-trafficking-guidance-for-competent-bodies>

¹¹ <https://www.gov.uk/government/publications/national-referral-mechanism-guidance-for-child-first-responders>

¹² <https://www.gov.uk/government/publications/unaccompanied-asylum-seeking-children-interim-national-transfer-scheme>

¹³ <https://www.gov.uk/government/publications/processing-an-asylum-application-from-a-child-instruction>

Status of this guidance

6. This guidance is issued under section 7 of the Local Authority Social Services Act 1970, which requires local authorities, in exercising their social services functions, to act under the general guidance of the Secretary of State. This guidance replaces *Care of unaccompanied and trafficked children: Statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children* (2014) and must be complied with by local authorities when exercising these functions, unless there are exceptional reasons which justify a departure. This guidance is applicable in England only.

Who is this guidance for?

7. The guidance is addressed to Chief Executives, Directors of Children's Services and Lead Members for Children's Services. There are a significant number of professionals who may be working with or have contact with an unaccompanied migrant child, who may be a victim or a potential victim of modern slavery, to whom this piece of guidance may be relevant. It will be of particular relevance to staff running local multi-agency safeguarding arrangements, as well as Home Office staff, social care professionals, police, health, education and youth offender services practitioners, those who are contracted by local authorities to provide services including independent advocates and independent visitors, and those who care for looked after children.

Definitions used in this guidance

8. The cohort of unaccompanied migrant children and child victims of modern slavery includes a wide range of children with a variety of circumstances that a local authority will need to be aware of in order to ensure that the child receives appropriate legal advice and support. Some will have been trafficked or persecuted and may have witnessed or been subject to horrific acts of violence. Other migrant children may have been sent in search of a better life, or may have been brought to the UK for private fostering and subsequently exploited or abandoned when the arrangement fails. The terms below are used throughout this document with the following definitions:
 - **Child:** anyone who has not yet reached their 18th birthday. 'Children' therefore means 'children and young people under the age of 18' throughout this guidance. Note that, where the person's age is in doubt, they must be treated

as a child unless, and until, a case-law compliant¹⁴ age assessment shows the person to be an adult.

- *Unaccompanied child*: is used throughout this guidance, for brevity, to refer to children from outside the UK who fall into one of the categories below. Such children may have begun their life in the UK with family or with relatives, and for a range of reasons these care arrangements are no longer working and the child becomes looked after. The unaccompanied children may have parents and family members who are not in the UK. Being unaccompanied is not necessarily a permanent status and may change, particularly if the child has other family members in the UK.
- *Unaccompanied asylum seeking child*: a child who is claiming asylum in their own right, who is separated from both parents, and who is not being cared for by an adult who in law or by custom has responsibility to do so. Some will not qualify for asylum but may require “humanitarian protection”. Others may not qualify for any leave to remain in the UK. Their status will be determined by the Home Office.
- *Unaccompanied migrant child not seeking asylum*: a child who is not seeking asylum because their reasons for being here are not connected to seeking protection, or who may be undocumented,¹⁵ or is not seeking asylum because they have not been advised of the need to do so. The child may be separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.
- *Unaccompanied EEA national child*: a child who is a national of a European Economic Area country and who has entered the UK with a family member and has been separated from them, or has entered independently. They have a right to reside in the UK for an initial period of three months. After this time, an EEA national child will only have a right to reside in the UK if they are exercising their free movement rights or they are the family member of an EEA national exercising free movement rights in the UK.¹⁶
- *Asylum seeking child*: such a child is in the UK with family members and may have been transferred to the UK under the Dublin III Regulation¹⁷ to join a close family member and have their claim for asylum processed here. For

¹⁴ ‘Merton compliant’ is often used to describe whether an age assessment is case law compliant. All local authority age assessments must be compliant with the case law of Merton and subsequent judgments.

¹⁵ ‘Undocumented’ children are unable to show any identity documents or immigration status documents to prove that they are allowed to remain in the UK. They may present as a privately fostered child and be at risk of exploitation. Once their undocumented status has been established, the child will need to be supported to regularise their immigration status.

¹⁶ Treaty (free movement) rights are acquired where someone is working or self-employed, or self-sufficient, studying, or retired provided that they have comprehensive sickness insurance.

¹⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1481188565896&uri=CELEX:32013R0604>

further guidance on the Dublin III family reunion process see the Department for Education (2010) *Family and Friends Care: Statutory guidance for local authorities*.¹⁸

- *EEA family member*: a child may also be the family member of a national of an EEA state without being a national of that country themselves. They may come to the UK with an EEA national family member, or come to the UK to join them. If the child is a direct family member (defined as spouse or child) then their right to reside in the UK will depend on their family member exercising free movement rights. If the child is an extended family member then they are required to be dependent on the relative, or in that relative's household, in order to have a right to reside in the UK.
- *Child victim of modern slavery*: Modern slavery includes human trafficking, slavery, servitude and forced or compulsory labour for the purpose of exploitation. The Modern Slavery Act 2015 (section 56(3)) defines a child as anyone under the age of 18. For the purposes of the National Referral Mechanism (NRM) the UK recognises that slavery, servitude and forced or compulsory labour have the same meaning as they do under Article 4 of the European Convention on Human Rights (ECHR).¹⁹ Trafficking is defined within Article 4 of the Council of Europe Convention Against Trafficking in Human Beings.²⁰ However, for the purposes of trafficking, in the case of a child there is no requirement to meet the 'means' component within that definition as a child is not able to give informed consent. Therefore, any child who is recruited, transported, transferred, harboured or received for the purposes of exploitation is considered to be a trafficking victim, whether or not they have been forced or deceived.
- *Looked after child*: a child who is looked after by a local authority within the meaning of section 22 of the Children Act 1989.
- *Care leaver*: an eligible, relevant or former relevant child as defined by the Children Act 1989.
- *Entry local authority*: the local authority where an unaccompanied child first presents.
- *Receiving local authority*: a local authority which accepts the transfer and legal responsibility of an unaccompanied child from an entry local authority through the National Transfer Scheme for unaccompanied asylum seeking children, as described in paragraph 33.

¹⁸ <https://www.gov.uk/government/publications/children-act-1989-family-and-friends-care>

¹⁹ http://www.echr.coe.int/Documents/Convention_ENG.pdf

²⁰ <https://www.gov.uk/government/publications/council-of-europe-convention-on-action-against-trafficking-in-human-beings>

- *Best interests principle*: Any child has the right in international law (UN Convention on the Rights of the Child) to have his or her best interests assessed and taken into account as a primary consideration in all actions or decisions that concern him or her. It is a general principle for interpreting and implementing all the rights of the child and a holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development. For further information on the best interests principle, see UNICEF & UNHCR: *Safe and Sound*,²¹ and Annex 1 of the National Transfer Protocol for unaccompanied asylum seeking children.²²

Guidance on taking into account the wishes and feelings of the child, and how the child's best interests should be included in all decisions regarding their welfare, is embedded in the following UK legislation, regulations and guidance including:

- Section 1(3) of the Children Act 1989;²³
- The Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review;²⁴ and
- Working together to safeguard children,²⁵ published by the Department for Education in 2015.

²¹ <http://www.refworld.org/docid/5423da264.html>

²² <https://www.gov.uk/government/publications/unaccompanied-asylum-seeking-children-interim-national-transfer-scheme>

²³ <http://www.legislation.gov.uk/ukpga/1989/41/section/1>

²⁴ <https://www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review>

²⁵ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Local authority responsibilities

9. Section 17 of the Children Act 1989 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.
10. An unaccompanied child will become looked after by the local authority after having been accommodated by the local authority under section 20(1) of the Children Act 1989 for 24 hours. This will mean that they will be entitled to the same local authority provision as any other looked after child. Assessment and care provisions for the child should commence immediately as for any looked after child, irrespective of whether an application (e.g. an asylum claim) has been submitted to the Home Office.
11. The Care Planning, Placement and Case Review (England) Regulations 2010 set out local authorities' duties with regard to providing for looked after children and care leavers who are eligible children. The Care Leavers (England) Regulations 2010 likewise set out duties regarding care leavers who are relevant or former relevant children. These Regulations were amended in 2014 to require that those duties are fulfilled with particular regard to the child's circumstances and needs as an unaccompanied or trafficked child. The Regulations apply to all children, regardless of their immigration status, nationality or documentation.
12. Local authorities should ensure that they have processes in place to monitor their policies and performance relating to both unaccompanied children and child victims of modern slavery, including trafficking, and should record modern slavery concerns on the child's care plan. They should ensure that responsible managers look beyond this guidance to understand the risks and issues facing unaccompanied children and child victims of modern slavery and to review best practice in planning for the care of these children.
13. A cohesive multi-agency approach is essential to protecting child victims of modern slavery from further risk from their traffickers and preventing exploitation from taking place. In particular, there should be a clear understanding between the local authority and the police of respective roles in planning for this protection and responding if a child victim of modern slavery goes missing. Local area multi-agency safeguarding arrangements should play a central role in providing oversight of local multi-agency arrangements.
14. The Immigration Rules²⁶ (the legislation that makes up the UK's Immigration Law) provide for an unaccompanied asylum seeking child to receive support from a legal representative in order to assist them in making their claim for protection. As

²⁶ <https://www.gov.uk/guidance/immigration-rules>

discussed in more detail below, as part of the general duty to assess and meet the needs of an unaccompanied asylum seeking child, the local authority should ensure that the child has access to such a representative.

15. For unaccompanied children and for children trafficked into the UK, a number of immigration outcomes are possible depending on the individual case. The importance of planning for different outcomes and what these may be, including return to the individual's country of origin, are described at paragraphs 74-78 below.
16. Both unaccompanied children and child victims of modern slavery, including trafficked children, may require specialist support. This may be best provided by voluntary organisations, a number of which are referenced in this guidance.

Training and awareness

17. All those involved in the care of unaccompanied children and child victims of modern slavery should be able to recognise and understand the particular issues likely to be faced by these children. This includes recognising the indicators of trafficking, slavery, servitude and forced or compulsory labour as a child's previous history or current experience of being a victim of modern slavery might not be apparent to begin with.
18. Social workers, personal advisers and their managers (and healthcare and education professionals assessing those aspects of the care plan) should understand how the child's experiences, vulnerabilities and immigration status may impact on children and also on their assessment, care planning and delivery, and planning for the transition to adulthood. Where a child is undocumented this should be identified as soon as possible and the child will need to access specialist immigration legal advice.
19. In order to support unaccompanied children, social workers' knowledge of the asylum process should include an understanding of the Welfare Interview, Statement of Evidence Form, the purpose of the asylum case review, the importance of the substantive asylum interview, the different possible outcomes of a child's asylum claim and how that impacts on pathway planning. Social workers should also have a broad understanding of the immigration system – for example, the immigration application process, different types of leave, making further leave to remain applications and the appeals process. Social workers should also have an understanding of the trafficking referral process.
20. One of the most crucial aspects of the social worker's role is accessing specialist asylum and/or immigration legal advice and representation for all unaccompanied

children and child victims of modern slavery. This specialist advice will be required to ensure the child can fully present their case for asylum or leave to remain.

21. Legal advice about immigration must be provided by a registered immigration adviser, who is either a regulated solicitor or registered with the Office of the Immigration Services Commissioner (OISC)²⁷ to provide immigration advice to the relevant level. For example, to advise on issues such as asylum applications, out-of-time applications for leave to remain or applications for citizenship, the adviser would need to be competent to provide advice to OISC level 2. Ideally, the adviser would specialise in working with children as well. Details on where to find immigration legal representation can be found using the Adviser Finder function on the OISC website.²⁸ It is important to note that legal aid is available for asylum cases and looked after children will generally be eligible.
22. Social workers will be approached by the Home Office to participate in a case review, which is intended to explain the asylum process, ensure the child has immigration legal representation, check progress in completing the Statement of Evidence Form (SEF) and confirm that the child is ready to be interviewed. The review will normally consist of a telephone call or conference call. Social workers will also be asked to complete the Current Circumstances Form – Part 1. This form provides an opportunity for the social worker to offer information they believe the Home Office should take into account before a decision is taken on the child's asylum claim. In some cases, a social worker may be asked to complete the Current Circumstances Form – Part 2. These forms are normally used where a child has been refused asylum and the Home Office is considering returning the child to their home country. This form provides the social worker with an opportunity to contribute any information that may be relevant about the child and the proposed return to their home country.
23. The Home Office is under a duty to take account of the need to safeguard and promote the welfare of children in carrying out its asylum functions. These processes are therefore intended to create opportunities for those working with unaccompanied children to be able to provide information about the child, which may be relevant to their asylum decision.
24. Further information on the asylum decision making process can be found in *Processing Children's Asylum Claims* published by the Home Office for Home Office staff.²⁹

²⁷ <http://oisc.homeoffice.gov.uk>

²⁸ http://home.oisc.gov.uk/adviser_finder/finder.aspx

²⁹ <https://www.gov.uk/government/publications/processing-an-asylum-application-from-a-child-instruction>

25. Social workers should also be aware of the wider child protection system around child victims of modern slavery, including how and when to refer a child to the National Referral Mechanism and what detail to include in any referral. See paragraph 29 for further detail on the National Referral Mechanism.
26. Independent reviewing officers should be aware of the need to have regard to the child's needs as an unaccompanied child or child victim of modern slavery, including trafficking, when planning and providing care. They should also have an awareness of the particular needs and issues children may face as a result of being an unaccompanied child or child victim of modern slavery so that they can provide appropriate challenge at review. Service providers should ensure that foster carers and all other care staff in placement settings are aware of appropriate steps to reduce the risk of trafficked children returning to their traffickers.
27. A number of organisations can provide relevant training, either face-to-face or online. Some examples of the training available are included at Annex A.

When is a child a victim of modern slavery?

28. A child is defined as anyone under the age of 18 as per section 56(3) of the Modern Slavery Act 2015. Modern slavery includes human trafficking, slavery, servitude and forced or compulsory labour. Exploitation takes a number of forms, including sexual exploitation, forced labour, forced criminality, begging, organ harvesting and domestic servitude and victims may come from all walks of life.³⁰
29. There is a statutory duty on local authorities, under section 52 of the Modern Slavery Act 2015, to notify the Secretary of State, through the National Referral Mechanism (NRM), where there are reasonable grounds to believe that an individual may be a victim of modern slavery or trafficking.³¹ Potential child victims of modern slavery, including trafficking, must be referred as soon as practicable to the NRM by a first responder and assessed by a competent authority (a trained decision maker) within the UK. Having been assessed, children will be issued with a positive reasonable grounds decision indicating they are considered to be a potential victim of modern slavery or a negative reasonable grounds decision determining there are no reasonable grounds to believe they are a victim of modern slavery.
30. If the child has been issued with a positive reasonable grounds decision, a further assessment is carried out to provide a conclusive decision. Whilst awaiting this

³⁰ For a full explanation of modern slavery, see Modern Slavery Act statutory guidance, due to be published in 2017.

³¹ See 'Duty to Notify' guidance and forms: <https://www.gov.uk/government/publications/duty-to-notify-the-home-office-of-potential-victims-of-modern-slavery>

decision, the child should be treated as if they have the status of a child victim of modern slavery.

31. If the child receives a positive conclusive grounds decision they should continue to be treated as a child victim of modern slavery and receive all the relevant support associated with that status.
32. To understand more about possible indicators of modern slavery, see the *Modern Slavery: guidance for frontline staff*.³²
33. In addition, whether a child is a potential victim of modern slavery or not, any child who has been groomed and coerced into sexual exploitation, including UK nationals, should be safeguarded under the measures outlined in *Child sexual exploitation: definition and guide for practitioners*, published in 2017.³³ This guidance should be read alongside *Working Together to Safeguard Children, revised in 2015*,³⁴ which provides statutory guidance covering the legislative requirements on services to safeguard and promote the welfare of children, including in relation to child sexual exploitation.
34. For more information on referring to the NRM, please see the *National referral mechanism: guidance for child first responders*, published by the Home Office in 2016.³⁵ Referral forms are available online and provide a comprehensive list of indicators of children who may have been trafficked.³⁶

Age determination

35. Many unaccompanied and trafficked children arrive in the UK without documentation or with forged or counterfeit documents. Where the age of a person is uncertain and there are reasons to believe they are a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with section 51 of the Modern Slavery Act 2015. Where an age assessment is required, local authorities must adhere to standards established within case law. Age assessments should only be carried out where there is reason to doubt that the individual is the age they claim. Age assessments should not be a routine part of a local authority's assessment of

³² <https://www.gov.uk/government/publications/victims-of-human-trafficking>

³³ <https://www.gov.uk/government/publications/child-sexual-exploitation-definition-and-guide-for-practitioners>

³⁴ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

³⁵ <https://www.gov.uk/government/publications/national-referral-mechanism-guidance-for-child-first-responders>. Further guidance may also be found on the ECPAT UK website: <http://new.ecpat.org.uk/content/national-referral-mechanism>

³⁶ <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms>

unaccompanied or trafficked children. Further advice and practice guidance can be found in the *Age Assessment Guidance*, published by the Association of Directors of Children's Services (ADCS) in October 2015.³⁷ It is also important to note that an ADCS – Home Office information sharing protocol has been produced.³⁸

National Transfer Scheme

36. The National Transfer Scheme was created to enable the safe transfer of unaccompanied asylum seeking children from one UK local authority (the entry authority from which the unaccompanied child transfers) to another UK local authority (the receiving authority) from 1 July 2016.
37. The National Transfer Scheme Protocol sets out the process to be followed in transferring children between participating local authorities and forms the basis of a voluntary agreement made between local authorities to ensure a fairer distribution of unaccompanied asylum seeking children between local authorities and across all parts of the UK.³⁹ The National Transfer Scheme aims to ensure that no local authority faces an unmanageable responsibility in accommodating and looking after unaccompanied asylum seeking children. The scheme seeks to ensure that by transferring unaccompanied children away from some entry authorities, appropriate services are available to all unaccompanied children.

Assessment

38. When an unaccompanied child presents in a local authority area (either at a port or airport or if they are found in a wide range of other circumstances and taken to a police station) all agencies dealing with the child should be alert to the possibility that the child may have been a victim of modern slavery, including the possibility the child has been trafficked, and ensure that all relevant information about the child's circumstances is communicated to the entry local authority social worker. Information should be shared with consent where appropriate and where possible, but information can be shared without consent if the professional judgement is that there is good reason to do so, such as where safety may be at risk. For further guidance on information sharing, refer to the Department for Education,

³⁷ http://adcs.org.uk/assets/documentation/Age_Assessment_Guidance_2015_Final.pdf

³⁸ http://adcs.org.uk/assets/documentation/information_sharing_proforma_april_2015.doc

³⁹ <https://www.gov.uk/government/publications/unaccompanied-asylum-seeking-children-interim-national-transfer-scheme>

*Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (2015).*⁴⁰

39. Where there are safeguarding concerns relating to the care and welfare of any unaccompanied child, including where modern slavery is suspected or has been identified, these should be investigated in line with the statutory provisions, *Working Together to Safeguard Children (2015)* statutory guidance and locally agreed protocols and processes. The opportunity to intervene to prevent any further exploitation might be very narrow, so the entry local authority should convene a strategy discussion as soon as possible and take any necessary immediate action to safeguard and promote the child's welfare. This strategy discussion should involve the police, immigration officials and any other relevant agencies and plan rapid further action if concerns are substantiated.
40. Many unaccompanied and/or trafficked children are at risk of going missing from care, often within the first 72 hours, whilst others may be at risk of repeated missing episodes due to ongoing exploitation. Children may go missing because of uncertainty over their immigration status or due to feeling unsupported or being unsure or unaware of what it means to be "looked after" and that they need to communicate their whereabouts to carers. Even if they are not a victim of modern slavery, unaccompanied children are still highly vulnerable and if they go missing they are at risk of being exploited or mistreated.
41. Provision may need to be made for the child to be in a safe place before any further assessment takes place and for the possibility that they may not be able to disclose full information about their circumstances immediately. The location of the child should not be divulged to any enquirers until their identity and relationship with the child have been established and the local authority is assured of their motives, if necessary, with the help of police and immigration officials.
42. Before the entry local authority refers a looked after child victim or potential victim of modern slavery to the National Transfer Scheme, they must consider whether it is in the best interests of the child to do so. If the initial strategy discussion has led to the decision to initiate section 47 enquiries, the transfer should not be implemented if the completion of these enquiries and subsequent assessment process would be hindered.
43. The local authority in whose area the looked after child is has responsibility for looking after the child.⁴¹ The Care Planning, Placement and Case Review (England) Regulations 2010 require the responsible local authority to undertake

⁴⁰ <https://www.gov.uk/government/publications/safeguarding-practitioners-information-sharing-advice>

⁴¹ This may be the entry local authority if the child remains there or the receiving local authority if the child is transferred.

the single assessment conducted as the first step in the care planning process. Following assessment, the local authority will produce a care plan setting out how their needs will be met. This must include the child's permanence plan and the arrangements that the local authority will make to meet the child's needs in relation to: health; education; behavioural and emotional development; identity – with particular regard to religious persuasion, racial, cultural and linguistic background; family and social relationships; social presentation; and self-care skills. Where appropriate the local authority might also need to carry out an enquiry under section 47 of the Children Act 1989.

44. The local authority should undertake such an assessment with reference, where relevant, to the child's needs as an unaccompanied child or an unaccompanied child victim of modern slavery and that fact must be recorded in their care plan. Particular account must be taken during the assessment of any specific needs the child has. Children may have experienced conflict in their country of origin, their journey to the UK is likely to have been traumatic, and they may have been abused by traffickers or perpetrators of modern slavery and may be subject to the risk of ongoing exploitation as a consequence.
45. Child victims of modern slavery, including trafficking, may not initially recognise that they are victims of a crime. They may have been told that the authorities will try to put them in prison, or have been passed from one unknown adult to another. Similarly, unaccompanied children may have had adverse experiences of authorities in their home country and may not know who to trust. They need to know they can trust their social worker and others involved in their care, and that they will be able to rely on support from allocated workers over time.
46. No assumptions should be made about the child's language skills and an interpreter will often be required. Local authorities should have a clear policy on how they can obtain a suitable interpreter for a child who needs one. Local authorities should ensure that reasonable endeavours are made to find an interpreter who speaks both the correct language and dialect of the child. Interpreters should be appropriately trained to understand the particular issues the child may face.⁴² For example, "trafficking, slavery, servitude and forced or compulsory labour" may not translate literally or easily as concepts, and may need to be expressed in a different way to ensure the child fully comprehends their situation. Care should be taken and appropriate checks made to ensure that the

⁴² Local authorities may wish to be aware of the conduct and standards required for Home Office interpreters, which are set out in section 8 of the Home Office's Asylum Interviewing Guidance. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/410098/Asylum_Interviews_AI.pdf

interpreter is not linked in any way with those who may have been involved in the child's trafficking or exploitation.⁴³

47. The assessment should establish that the child fully understands their situation and how they will be supported. This includes ensuring they understand the risks they may face, particularly from traffickers. An assessment of their continued vulnerability to the influence or control of their traffickers and the risks of them going missing from care should be recorded and kept under review. Safeguards should continue to be in place for weeks or months after the child becomes looked after, depending on the child's level of risk following assessment and review.
48. The assessment should also establish whether the child knows where they are (for example, children trafficked from overseas may have had this information kept hidden from them or been told by their traffickers that they are in a country other than the UK). For unaccompanied children and children trafficked from overseas, the assessment should seek to carefully and sensitively establish the circumstances which led to the child coming to the UK. This does not have to be established at the first encounter with the child. The roles of those involved in their care should be explained. In particular, where immigration officials are involved it should be made clear that they have a separate role from those who provide for their care.
49. Unaccompanied children and child victims of modern slavery, including trafficking, may have experienced or witnessed extreme trauma, which can be difficult for them to recount. This may lead to the child providing conflicting accounts of what has happened to them. It should be noted that this is a common indicator of trafficking and should not be used to make judgements on the credibility of the child's account. Throughout the child's assessment, steps should be taken to minimise distress caused by asking them to repeat information they may already have provided, for example, to border officials, police or social care staff assessing their safeguarding needs. Care must be taken to ensure that the child does not become lost between the agencies involved and their different systems and procedures. This can be achieved through establishing clear processes for multi-agency working and transfer of all relevant information.

Health assessment

50. Regulation 5 of the Care Planning, Placement and Case Review (England) Regulations 2010 specifically requires the child's care plan to include a health plan setting out how the local authority intends to meet the child's health needs. As part of this, the local authority is required to make sure a health assessment is carried

⁴³ In addition to the above link, local authorities may also wish to refer to the 'Use of Interpreters' section of the Home Office's Children's Asylum Claims guidance.

out before the child is placed (or by the first review where that is not reasonably practicable) (regulation 7). The Regulations and Statutory Guidance *Promoting the Health and Wellbeing of Looked-After Children* makes clear that an assessment should cover a range of issues including the child's emotional, mental and physical health needs. A review of the child's health plan, which includes further assessments, must take place at least once every six months for children below the age of five and every 12 months thereafter.

51. For unaccompanied children it will be important that the health assessment should ascertain any particular physical, psychological or emotional impact of experiences as an unaccompanied child or child victim of modern slavery. These experiences can be severe and traumatic, although in many cases these symptoms may not be immediately apparent and instead come to the surface some months later. They should be noted, along with any consequent need for psychological or mental health support to help the child deal with them. The assessment should also screen for infectious diseases.
52. Further advice on supporting the health and wellbeing needs of looked after children can be found in the statutory guidance *Promoting the Health and Wellbeing of Looked-After Children*.⁴⁴

Educational assessment

53. Regulation 5 of the Care Planning, Placement and Case Review (England) Regulations 2010 specifically requires the care plan to include a personal education plan (PEP). Social workers, Virtual School Heads and Independent Reviewing Officers, school admission officers and special educational needs departments should work together to ensure that appropriate education provision for the child is arranged at the same time as a placement. Some unaccompanied children who have recently arrived in the country may have never had access to education before. Appropriate education for unaccompanied children may include a period of time in a setting where their full educational needs can be assessed and integrated into the PEP. They may need time to be prepared for and then acclimatise to formal education, and their initial educational outcomes may include cultural orientation and life skills appropriate to their age. Further guidance on promoting the education of looked after children can be found in *Promoting the education of looked after children and previously looked after children* (2014).⁴⁵

⁴⁴ <https://www.gov.uk/government/publications/promoting-the-health-and-wellbeing-of-looked-after-children-2>

⁴⁵ <https://www.gov.uk/government/publications/promoting-the-education-of-looked-after-children>

Family reunification

54. The local authority's duties to looked after children under the Children Act 1989 apply equally to unaccompanied children and child victims of modern slavery who are looked after as they do to any other looked after child. This includes the duties to return a looked after child to their family where possible and to endeavour to promote contact between the child and their parents or other family members who may have parental responsibility if this is reasonably practicable and consistent with their welfare. Planning for permanence should include consideration of reunification with the child's birth family. However, social workers should be mindful that family tracing and reunification need to be handled sensitively for this cohort of children, and should also recognise that it will not always be possible to trace the child's family.
55. In order to protect an unaccompanied child's best interests, Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 places a positive duty on the Secretary of State for the Home Department to endeavour to trace the members of a child's family as soon as possible after they make their claim for asylum, whilst ensuring that those enquiries are conducted in a way that does not jeopardise the safety of the child or their family. This duty is defined by the duty under section 55 of the Borders, Citizenship and Immigration Act 2009 which 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. In assessing the family tracing action that is appropriate or the suitability of family reunification, the Home Office will seek the view of the local authority looking after the child. As the results of the Home Office's family tracing endeavours may be relevant to the provision of services and planning by local authorities, the Home Office may also inform the local authority of the outcome of family tracing enquiries.
56. Children should always be informed if family tracing is being undertaken or commissioned on their behalf. Children should also be informed of the family tracing services which they may be able to access through the British Red Cross. 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 contact⁴⁶ with their family.
57. The scope for family tracing will depend on the individual circumstances of the child and the situation in the child's home country. Steps to trace the family of a

⁴⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/633768/family-tracing-v2_0EXT.pdf

child should reflect the principles set out in the Home Office's *Family tracing* guidance. In deciding whether it is appropriate to initiate contact with a child's family, child protection considerations must be paramount. The child's family may have been involved in trafficking or exploiting the child or subjecting them to child-specific forms of persecution such as female genital mutilation, forced marriage or involvement in armed conflict. The wishes and feelings of the child and the circumstances in which they came to the UK will be important in establishing the steps to take when undertaking family tracing.

58. If the child has made an application for international protection, it might compromise the safety of the child and/or family members if social workers were to initiate contact with anyone in the country of origin. If such contact is being considered, social workers must first discuss the situation with the child's immigration legal representative. Children and Families Across Borders can also advise on international family reunion.⁴⁷ Where a child maintains or renews contact with a family member in their home country or a third country, this is not necessarily an indication that there is therefore no risk to the child (or the family). Family tracing should be understood as a preliminary stage in determining the potential reunification of a child and their family, and a detailed family assessment will always be required.
59. Guidance on local authority roles and responsibilities towards children reunited with family under the Dublin Regulation can be found in the Department for Education *Family and Friends Care: Statutory guidance for local authorities*.⁴⁸

Planning, protection and placement

Care planning

60. As for any looked after child, the assessment carried out by the local authority should be used to produce a care plan.⁴⁹ The care plan will incorporate the health and education plans along with a range of other assessment information. If a child is an unaccompanied asylum seeking child or there is reason to believe they are a child victim of modern slavery, including trafficking, this must be recorded on their care plan. The plan should include a description of how the child's needs in relation to being unaccompanied or trafficked will be met. This is to ensure that everyone involved in providing the child's care is aware of their circumstances and able to provide for any needs resulting from them. The plan should note the key stages of the process for resolving the child's asylum claim or immigration status

⁴⁷ <http://cfab.org.uk/services>

⁴⁸ <https://www.gov.uk/government/publications/children-act-1989-family-and-friends-care>

⁴⁹ http://www.legislation.gov.uk/uksi/2010/959/pdfs/ukxi_20100959_en.pdf

and ensure that the child receives the advice and support they need in order to engage in a timely and effective way with that process and understand the outcome of it. The risk of the child going missing may increase as they approach the age of 18 due to concerns they may have over their immigration status; this risk should therefore be recorded on their care plan.

61. Unaccompanied migrant children and child victims of modern slavery will need access to specialist legal advice and support. This will be in relation to immigration and asylum applications, and decisions and any associated legal proceedings. If they have been a victim of modern slavery, it may also be in relation to criminal proceedings or compensation claims. The plan should note that specialist legal support is required and how it will be provided. The child's social worker should ensure that the child is accompanied in all meetings with legal professionals. The person accompanying the child does not have to be the child's social worker.
62. The health plan should set out the objectives, actions, timescales and responsibilities arising from the health assessment. The health plan should cover the children's state of health, including their physical, sexual, emotional and mental health. This should include detail of how any psychological issues will be addressed. For example, these may result from the child's experiences in their country of origin, on their journey to the UK or at the hands of traffickers overseas or in the UK. Unaccompanied children may also require specialist mental health support to help them deal with the impact of loss and trauma. This may require referral to specialist mental health assessment and treatment.
63. Perpetrators of modern slavery, including traffickers, may have sought to control the child by telling them that their family will come to harm if they do not co-operate with them, which are often believed to be credible threats by the child. Child victims of modern slavery should be provided with ongoing support to help them cope with the emotional impact of this kind of coercion.
64. The education plan following the assessment should include a clear education pathway for securing high quality education provision in school or other education settings and details of particular support the child may need, for example, where the child has a special educational need. Learning English will be essential to enable the child to communicate. With children for whom English is not their first language, their plan may also include support to develop literacy skills in their mother tongue.
65. All looked after children must be given priority in school admissions, as set out in the School Admissions Code.⁵⁰ This code applies to all maintained schools as well as academies and free schools. Social workers and carers should understand

⁵⁰ <https://www.gov.uk/government/publications/school-admissions-code--2>

local arrangements for priority admissions and ensure that the child gains a place at the most appropriate school for them. Schools may require support to understand the particular needs and issues faced by unaccompanied children or child victims of modern slavery and safeguard them accordingly.

66. The local authority should also take steps to ensure robust procedures are in place to monitor educational progress and a culture of proactive commitment to secure the highest educational outcomes for unaccompanied children or child victims of modern slavery. This should be monitored by a senior manager, such as the Virtual School Head, who is responsible for making sure their local authority promotes the educational achievement of its looked after children.

Protection and placement planning

67. A child protection plan may be required to protect unaccompanied children from further harm. This is particularly likely where there is reason to believe the child is a victim of modern slavery (or at risk of being so) or where the child is a witness to serious crime. In such cases, there is a high risk that the child will go missing from care and return to those who wish to exploit them. In these cases, the plan should include what steps will be taken by carers, the local authority and police to reduce the risk of the child going missing, and to recover the child if they do go missing, in accordance with local Runaway and Missing from Home and Care protocols. The child should be placed in safe and suitable accommodation, with particular care given to ensuring that the particular placement is fully risk-assessed.⁵¹ Photographs of the child should be kept on file for use if they do go missing (photographs may include one of their full body length, one of their face and any others that depict distinguishing features) and shared with the police in that instance. More detail on dealing with a child victim of modern slavery who has gone missing is contained in the Department for Education statutory guidance on *Children who run away or go missing from home or care* (2014).⁵²
68. Steps to build, quickly, a stable and trusting relationship with any looked after child are important to planning for their protection. Children need to be told they are safe and be supported in keeping themselves safe. As part of planning for their protection, the child should be asked about what would help them to feel safe. Involving the child in this way can help them regain a sense of control over their life. It can also help to build the relationships and assist in understanding the child's experience, and enhance risk assessments, all of which can provide protective factors that may contribute to reducing the risk of the child going

⁵¹ For example, this may include considering the suitability of a placement taking into account the high level of supervision these children are likely to require and whether a joint placement for multiple victims may enhance or reduce the risk of children going missing from care.

⁵² <https://www.gov.uk/government/publications/children-who-run-away-or-go-missing-from-home-or-care>

missing. In particular, their fear of what may happen, either to themselves or their families, if they don't return into the hands of their traffickers should be addressed.

69. Social workers should be aware of the child's immigration status at each stage of the asylum or immigration process. The possible outcomes of this process are set out on page 27 below. If the child receives a negative asylum or immigration decision, discussions about their status will need to be handled sensitively and social workers should be alert to a heightened risk of the child going missing and take all necessary steps to prevent this.
70. Placement decisions should take particular account of the need to protect the child from any risk of being exploited, and from a heightened risk of them going missing. Transfer to the care of another local authority or an out of area placement might in some cases be appropriate to put distance between the child and where their traffickers expect them to be.
71. Each unaccompanied asylum seeking child should be assessed and a decision made about which placement is the most appropriate for them in accordance with section 22C of the Children Act 1989. There is no 'one-size-fits-all' placement. The benefits of each placement will depend on the needs of the child; whether or not they have been trafficked; their experience during their journey to the UK; their culture, age, sex and personality; their sense of personal autonomy and ability to live independently; and their sense of safety and ideas on what will make them feel safe.
72. Often very little information about the child is available in the first few days and so it is highly likely that a permanent placement decision will not be made immediately. A temporary placement can enable the child to feel safe and physically recover from their journey and be able to engage with an assessment of their needs with the help of interpreters where necessary.
73. An unaccompanied child is likely to have developed survival skills and possibly a veneer of being able to cope, which may mask their actual needs. Assessments should be carefully completed before assuming any level of physical, social and emotional resilience. An assessment of needs should include (but not be limited to) language and communication skills, ability to buy and cook food, ability to care for themselves and keep themselves safe, their understanding of British laws and social customs, and their ability to access education and public services (including GP and dentist).
74. It may be that the child would benefit from being in a placement with a high level of support initially and then when they are ready they can move on to a placement with a lower level of support.

75. The placement decision will also need to be informed by careful consideration of the wider support needs of the child, including their cultural and social needs. It may be that the accommodation setting or carers cannot meet those needs on their own so other more creative ways, such as mentors or links to diaspora groups, could be used. As with all looked after children, an unaccompanied child's ethnicity, cultural and linguistic background should be taken into account when placing the child with foster carers. However, these are not overriding considerations and should be taken into account alongside all of the child's needs. A child's background is an important consideration, but provided the placement is the most appropriate placement available and safeguards and promotes the child's welfare, it is not necessary to find a foster family that exactly matches the child's background. What is important is that the placement is the most appropriate available, is able to meet the child's needs as a whole and is consistent with their wishes and feelings.
76. Because of their past experiences and ongoing difficulties, unaccompanied asylum seeking children have a high risk of experiencing psychological distress, including sleep disturbances, attention and concentration difficulties, flashbacks of previously experienced trauma and post-traumatic stress disorder (PTSD). It is important that carers are able to identify possible indicators of mental health issues.
77. Older children in particular may appear independent but often lack the skills to keep themselves safe from those who may exploit them. Efforts to protect the child need to be implemented in such a way that they do not replicate those that may have been used by traffickers to control the child. Engaging effectively and involving the child in the development of their care and protection plan can help reduce the risk that children consider such protective measures to be punitive.
78. All residential home staff, foster carers or support workers of semi-independent accommodation caring for unaccompanied children and child victims of modern slavery (including independent advocates where appropriate) should be aware of any particular risks of them going missing, or of any risk to the child from those who wish to exploit them. They should also know what practical steps they should take in the event that the child does go missing, or if they suspect that someone is trying to lure the child away from their care placement. Carers should also be fully aware of the child's past experiences and any psychological issues they face, which may not be immediately apparent, as well as understanding cultural issues, which may put them at greater risk of going missing. This may include the potential negative impact of protection measures which may appear to the child to replicate methods used by their traffickers to control them. For further advice, see practice

guidance on *Safeguarding children who may have been trafficked*,⁵³ published by the Department for Education and Home Office in 2011.

79. 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.

Review, advocacy and wider support

80. Case reviews chaired by the child's independent reviewing officer must consider whether their needs related to their circumstances as an unaccompanied migrant child or child victim of modern slavery are being met. A child's needs, including their protection needs, will change over time and should be kept under regular review.
81. Throughout all assessment and care planning processes, children should have the opportunity to make their wishes and feelings known. All looked after children must be made aware of their entitlement to independent advocacy support. Unaccompanied children and child victims of modern slavery, including trafficking, may benefit in particular from independent advocacy support. The local authority should facilitate this access where required. This entitlement is not just for when the child has a complaint, but includes where the child needs to make representations about their care and support. The Independent Advocate (IA) should have an awareness of the particular needs and issues a child may face as a result of being an unaccompanied or child victim of modern slavery, including trafficking, so that they can provide appropriate support and challenge at any review. Support from an IA can also help overcome cultural or language barriers so that the child can express their wishes and feelings appropriately.⁵⁴
82. Unaccompanied children and children trafficked from overseas are likely to be a long way from home and family and can feel isolated from their peers. An independent visitor can help bridge this gap and provide informal support. The child should be offered an independent visitor, ensuring that they understand the role the independent visitor could play in providing support. If they decline this

⁵³ <https://www.gov.uk/government/publications/safeguarding-children-who-may-have-been-trafficked-practice-guidance>

⁵⁴ Additional advocacy support in the form of Independent Child Trafficking Advocates (ICTAs) is available in Greater Manchester, Hampshire and the Isle of Wight and across Wales. These areas are also known as Early Adopter Sites. Interim guidance has been provided to these Early Adopter Sites to support and enable their public authorities and other relevant agencies there to undertake their respective roles and to be aware of their responsibilities.

offer, their reasons for doing so should be recorded. Any independent visitor appointed should have appropriate training and support and demonstrate an understanding of the needs faced by unaccompanied or trafficked children. In addition, the Refugee Council runs the Children's Panel Advice Service, which offers advice and information directly to unaccompanied children as well as their carers and other professionals working with them. Further information about this service is available on their website.⁵⁵

Planning transition to adulthood

83. Former unaccompanied children who qualify as care leavers and who have been granted leave to remain, or who have an outstanding asylum or other human rights claim or appeal, are entitled to the same level of care and support from the local authority as any other care leaver, as set out in the Children Act 1989 Guidance and Regulations, *Volume 3: Planning Transition to Adulthood for Care Leavers*. The extent of any care leaver duties on local authorities to provide support to former unaccompanied children who have turned 18, exhausted their appeal rights, established no lawful basis to remain in the UK and should return to their home country is subject to a Human Rights Assessment by the local authority. This is set out under the restrictions on local authority support for adults without immigration status in Schedule 3 to the Nationality, Immigration and Asylum Act 2002.⁵⁶
84. A child's needs related to being an unaccompanied child or victim of modern slavery must be considered in the assessment of needs undertaken as part of the pathway planning process, and by the independent reviewing officer in any review of the pathway plan. For unaccompanied children or children trafficked from overseas, this will be likely to include issues relating to their immigration status and to the advice and support they need to engage in a timely and effective way with the process for resolving their status. For all child victims of modern slavery, it will be likely to include assistance in continuing to keep themselves safe from risk of further exploitation or trafficking.
85. For former unaccompanied children whose long-term future is in the UK, transition planning will need to consider the challenges and issues facing any care leaver, such as education or preparing for independent living. Planning for children and

⁵⁵ https://www.refugeecouncil.org.uk/what_we_do/childrens_services/the_childrens_panel_-_advice_service

⁵⁶ These adult care leavers will mainly be failed asylum seekers, who may have been granted Unaccompanied Asylum Seeking Child (UASC) Leave until they were aged 17.5 and who now have no outstanding asylum or other human rights claim, have exhausted their appeal rights and have no lawful basis on which to stay in the UK. Support to leave the UK may be available to those with no leave to remain in the UK via the Home Office Voluntary Return Scheme: <https://www.gov.uk/return-home-voluntarily/who-can-get-help>

young adults who have been granted refugee status or humanitarian protection should also consider when they may be required to make a further application for leave to remain.

86. Unaccompanied children and child victims of modern slavery from overseas can be at particular risk of becoming isolated on leaving care due to a lack of established social networks and/or access to members of their extended family. When planning for transition, the local authority should ensure that language or cultural factors are taken into account to reduce this risk. A victim of modern slavery may still be at risk of exploitation on leaving care. This risk should be considered, particularly with regard to arranging accommodation.

Advice and support

87. Where an unaccompanied child or child victim of modern slavery qualifies for local authority care leaving support, a personal adviser must be appointed to support them. For care leavers who were unaccompanied asylum seeking children, the personal adviser should have a basic understanding of the issues that may be facing the young person in settling into this country. For care leavers who have been victims of modern slavery, the personal adviser should be aware of any continued risk the care leaver may face from those who may wish to exploit them.
88. If further support with immigration or asylum processes is required, the person providing this advice should be a registered solicitor or registered with the Office of the Immigration Services Commissioner (OISC) as set out in paragraph 21 above.

Immigration status and transition planning

89. Planning transition to adulthood for unaccompanied children is a particularly complex process that needs to address their developing care needs in the context of their immigration status. Social workers and personal advisers should work with the care leaver's immigration legal representative and the Home Office decision maker to ensure that the young person can engage in a timely and effective way with the asylum or immigration process, and understands and is prepared for the possible outcomes. They should also recognise the impact of any uncertainty and instability on children and be ready to support them. This can offer a protective factor in terms of helping children to feel safe and reduce the risk of children going missing. Pathway planning to support an unaccompanied child's transition to adulthood must cover the areas that would be addressed within any care leaver's plan as well as any additional needs arising from their immigration status and the action required to resolve this. Pathway plans should always seek to identify a durable solution as planning for this will have a fundamental positive impact on the wellbeing of the child, their integration into the community where their long-term future is in the UK, and their successful negotiation of the transition to adulthood.

90. There are four main possible outcomes of the asylum process for an unaccompanied child, which will determine what the long term solution might be. These are outlined below including the impact they may have on care and pathway planning.

- **Granted refugee status** (i.e. granted asylum), with limited leave to remain for five years, after which time they can normally apply for settlement (i.e. indefinite leave to remain).
- **Refused asylum but granted humanitarian protection**, with limited leave to remain for five years, after which time they can normally apply for settlement (i.e. indefinite leave to remain). This is most commonly granted where the person is at risk of a form of 'ill treatment' in their country of origin but which does not meet the criteria of the Refugee Convention.

As it is very likely that those granted refugee status or humanitarian protection will qualify for indefinite leave to remain, their care and pathway planning should primarily focus on their long-term future in the UK, in the same way as for any other care leaver.

- **Refused asylum but granted Unaccompanied Asylum Seeking Child (UASC) Leave**. This is normally for 30 months or until the age of 17½, whichever is the shorter period. This form of leave is granted to unaccompanied children where they do not qualify for refugee status or humanitarian protection, but where the Home Office cannot return them to their home country because it is not satisfied that safe and adequate reception arrangements are in place in that country. It is a form of temporary leave to remain and is not a route to settlement. It is important to note that this decision is a refusal of the child's asylum claim and will attract a right of appeal. The child should be assisted to obtain legal advice on appealing against such a refusal. Before the child's UASC Leave expires, they can submit an application for further leave to remain and/or a fresh claim for asylum, which will be considered. It is essential that they are assisted to access legal advice and make any such further application or claim before their UASC Leave expires.

In such cases, care and pathway planning should therefore consider the possibility that the child may have to return to their home country once their UASC Leave expires or that they may become legally resident in the UK long-term (if a subsequent application or appeal is successful). Planning should also cover the possibility that they reach the age of 18 with an outstanding application or appeal and are entitled to remain in the UK until its outcome is known.

- **Refused asylum and granted no leave to remain**. In this case the unaccompanied child is expected to return to their home country and their care

plan should address the relevant actions and the support required. The Home Office will not return an unaccompanied child to their home country unless it is satisfied that safe and adequate reception arrangements are in place in that country. Any appeal or further application should be submitted where appropriate by the child's legal adviser.

91. Although these are the four main types of outcomes for an unaccompanied child, there may be others. As discussed above for example, a child may be granted discretionary leave depending on whether they meet other criteria such as needing to stay in the UK to help police with their enquires after being conclusively identified as a victim of trafficking. Other examples include: leave as a stateless person; limited or discretionary leave for compassionate reasons; and limited leave on the basis of family or private life.
92. Pathway plans should always consider the implications for the child or young adult if their asylum claim is refused without a grant of leave, if their application to extend their leave is refused or if their appeal against a refusal is dismissed. In such circumstances, the person will become unlawfully present in the UK and be expected to make plans for a return to their home country. A plan for a return to their home country may also need to be made at any other point, should the care leaver decide to leave the UK. Initial planning may have to be based around short-term achievable goals whilst entitlement to remain in the UK is being determined. For those unaccompanied children who have not yet received an immigration decision, transition planning should reflect all the relevant potential outcomes of the immigration process and which, over time, should be refined as the child or young adult's immigration status is resolved.
93. Although planning must not pre-empt the outcome of any immigration decision, it is equally important that children and young adults are prepared for the possibility that their asylum claim or immigration application is not successful and in those circumstances the plan will then need to focus on their return to their home country when they are 18, including to reduce the risk of former looked after children remaining in the UK without status and at risk of exploitation. A holistic and informative approach gives children who do not have, or do not yet have, leave to remain in the UK long-term the best chance of achieving durable outcomes, whether in the UK or abroad.
94. If the care leaver's immigration status remains unresolved, pathway plans should consider the implications for them if their outstanding application or appeal is refused. Subject to a Human Rights Assessment by the local authority, the care leaver may then cease to be eligible for care leaver support under the restrictions on local authority support for adults without immigration status (in Schedule 3 to

the Nationality, Immigration and Asylum Act 2002). A template for human rights assessments is published by the No Recourse to Public Funds Network.⁵⁷

95. Former unaccompanied children who have failed to establish any lawful basis to remain in the UK as an adult, as well as those who are in the asylum process, will generally be eligible for practical and financial assistance and support in returning to their home country from the Voluntary Returns Service, run by the Home Office. Further information is available online.⁵⁸

Access to public funds and other services

96. Financial support for care leavers who are former unaccompanied children should reflect their needs and their immigration status. Financial policies should highlight any entitlements and how their immigration status may affect these. Pathway plans should address employment opportunities and funding arrangements for education and training, taking account of the young person's immigration status.
97. If a young person has no recourse to public funds, they will be unable to access a number of welfare benefits and social housing. Subject to the Human Rights Assessment by the local authority under Schedule 3 to the Nationality, Immigration and Asylum Act 2002, the provision of accommodation may form part of the leaving care support provided to a young person who has no recourse to public funds.
98. Having 'no recourse to public funds' does not prevent a person from accessing other publicly funded services, but many of these will have eligibility criteria based on immigration status which will need to be considered.

⁵⁷ <http://www.nrpfnetwork.org.uk/guidance/Pages/default.aspx>

⁵⁸ www.gov.uk/return-home-voluntarily

Annex A

Associated resources

The following list is not definitive and more resources may be available locally.

General guidance

- Working Together to Safeguard Children (2015) clarifies the core legal requirements on individuals and organisations to keep children safe, including the legal requirements that health services, social workers, police, schools and other organisations who work with children must follow.
<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>
- The Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review
www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review
- The Children Act 1989 Guidance and Regulations Volume 3: Planning Transition to Adulthood for Care Leavers
www.gov.uk/government/publications/children-act-1989-transition-to-adulthood-for-care-leavers
- Joint statutory guidance, DCLG and DfE, Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation, (April 2010)
www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation
- United Nations Convention on the Rights of the Child
<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Best Interests Principle

- Safe & Sound (What States Can Do To Ensure Respect For The Best Interests Of Unaccompanied And Separated Children In Europe)
<http://www.refworld.org/pdfid/5423da264.pdf>
- UN High Commissioner for Refugees (UNHCR), UNHCR Guidelines on Determining the Best Interests of the Child, May 2008
<http://www.refworld.org/docid/48480c342.html>

Modern Slavery and child trafficking

- UK Modern Slavery Helpline and Resource Centre
Phone: 0800 012 1700
Web: <https://www.modernslaveryhelpline.org/>
- Modern Slavery Strategy (2014)
<https://www.gov.uk/government/publications/modern-slavery-strategy>
- Duty to notify guidance and forms
<https://www.gov.uk/government/publications/duty-to-notify-the-home-office-of-potential-victims-of-modern-slavery>
- Safeguarding Children Who May Have Been Trafficked, Practice Guidance (2011)
www.gov.uk/government/publications/safeguarding-children-who-may-have-been-trafficked-practice-guidance
- Interim Independent Child Trafficking Advocates Guidance – Early Adopter Sites (2017)
<https://www.gov.uk/government/publications/child-trafficking-advocates-early-adopter-sites>
- Independent Child Trafficking Advocates Service Provider – Early Adopter Sites (Barnardo's)
<http://www.barnardos.org.uk/cta.htm>
- NSPCC Child Trafficking Advice Centre (providing specialist advice and information to professionals who have concerns that a child may have been trafficked)
Phone: 0808 800 5000 (Monday to Friday, 9.30am to 4.30pm)
Email: help@nspcc.org.uk
Web: <https://www.nspcc.org.uk/services-and-resources/services-for-children-and-families/child-trafficking-advice-centre-ctac/>
- On the Safe Side: Principle of Safe Accommodation of Child Victims of Trafficking (ECPAT UK, 2011):
www.ecpat.org.uk/sites/default/files/on_the_safe_side.pdf
- London Safeguarding Children Board toolkit and resources on trafficking:
http://www.ecpat.org.uk/sites/default/files/london_safeguarding_trafficked_children_toolkit_feb_2011.pdf
- ECPAT UK website for links to specialist training, resources, best practice and research on child trafficking and slavery:
<http://www.ecpat.org.uk/>

- FAQs on Child Trafficking, ECPAT UK (2014):
http://www.ecpat.org.uk/sites/default/files/ecpat_faqs_on_child_trafficking_2014.pdf
- Coram BAAF facilitates the Special Interest Private Fostering Groups for local authority practitioners/managers to ensure privately fostered children who might be victims of slavery are safeguarded.
www.corambaaf.org.uk

Immigration issues and refugee or migrant children

- Refugee Council – Children’s Panel. The Refugee Children’s Section has a national remit to offer advice and support to unaccompanied children, and advise other professionals who are involved in their care. This includes work with all unaccompanied children who claim asylum and specialist projects working with trafficked children and with age disputed young people.
Phone: 0207 346 1134
Email: children@refugeecouncil.org.uk
Web: www.refugeecouncil.org.uk/what_we_do/childrens_services
- The Children’s Society provide specialist services supporting refugee and migrant children and young people in London, Leeds, Birmingham, Coventry, Blackburn, Newcastle, Oxford and Manchester
Phone: 020 7841 4400
Email: supportercare@childrenssociety.org.uk
Web: www.childrenssociety.org.uk/in-your-area
- The Royal College of Paediatrics and Child Health have produced advice to support paediatricians in the assessment and management of children and young people of refugee background
<http://www.rcpch.ac.uk/improving-child-health/child-protection/refugee-and-unaccompanied-asylum-seeking-children-and-young-people>
- The No Recourse to Public Funds Network provides focusing on the statutory duties to migrants with care needs who have no recourse to public funds
www.nrfnetwork.org.uk/Pages/Home.aspx
- The Migrant Children's Project advice line at Coram Children's Legal Centre provides specialist advice to professionals, young people and families on the rights and entitlements of asylum-seeking, refugee, trafficked and migrant children and young people:
Phone: 0207 636 8505 (Tuesday to Thursday 10am to 4pm)
Email: mcp@coramclc.org.uk

- The Immigration Law Practitioners' Association provides information and training on immigration, asylum and nationality law
www.ilpa.org.uk/
- Coram Children's Legal Centre, 'Seeking Support: A guide to the rights and entitlements of separated children'
www.seekingsupport.co.uk

Online training resources

- ECPAT UK has produced an e-learning package around child trafficking that can be used individually, in small groups or during training sessions.
<http://www.ecpat.org.uk/content/e-learning-courses>
- Children and Families Across Borders (CFAB) offer training courses for all staff who may come across trafficked children. They are designed for social workers, police officers, teachers, school support staff, housing officers, health staff, early years workers and NGO Staff.
<http://cfab.org.uk/training>

Missing children guidance, strategy and police resources

- Statutory guidance on children who run away or go missing from home or care (2014)
<https://www.gov.uk/government/publications/children-who-run-away-or-go-missing-from-home-or-care>
- Authorised Professional Practice (APP) Guidance on Missing People
<http://www.app.college.police.uk/app-content/major-investigation-and-public-protection/missing-persons/>
- Missing Children and Adults strategy (2011)
www.gov.uk/government/publications/missing-children-and-adults-strategy
- Child Exploitation and Online Protection Centre (CEOP) website
www.ceop.police.uk/
- Modern Slavery and Human Trafficking Unit (MSHTU), National Crime Agency:
<http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre>
- CPS guidance on human trafficking, smuggling and slavery:
http://www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling/

Child sexual exploitation

- Child sexual exploitation: definition and guide for practitioners (2017)
www.gov.uk/government/publications/child-sexual-exploitation-definition-and-guide-for-practitioners
- What to do if you suspect a child is being sexually exploited: A step-by-step guide for frontline practitioners (2012)
www.gov.uk/government/publications/what-to-do-if-you-suspect-a-child-is-being-sexually-exploited
- National Working Group website, a UK network of over 1000 practitioners working on the issue of child sexual exploitation (CSE) and trafficking within the UK.
www.nationalworkinggroup.org
- Parents Against Child Sexual Exploitation (PACE)
www.paceuk.info



Department
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