

# Caring For Unaccompanied Asylum Seeking Children (UASC) Guidance

# **Fostering Services**

This guidance details information that staff and foster parents must be aware of when caring for unaccompanied asylum seeking children. It also sets out specific responsibilities to ensure that unaccompanied asylum seeking children get the best possible care and are kept safe and well.

Unaccompanied asylum seeking children will have experienced varying degrees of loss, trauma, disruption and violence and usually endured long and complex journeys, suffering hardship on the way. They may be traumatised by events in the country where they were living before they came to the UK as well as by what they have experienced travelling to the UK and being separated from their families.

The term 'child' or 'children' is used to refer to all children under the age of 18 years. Where the context specifically relates only to older children, the term 'young person' is used.

As part of Polaris community, the term foster parent is preferred but it is recognised that 'foster carer' is also used in legislation and within the community.

This guidance forms part of the Group Quality Management System in line with ISO-9001:2015 standards and applies to all companies within the group unless stated otherwise.

Guidance Owner:	QA & Safeguarding Team

Approved by:	Operations Board
Date approved:	30 <sup>th</sup> April 2024
Next review date:	April 2027
Version No:	01
Replaces:	Individual Agency Working with Unaccompanied Asylum Seeking Children Procedures
Associated	Safeguarding Policy
Policy and supporting	Safeguarding Children Procedure
documents:	Safeguarding Children at Risk of Exploitation Procedure
	Child Missing or Away without Authorisation Procedure
	Female Genital Mutilation (FGM) Procedure
	Extremism & Radicalisation Procedure
	Education Procedure

All group companies are detailed in the current legal structure.

# Contents

Definitions	3
Legal Context	4
Matching	6
Health	7
Education	9
Culture and Religion	9
Care Plan	6
Safeguarding and Safer Caring Plan	10
Modern Slavery	11
Transition to Adulthood, Continuing Care (Scotland) and Post-18 Planning	12
References and Additional Guidance	14

#### **Definitions**

**Asylum seeker:** A person who has left their country of origin and formally applied for asylum in another country, but whose application has not yet been concluded. A refused asylum seeker is a person whose asylum application has been unsuccessful and who has no other claim for protection awaiting a decision. Some refused asylum seekers voluntarily return home, others are forcibly returned, and for some it is not safe or practical for them to return until conditions in their country change.

Unaccompanied asylum seeking child: According to the Home Office guidance "Processing Children's Asylum Claims, Version 1 (Home Office, 2016a)", an unaccompanied asylum seeking child (UASC) is 'a person under 18 years of age who is applying for asylum in their own right; and is separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so'. It further advises that 'where the person's age is in doubt, he/she should be treated as a child unless and until a full age assessment shows him to be an adult'.<sup>1</sup>

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, 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.

**Separated children:** Separated children are all those outside their country of origin and separated from their parents or legal or customary primary caregiver (Dorling, 2013). This term is widely viewed as good practice because it describes the situation of many unaccompanied children as being separated from their families abroad. Children may also be separated as a result of breakdown of family care, or if family reunification has not been possible. Trafficked children are often, but not always, included and defined as part of the unaccompanied children population.<sup>2</sup>

**Age-disputed children:** A child or young person whose age has been disputed has not had their claimed date of birth accepted by the Home Office and/or by the Local Authority (Health and Social Care Trust in Northern Ireland) that he or she has approached to provide support or protection.<sup>3</sup>

**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

3 Ibid

<sup>&</sup>lt;sup>1</sup> CoramBAAF Practice Note 66: PRACTICE NOTE 66 The health of unaccompanied asylum-seeking and other separated children (2017)

<sup>&</sup>lt;sup>2</sup> Ibid

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.

**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.

**Entry Local Authority/Trust:** the Local Authority/Trust where an unaccompanied child first presents.

**Receiving Local Authority/Trust:** a Local Authority/Trust which accepts the transfer and legal responsibility of an unaccompanied child from an entry Local Authority/Trust, through the National Transfer Scheme for unaccompanied asylum seeking children.

### **Legal Context**

Section 17 of the Children Act 1989 (England/Wales) places a general duty on every Local Authority/Trust to safeguard and promote the welfare of children in need within their area, by providing services appropriate to those children's needs.

The Children (Scotland) Act 1995/2020 states in its over-arching principles that the welfare of the child must be paramount and that the child's views should be taken into account in all matters affecting them. It is considered that because of their particular circumstances and vulnerabilities, asylum seeking children, whether unaccompanied or living with their families, can be considered 'children in need' under Section 93 of the Children (Scotland) Act 1995.

The Children (Northern Ireland) Order 1995 states that the child's welfare to be paramount consideration.

These principles are underpinned by the UN Convention on the Rights of the Child and apply to all children living in the UK.

The UN Convention on the Rights of the Child (UNCRC, 1989) identifies four outcomes that should be met for children and young people:

- The provision of basic needs
- •The protection of children from harm
- •The participation of children in decision-making
- •The prevention of harm

Upon arrival in the UK, children may be 'transferred' to another Local Authority/Trust area as part of the National Transfer Scheme. 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.

The unaccompanied child will be entitled to the same Local Authority/Trust provision as any other looked after child. It therefore follows that all the usual company procedures and processes will apply to unaccompanied children in the same way they apply to all children placed with our foster parents. However, unaccompanied children may have additional needs as a result of their asylum status and their experiences, and these must be considered.

Children may arrive without documentation, or with forged documentation, and their age may not be known. 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.

Age assessments<sup>4</sup> should only be carried out by the Local Authority/Trust where there is reason to doubt that the individual is the age they claim. Whilst this decision and action is carried out by the Local Authority/Trust, it can be a stressful experience for the child. Foster parents and their allocated Social Workers should therefore be alert to this to best support the child.

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, subsequent 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, and this may be something the foster parent is asked to assist the child with, In this case the agency must ensure that foster parents are suitably knowledgeable and confident to undertake this role.

The Local Authority/Trusts have a duty to return a child in care 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

http://adcs.org.uk/assets/documentation/Age\_Assessment\_Guidance\_2015\_Final.pdf https://www.gov.scot/publications/age-assessment-practice-guidance-scotland-good-practice-guidance-support-social/

https://adcs.org.uk/assets/documentation/Age Assessment Joint Working Guidance March2023.pdf

consistent with their welfare). Planning for permanence should include consideration of reunification with the child's birth family.

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.

Foster parents and Social Workers should be alert to any efforts to trace a child's family and the impact this may have on the child.

#### Matching

At the time an unaccompanied child joins the foster family, little may be known about them and their background. However, it is essential, as with all children, that everything known about the child and their background is shared with foster parents. Consideration must be given to whether the foster parents' skills, experiences and knowledge will enable them to safely care for the child, and whether any 'gaps' in the matching process can be quickly and safely addressed (for example, through training).

Efforts should be made to secure a version of the Children's Guide (or equivalent) written in the child's first language. If this is not possible, then an interpreter should be used to talk through the guide with the child, to ensure the child completely understands the content, and can ask any questions they may have. If the child is not able to read, then the guide should be talked through and explained in whichever language the child is most comfortable with.

Unaccompanied children will often have lead (unusually) independent lives and therefore find it hard to adjust to 'normal' boundaries and routines and consideration must be given to this. Whilst children in care can be vulnerable and have additional needs as a result of them being in the care of the Local Authority/Trust, unaccompanied children may have further needs to consider.

#### Care Plan

All children in care, regardless of their immigration status, require a Care Plan. The Local Authority/Trust must provide foster parents with the child's Care Plan at the time the child joins the foster family, or if this is not feasible, within a maximum of ten working days of placement.

The Care Plan will incorporate the child's 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

Polaris 2024 Version 01

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 child's Care Plan should note the key stages of the process for resolving the child's asylum claim or immigration status, 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.

#### Health

Unaccompanied children may travel without documentation, so a definitive health history may not be available. Promotion of health is an integral part of care planning for all children, including Unaccompanied Children and young people. The child's/young person's health needs should be considered in all review processes. General health care needs, i.e. registration with and access to GP services and routine treatment should be arranged at the earliest opportunity by the child's social worker. If a child has emergency medical needs, Accident and Emergency units at hospitals will provide such treatment.

The health assessment will consider all aspects of the child's health including physical, emotional and mental health. Unaccompanied Children and young people may have deep-seated emotional and/or mental health needs, and may experience post-traumatic stress symptoms during the recovery period and long afterwards.

#### England:

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/Trust intends to meet the child's health needs. As part of this, the Local Authority/Trust is required to make sure a health assessment is carried out before the child joins a foster family (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.

**Northern Ireland**: The <u>Children's Services Co-operation Act (Northern Ireland) 2015</u> requires public authorities to co-operate in contributing to the wellbeing of children and young people in the areas of physical and mental health.

The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996 states:

The responsible authority shall, so far as is reasonably practicable before a placement is made, and if that is not reasonably practicable, as soon as practicable after the placement is made. Ensure that arrangements are made for the child to be examined by a medical practitioner; and require the medical practitioner who has carried out the examination to make a written assessment of the state of health of the child and his need for health care, unless the child has been so examined and such assessment has been made within a period of 3 months immediately preceding the placement or the child is of sufficient understanding and he refuses to submit to the examination.

During the placement of the child the responsible authority shall ensure that arrangements are made for the child to be provided with health services, including medical and dental care and treatment.

#### Wales:

The Social Services and Wellbeing (Wales) Act 2014 requires a holistic consideration of wellbeing including physical, mental health and emotional wellbeing, education, relationships and securing rights and entitlements. For children, their physical, intellectual, emotional, social and behavioural development and welfare should also be considered when looking at overall wellbeing.

The initial duty is to create a Care and Support Plan (Section 54, SWWWA 2014), or once the young person reaches 16 this should convert into a Pathway Plan, to prepare the child for adulthood. If the young person is in a dispersal area, there may be a clinic specifically for asylum seekers where these assessments can be carried out by specially trained health professionals. If not, the young person's GP will be responsible for progressing this. As with all looked after children, there is a duty to make sure the young person is registered with a GP within 10 days.

#### Scotland:

Under regulation 3(3)(b) of The Looked After Children (Scotland) Regulations 2009, when a child becomes (or is about to become) looked after, the Local Authority must obtain a written health assessment by a registered medical practitioner or a registered nurse. CEL 16 (2009) recommended that this is offered within four weeks of notification to the Health Board. A new assessment may not be necessary where one has been carried out within three months of the child becoming looked after. Scottish Guidance states: 'There is no

requirement for medical examination and written health assessment of children to take place periodically during placement. Local authorities will need to decide, in consultation with local child health services in which circumstances, and how regularly, it will be beneficial for such children to have medical examinations.

The health assessment must consider any issues arising from the experiences of the child. Foster parents should be aware that unaccompanied children sometimes experience injuries and physical ill health as a result of trauma, physical or sexual violence they have experienced. In addition, a child's mental health may also have been affected, which can impact their patterns of sleeping, eating, behaviour, relationships, self-harm, and so on. A child's background and culture can impact on their understanding of their own physical and mental health needs too.

For more information about the health of unaccompanied asylum seeking children, see "CoramBAAF Practice Note 66: The Health of Unaccompanied Asylum Seeking Children and Other Separated Children." CoramBAAF Practice Note 66

#### Education

Social Workers, Virtual School Heads, 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. See also Polaris Education Procedure for fostering services.

# Culture and Religion

The agency will endeavour to meet the child's cultural and religious needs by careful matching. The agency should not assume that the child wants to live with a family of their culture as this is not always the case, however the majority feel more secure living with families that speak their language and every effort will be made to ensure this occurs. If the young person is matched with foster parents of differing beliefs (religious or cultural), the agency will ensure the foster parents are well informed of what is required of them to meet the child's needs.

It is important that foster parents and their Social Workers have some background knowledge and understanding of the child's country of origin. This will ensure foster parents and staff are alert to issues that the child may have experienced. All unaccompanied children have the right to maintain their cultural identity and values and consideration must be given to how the child's/young person's cultural and wellbeing needs can be best met. The child/young person may want to establish connections with their faith communities/cultural groups or wish to have spiritual support.

All key elements of the child's faith should be taken into account when the child joins a foster family, including any dietary requirements. The child may also require specific items such as traditional dress, prayer mats, alarm clocks and so on.

Consideration should be given to using culturally and ethnically appropriate interpreters when needed, especially for important meetings. It is important that interpreters are from the appropriate 'side' of any divisions in the child's home country, to allow the child to speak freely. Foster parents need to consider how they will communicate on a daily basis with a child who may not speak the same first language as they do. As the child learns English, they may still need an interpreter to assist with specific issues that are difficult to verbalise in a second language, such as health appointments, for example. Support from bilingual staff within the agency or Polaris community should be sought where possible, there are also interpreting services available via external agencies and via liaison with the Local Authority.

Appropriate cultural links in the local or neighbouring community should be identified.

Some cultural attitudes and beliefs held by children may need to be sensitively challenged by foster parents and Social Workers when appropriate; for example, beliefs about female genital mutilation.

# Safeguarding and Safer Caring Plan

As for all children, all appropriate risk assessments must be completed and the child's Safer Caring Plan must be kept up-to-date. However, unaccompanied asylum seeking children can be more vulnerable and face increased or different risks to other children. All those involved in the care of unaccompanied asylum seeking children should be aware of and recognise the particular issues faced by these children. Specific attention should be paid to the Polaris safeguarding procedures regarding exploitation, female genital mutilation, extremism, and missing children for example.

In addition to following the Polaris safeguarding procedures, there are additional issues that should be considered when devising Safer Caring Plans for unaccompanied asylum seeking children. In discussions with the child's Social Worker and other professionals, consider:

- The child must be accompanied to and supported in all legal appointments
- The child may need access to specialist psychological or mental health support
- The child may need access to and additional support with learning English
- An interpreter must be used to ensure the child fully understands key issues and decisions
- What steps will be taken by foster parents, the Local Authority and Police to recover the child if they do go missing, in accordance with local Runaway and Missing from Home and Care protocols. A photograph of the child should be kept on file for use if the child goes missing

 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 lives. It can also help to build the relationships that can form a protective factor, reducing the risk of the child going missing

If it is suspected that the child may have been trafficked, there are additional steps that may be agreed by the child's Social Worker, for example:

- Temporarily removing mobile phones to prevent traffickers making contact with children, and putting in place other methods for the child to stay in touch with friends or family, if required
- Encouraging children to memorise a phone number so that, if they do go missing from care but then find they are at risk, they can contact the Local Authority or foster parent
- Allowing access to the internet only when in group settings
- Providing 24 hour supervision whenever a child leaves their care setting for the first
   4 12 weeks in care
- Ensuring the child's room does not allow for easy exit, for example, is on an upper floor
- Providing appropriate training to previously trafficked children, so that they can talk to trafficked children newly taken into care about the risks they face.

Refer also to Polaris Safeguarding Children at Risk of Exploitation Procedure.

See also on NSPCC Learning:

> Protecting children from trafficking and modern slavery

## **Modern Slavery**

Child victim of modern slavery: Modern slavery includes human trafficking, slavery, servitude and forced or compulsory labour for the purpose of exploitation. 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. 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).

The identification of a child who is a potential victim of modern slavery, or is at risk of being a victim, should always trigger the agreed local child protection procedures to ensure the child's safety and welfare, and to enable the police to gather evidence about abusers and coercers.\*

 $\frac{https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/177033/DFE-00084-2011.pdf$ 

Polaris 2024 Version 01

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 NRM) where there are reasonable grounds to believe that an individual may be a victim of modern slavery or trafficking. 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. If you have any concerns that a child may be, or may have previously been, a victim of modern slavery, you must seek advice from your Designated Safeguarding Lead immediately. Further guidance about Modern Slavery is available here - Victims of modern slavery - GOV.UK

Although it is recognised that Unaccompanied Asylum Seeing Children can take part in work experience placements or training **if that forms part of their education**\* it must be made clear to foster parents that: Children under the age of 18 should not be given permission to work. "Helping out" in businesses linked to the family or undertaking volunteering roles should be carefully considered and agreed to by the child's social worker and those supporting the child and the discussion/consideration and decision should be clearly recorded.

\*https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment data/file/111450 1/Permission to work and volunteer.pdf

# Transition to Adulthood, Continuing Care (Scotland) and Post-18 Planning

UASC have the exact same rights as all children in foster care and this extends to Post-18 planning, transition to adulthood, Continuing Care (Scotland) and Care Leavers rights.

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. The period approaching a child's 18th birthday can be particularly stressful and the child may be at increased risk of 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.

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. Any appeal or further application should be submitted, where appropriate, by the child's legal adviser.

#### References and Additional Guidance

**CoramBAAF Practice Note 66** 

Home Office streamlined guidance, Processing Children's Asylum Claims

**European Convention on Human Rights** 

https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2016-to-2017

Children Act 1989

Children Act 2004

Children (Scotland) Act 1995

Children (Scotland) Act 2020

Care Planning, Placement and Case Review (England) Regulations 2010

https://www.gov.wales/sites/default/files/publications/2022-11/children-seeking-asylum-guidance-for-social-workers 1.pdf

Promoting the Health and Wellbeing of Looked-After Children

Social Services and Well-being (Wales) Act 2014

The Modern Slavery Act 2015

Victims of Modern Slavery - GOV.UK

Age Assessment Guidance

<u>Children in Care with Immigration Issues - Coram Children's Legal Centre</u>

Care of Unaccompanied Migrant Children and Child Victims of Modern Slavery

Polaris 2024 Version 01

Safeguarding Children who may have been trafficked

Working Together to Safeguard Children

**UK Immigration Rules** 

The National Referral Mechanism (England & Wales)

The National Referral Mechanism (Northern Ireland & Scotland)

<u>health-ni.gov.uk/health/working-arrangements-for-unaccompanied-and-separated-children.pdf</u>