

*All Wales Child Protection Procedures
Review Group*

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Safeguarding and Promoting the Welfare of Unaccompanied Asylum Seeking Children and Young People

All Wales Practice Guidance

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Acknowledgments

In May 2010, representatives from the Wales Strategic Migration Partnership for asylum seekers, refugees and migrants (WSMP), Welsh Refugee Council (WRC), Swansea University and Swansea Children's Services formed a working group to develop Practice Guidance for professionals working with unaccompanied children and young people.

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(See [Annex 6: Listening to children: Good practice, the views of unaccompanied asylum seeking children and young people in Wales on their care and everyday support](#)).

This Practice Guidance is for all professionals working with unaccompanied asylum seeking children and young people and is underpinned by the principle which should always be applied when working with migrant children, which is ***child first, migrant second***. The purpose of the guidance is to safeguard children and promote their welfare and is in line with the Welsh Government's commitment that ALL children should receive rights to **protection, provision** and **participation** regardless of their immigration status.

However, it is worth observing that immigration is an area of policy which is fast-paced and subject to frequent legislative change. This Practice Guidance is not intended to be exhaustive nor can it take account of all the attendant complexities of supporting vulnerable young people within an extremely complex policy and legislative environment; therefore it is very important that practitioners keep up to date with changes in law and policy and practice within the field of immigration and asylum, and local authorities and other agencies should provide regular training for staff who may have contact with unaccompanied asylum seeking children and young people. Annex 4 contains a [Useful Resources](#) section which lists relevant organisations and sources of up to date information.

This guidance includes an immediate [Actions checklist](#) and [Flowchart](#) for ease of reference.

1. Introduction

1.1 This Practice Guidance should be used in conjunction with the '[All Wales Child Protection procedures](#)'. All professionals should refer to organisational and All Wales Protocols for safeguarding children in specific circumstances including:

1.2 All Wales protocols and guidance:

- Child Trafficking (2011)
- Missing Children (2011)
- [Female Genital Mutilation](#) (2011)
- [Safeguarding Children Who may have been Trafficked \(Welsh Government, April 2008\)](#)
- [Safeguarding and Promoting the Welfare of Children who are at risk of Abuse through Sexual Exploitation](#) and [revised supplementary guidance; Safeguarding of Children and Young People from Sexual Exploitation](#)
- [Abuse or neglect linked to belief in spirit possession](#)

For Children's Social Services, this guidance is also to be used in conjunction with the [Framework for Assessment of Children in Need and their families and Safeguarding Children: Working Together under the Children Act 2004](#)

2. Aim and Definition

2.1 The aim of this Practice Guidance is to safeguard and promote the welfare of Unaccompanied Asylum Seeking/Refugee Children and Young People in Wales who should be regarded as **children first and migrant second** and therefore entitled to assessment, support and protection in the same way as any other child.

2.2 An Unaccompanied Asylum Seeking Child is a child 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 by law has responsibility to do so. A child may move between the unaccompanied and accompanied categories whilst their asylum applications are under consideration, e.g. where a child arrives alone but is later united with other family members in the UK, or a child arrives with their parents or close relatives but is later abandoned, or a trafficked child, or one brought in on false papers with an adult claiming to be a relative".¹

2.3 Other definitions include **separated child, unaccompanied minor** and the abbreviation; **UASC (unaccompanied asylum seeking child)**. For the purpose of this document, the term; **unaccompanied children and young people** will be used throughout.

¹<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/>

3. Purpose

The purpose of this Practice Guidance is to:

- 3.1 Inform multi agency professionals of particular action to take to safeguard and promote the well-being of unaccompanied children and young people;
- 3.2 Provide guidance and support for multi-agency professionals who are working with unaccompanied children and young people in Wales;
- 3.3 Help professionals understand relevant complex policy and practice which can make unaccompanied children and young people from abroad particularly vulnerable, including those who may need protection.

4. Background context: Unaccompanied Children and Young People in Wales

4.1 The United Nations Geneva Convention of 1951² has defined refugee as

“any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear is unwilling to avail himself to the protection of that country; or who not having a nationality and being outside the country of his habitual residence, is unable or owing to such fear unwilling to return to it”.

Unaccompanied children and young people are outside their country of origin and are without the care and protection of their parents or legal guardian. Their status, age and circumstances may well be uncertain. Sometimes they may have witnessed or experienced traumatic events and they may be suffering the most extreme forms of loss. There are many reasons why children and young people may leave their home country. Some of the reasons include;

- fear of persecution, due to their religion, nationality, ethnicity, political opinion or social group;
- parents having been killed, imprisoned or disappeared;
- in danger of being forced to fight or become a child soldier;
- war, conflict;
- poverty, deprivation;
- sent abroad by parents/family.

4.2 As with any other child in the UK, unaccompanied children and young people are entitled to social services’ assistance from a named authority for the period of their childhood and their transition into adulthood or until they leave the United Kingdom, or until their needs are otherwise met. Unaccompanied children and young

² <http://www.unhcr.org/pages/49da0e466.html>

people are more likely than not to be “children in need” within the meaning of s17(1), CA 89 in view of their being alone in the UK with no family / friends to support them. They are entitled to assessment, support and protection in the same way as any other child; **child first, migrant second**. The local authority in which a child’s needs are identified is responsible for meeting them.

4.3 Provision of the majority of services that asylum-seeking and refugee children and young people receive is the responsibility of Welsh Government, local authorities and other public bodies in Wales. However, immigration legislation and policy are non-devolved.

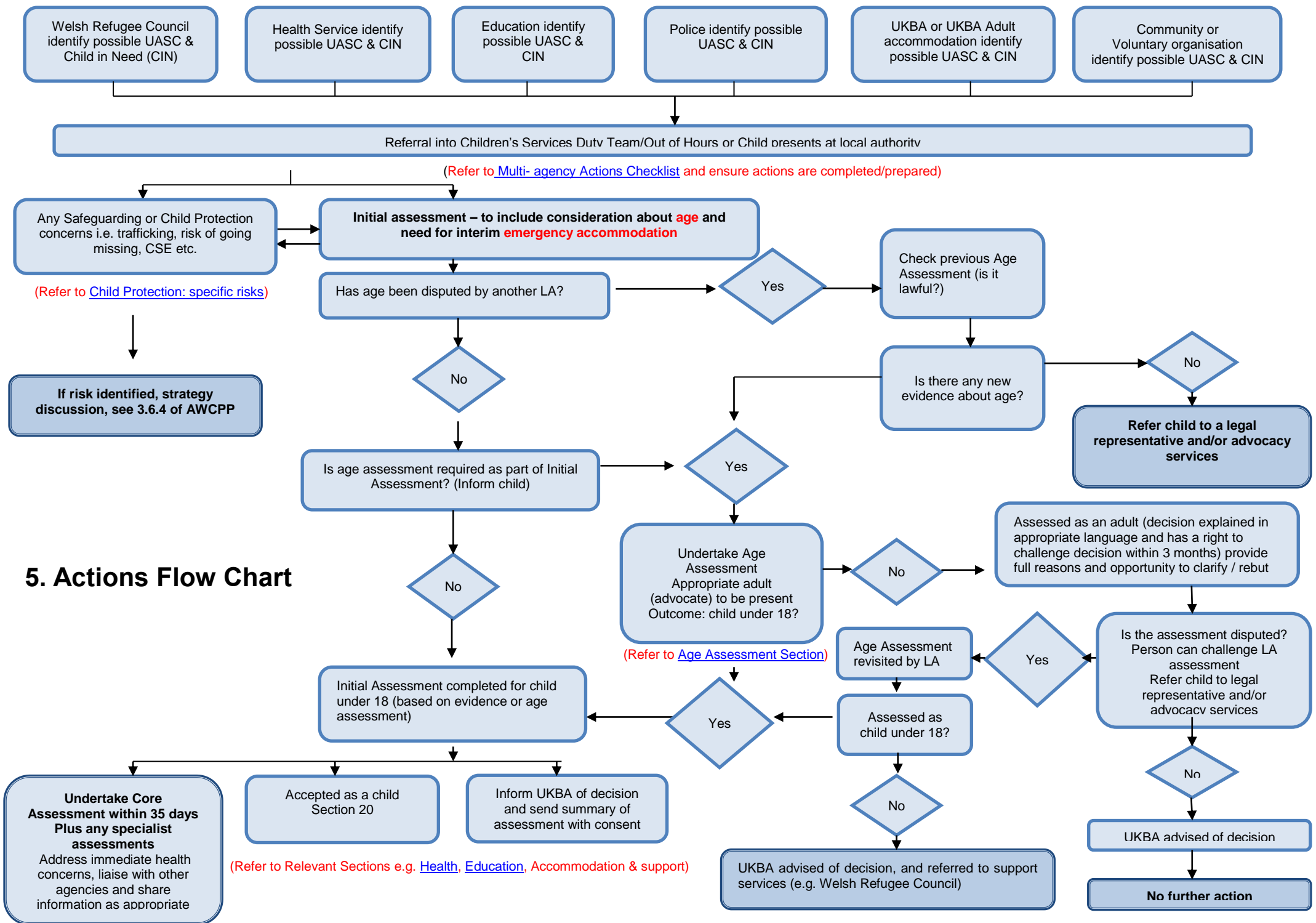
4.4 The majority of unaccompanied children and young people are aged between 15-17 years, although a small proportion are younger. Most children will make a claim for asylum when they have arrived in the UK (as opposed to at the immigration port upon entering the UK). Unaccompanied children and young people may arrive in Wales via a number of routes and modes of travel. All agencies must be aware that children and young people can also arrive with adults who allege to be their carers, uncles, etc. but they may not be related and are essentially unaccompanied and in a [private fostering](#) arrangement which may raise child protection concerns and professionals should not assume that children are safe within such arrangements.

4.5 Wales is home to a relatively small number of unaccompanied children and young people and the majority reside in the larger South Wales’ local authorities. However, several local authorities support small numbers of children and young people in Wales. Essentially, professionals from all multi-agency backgrounds need to be mindful of the possibility that children and young people may, and do, arrive in any local authority in Wales. Whilst there are no exact figures of the numbers of unaccompanied children and young people residing in Wales, according to the *Wales Children in Need Census, March 2010*³, there were 125 Unaccompanied Asylum Seeking Children in Wales.

Action:

- ✓ Refer to [Annex 5 Practice Guidance and Further Reading](#) for more information about asylum seeking and refugee children and young people

³ <http://wales.gov.uk/topics/statistics/headlines/health2011/110224/?lang=en>



6. Multi agency initial actions check – list for professionals working with unaccompanied children and young people⁴

All professionals:

- ☐ **Child first, migrant second.** All agencies are responsible for safeguarding and the welfare of the child or young person is paramount.
- ☐ Professionals who come into contact with unaccompanied individuals who claim to be under 18 must make an immediate referral to Social Services for further age assessment, support and safeguarding due to potential vulnerabilities.
- ☐ In **doubtful or borderline cases** as to a child or young person's age, the child or young person should be given the benefit of the doubt, and a referral must still be made to Children's Services.
- ☐ Where UK Border Agency (UKBA) have evidence or suspect a young person is under 18 and make a referral to Children's Services, Children's Services should consider undertaking an age assessment. UKBA should make a referral to Children's Services unless physical appearance / demeanour very strongly suggests that they are significantly over 18.

Children's Services Social Work professionals:

Safeguarding:

- ☐ Following a referral, notification must be made to the safeguarding manager within the first 24 hours. Safeguarding concerns to be considered under the All Wales Child Protection Procedures.
- ☐ It is recommended that a photograph is taken of the child or young person within the first 24 hours, subject to their consent, alongside an explanation of why the photograph is necessary (believed to be in their best interests). This will help the police with their investigations should the child/young person subsequently go missing. (If consent is refused by a child or young person, legal advice should be sought). A check

⁴ Checklist has been prepared using some information from the 'East of England Unaccompanied Asylum Seeking Children (UASC) Safeguarding Protocol'
<http://www.peterboroughlscb.org.uk/files/Final%20UASC%20protocol.pdf>

could also be made with the UKBA or the Police as to whether they have a recent photograph.

- ☐ **Consider** if child/young person has been trafficked (refer to [Section 7.4.](#))
- ☐ **Consider** the risk of the child/young person becoming missing from care. Refer to your own local authority 'Missing from Care Procedures' and 'All Wales Missing Children Protocol'.

Internal actions:

- ☐ If the referral is made 'out of hours', the manager must ensure that the **intake team** is contacted at the earliest opportunity on the next working day to ensure that all urgent tasks are completed.
- ☐ It is good practice for Children's Services to establish an Unaccompanied Asylum Seeking Children 'Lead Officer' who acts as a single point of contact and who is able to signpost staff to appropriate information.
- ☐ Children's Services should contact UKBA at the earliest opportunity to establish whether the child or young person is known to UKBA and the next actions required. For example application for asylum required, record details and biometric data.
- ☐ Police, UKBA and Children's Services should liaise at the earliest opportunity to record personal details and biometric data of newly arrived children and young people.
- ☐ Make a referral to **Advocacy Services**.
- ☐ An appropriate 'Merton compliant' **age assessment** is crucial to both the outcome of the asylum application, and the appropriate provision of services to meet the individual's needs. **In addition to Social Workers, an Appropriate Adult⁵ (independent advocate) must be present whilst the age assessment is undertaken.** Refer to [Age Assessment Process](#)

Communication:

- ☐ What is the country of origin and language of the child? The Refugee Council's website has multi-lingual pages to assist with the identification of country of origin and language.
<http://www.refugeecouncil.org.uk/practice/multilingual>

⁵ Case law now suggests that a legal clerk, foster carer, key worker, advocates, etc. can act as an Appropriate Adult. Allow child to choose appropriate adult rather than simply appointing one for the child. For further information and definition of Appropriate Adult see http://www.asyl.at/umf/ber/ilpa_working_with_children_1.pdf

- ☐ Arrange an interpreter (the child/young person has the right to change interpreters if he/she has reason to do so).

Accommodation and support:

- ☐ All unaccompanied children and young people should be offered accommodation under **Section 20** pending a full assessment of need. Safeguarding issues should be considered regarding the choice of placement within the first 24 Hours. If there are other children in the placement then consideration should be given to the possibility that the child/young person could be an adult. Refer to fostering team; consider placement safeguarding & equalities needs. B&B accommodation is not suitable for young people.
- ☐ Provide support to children/young people regarding their **asylum claim** and inform them of the asylum process (with the exception of legal advice, which should only be provided by an accredited immigration advisor) and prepare them for every possible outcome of their asylum claim. It is vitally important that the child/young person understands the asylum process. Check what information they have been given about this and ensure that information is correct, contacting the local UKBA office if necessary. Refer to Annex 3.
- ☐ Consider religious beliefs, cultural norms and social opportunities of the child/young person and ensure needs are met as appropriate.

Multi-agency working:

- ☐ If the child/young person has any outstanding immigration issue, a legal representative should be appointed. If the child/young person has not yet claimed asylum and wishes to do so (the child/young person has demonstrated a fear of return) professionals should ensure an experienced asylum solicitor (OISC registered⁶) supports the child/young person.
- ☐ If an **asylum claim** has already been made, liaise with UKBA to identify the child/young person's UKBA Case Owner or to register an asylum claim.
- ☐ Practitioners should alert UKBA Case Owner at the UKBA regional office, Police and any other agencies involved to any changes pertaining to the child/young person's age and outcome of any age assessment.

⁶The Office of the Immigration Services Commissioner (OISC)

http://oisc.homeoffice.gov.uk/about_oisc/

- ☐ Practitioners have responsibility for accompanying the child/young person to UKBA asylum interviews to act as an Appropriate Adult and to act in the child/young person's best interest during the interview.
- ☐ Consult with other professionals Police / Health / Education & other agencies where appropriate and begin LAC Placement & Care Plan.

Health and welfare:

- ☐ Liaise with the named lead in Local Health Board for looked after children.
- ☐ An immediate enhanced health assessment should be undertaken due to various complexities associated with unaccompanied children and young people.
- ☐ Advocacy - unaccompanied children and young people have particular vulnerabilities and local authorities have a duty to provide information to children/young people about advocacy services available to them, and local authorities must find an advocate for children and young people who receive a service from them.

Education:

- ☐ Make notification to the Education Welfare Service within the first 24 hours.
- ☐ Note the duties owed to safeguard welfare include the duty to promote educational achievements.
- ☐ Produce a personal education plan.

Police:

- ☐ In circumstances where the Police are the first point of contact with an individual claiming to be an unaccompanied asylum seeking child/young person, e.g. a clandestine event or 'lorry drop', and where the individual has been identified as having entered or remained in the UK unlawfully, the Police will make an arrest for suspected entry without leave under section 24(1) (a) of the [Immigration Act 1971](#) and take the person into custody. The arrest must comply with the standard PACE conditions and is necessary to enable UKBA to engage in the process. Any child under 10 years entering the UK without permission will not be able to be arrested or held in police detention and in such circumstances officers should ensure that the welfare of the child is maintained. Section 17 [Children Act 1989](#) places a duty of care on the local authority to protect the welfare of any child/young person within its area. A constable could invoke their powers under section 46 [Children Act 1989](#).

- All agencies have a duty of care to the individual and must remain victim focused. The police must ensure that if the person is identified as a potential victim of trafficking that they are de-arrested and contact is made to the United Kingdom Human Trafficking Centre (UKHTC) victim lead.
- Early consultation with Children's Services and UKBA is crucial for safeguarding unaccompanied children and young people.
- Consider the possibility of the unaccompanied child or young person being a victim of child trafficking for the purpose of exploitation and if there are suspicions consult with your Force Single Point of Contact (SPOC). (refer to [Section 7.4.](#))
- It is acknowledged that some adults *may* claim to be under 18 years old, possibly to circumvent the detention process, in any case where there is any doubt as to the age of a child or young person, Children's Services should be appointed to conduct an **age assessment** as soon as possible assisted by an accredited interpreter. It must be remembered that, despite doubts over a person's age, they should be treated as a child until proven otherwise. This is in accordance with Association of Chief Police Officers (ACPO) recommendation.⁷ A young person may be age disputed and over 18 and still may have been trafficked. UKBA will not refer an individual to Children's services if their physical appearance / demeanour very strongly suggests they are significantly over 18.
- All four Police Forces in Wales, local authorities and UK Border Agency Wales and the South West (UKBA) should liaise at the earliest opportunity to record the personal details and biometric data of newly arrived unaccompanied children and young people.
- In terms of immigration, the primary responsibility for recording biometric data (fingerprints and photographs) of new arrivals – whilst in custody – rests with UKBA Local Immigration Teams. However, Police also have responsibility and also need to record biometric data.
- The capture of biometric data and other personal details (whether or not a decision to prosecute follows) brings benefits to all agencies in so far as, in the event of an individual going missing, it enables future checks to be made if the individual re-presents elsewhere.
- The release of an individual before biometric data and other personal details can be recorded compromises the opportunity to determine any previous contact with the UKBA and the Police (or local authorities

⁷ http://www.ceop.police.uk/Documents/ceopdocs/externaldocs/160810_ACPO_lead's_position_on_CYP_recovered_from_cannabis_farms_FINAL.pdf

Children's Services). **This reduces the opportunity for agencies to trace and safeguard individuals who may go missing and are already known to be vulnerable.**

- The Police should also be aware of the fact that an 'Appropriate Adult' in an interview could be a trafficker or a person allied to a trafficker of the child/young person. Only appropriately accredited interpreters (not 'Appropriate Adults') should be used as experience has shown that child traffickers will attempt to 'recover' the child/young person from police or local authority care and take control by 'assisting' with interpretation.
- The detention of an individual – within the [Police and Criminal Evidence Act 1984 \(PACE\)](#) holding time frame (24 hours) – allows the police to take and record personal details i.e. photographs and finger prints. Police can also take DNA samples (if child is over 10 years of age) if consent is given by social services acting as an Appropriate Adult. The DNA samples of the unaccompanied child or young person will be stored by police unless they go missing then it can be submitted for entry onto the DNA database.
- Section 141 of the [Immigration and Asylum Act 1999](#) allows a constable to take fingerprints on behalf of UKBA. The Act allows a constable to take fingerprints but does not stipulate an age. UKBA policy is only to take fingerprints of those who are 5 years and over.
- Section 57 of PACE should also be noted in relation to the additional rights for children and young persons in detention, namely that steps should be taken to ascertain the identity of the person who is responsible for the child/young person's welfare as soon as is practicable. Extreme care should be taken in identifying the persons who claim to have responsibility for the child/young person. Experience has shown that persons engaged in Human Trafficking will make strenuous attempts to 'recover' child victims of trafficking.
- Powers to search - Section 135 of the [Immigration and Asylum Act 1999](#) which inserts 25C into the [Immigration Act 1971](#). In addition to this a police constable would be able to rely upon Section 19(3) PACE, allowing him to seize anything which he has reasonable grounds for believing is evidence in relation to an offence and that it is necessary to seize it in order to prevent the evidence from being concealed, lost, altered, or destroyed. At all times the officer must inform the person the reason for the search. As you will be aware, if the arrest is unlawful it is essential that the relevant search form is completed for persons and any premises searched should be subject to a similar written record detailing the reasons for the search and showing that the suspect was informed of the reasons.

UK Border Agency (UKBA):

- ☐ Where a child (or individual who is thought to be a child) has been identified as having entered the UK unlawfully, UKBA will endeavour to attend custody during the holding time frame (24 hours) for the purposes of capturing the individual's biometric data.
- ☐ **Procedures on fingerprinting:**
"Children aged between 5 and 16 can only be fingerprinted in the presence of an adult who is:
The child's parent or guardian; or
A person who for the time being takes responsibility for the child (Responsible Adult).
Children aged 16 and 17 can be fingerprinted without the presence of a responsible adult". UKBA does not fingerprint under 5s.
- ☐ Where UKBA are unable to attend, the Police will take and record personal details i.e. photographs and finger prints before arrangements are made to release the child/young person to the care of the local authority Children's Services.
- ☐ If the Police or UKBA suspect that the child/young person in question has been trafficked a referral should be made to the local authority Children and Young People's Services. Refer to [UKBA Trafficking guidance](#)

Age dispute cases UKBA:

- ☐ Where the physical appearance and/or general demeanour of the applicant does **not very strongly** suggest that they are **significantly** over 18 years of age, but maybe 18 or over the applicant should be treated as an **age disputed case. This is a high threshold.** In borderline cases, it is the policy of UKBA to give the applicant the benefit of the doubt and **treat them as a child** and will refer the child to the care of relevant Social Services for an age assessment.
- ☐ UKBA will not refer an individual to Children's services if their physical appearance / demeanour very strongly suggests they are significantly over 18.
- ☐ A Chief Immigration Officer/Immigration Officer/Case Owner can make a visual assessment of the child/young person, and where the physical appearance and/or general demeanour of an applicant very strongly suggests that they are significantly over 18 years of age, then they should be processed and treated as an adult and should be subject to the same conditions as adults. The assessment needs to be approved by a countersigning officer of at least CIO grade.

- ☐ The CIO will issue notice IS97M to the subject to inform them of this decision.
- ☐ In cases where UKBA is unsure of the applicant's age, they will be given the benefit of the doubt and treated as a child, until all available information is collected and a decision on their age has been made.
- ☐ UKBA will accept age disputed applicants as children, when a '**Merton-compliant**' age assessment has assessed their age to be below eighteen. ([Refer to Age Assessment Process](#)) Other information also to be considered might be identification documents, medical reports and court decisions.

7. Child Protection: specific risks

7.1 The **All Wales Child Protection Procedures** outline actions to be taken when professionals suspect a child or young person to be at risk of significant harm of neglect, emotional, physical or sexual abuse and these procedures should be followed irrespective of the child/young person's immigration status. Professionals should be mindful of the risks that unaccompanied children and young people may be subject to. All risks to the child/young person should be considered under the All Wales Child Protection Procedures in conjunction with the [Framework for the Assessment of Children in Need and their Families](#) in particular, Professionals should be aware of:

7.2 Children at risk of going missing

7.2.1 Unaccompanied children and young people are a particularly high risk group in terms of going missing and are vulnerable in these circumstances. Local authorities should have local multi-agency protocols which must be followed if a child/young person goes missing. The All Wales Child Protection Procedures also provide specific guidance regarding children that go missing that are on the **Child Protection Register**.

Actions:

- | |
|---|
| <ul style="list-style-type: none"> ✓ Refer to the All Wales Missing Children Protocol (2011) ✓ Refer to the All Wales Child Trafficking Protocol (2011) |
|---|

7.3 Sexual Exploitation

7.3.1 Child Sexual Exploitation (CSE) is described in the **All Wales Protocol document – Safeguarding and promoting the Welfare of Children who are at risk of abuse through exploitation** as;

“The coercion or manipulation of children and young people into taking part in sexual activities. It is a form of sexual abuse involving an exchange of some form of payment which can include money, mobile phones and other items, drugs, alcohol, a place to stay, ‘protection’ or

affection. The vulnerability of the young person and grooming process employed by perpetrators renders them powerless to recognise the exploitative nature of relationships and unable to give informed consent.”

7.3.2 (CSE), for the purpose of the Protocol, includes:

- Abuse through exchange of sexual activity for some form of payment
- Abuse through the production of indecent images and/or any other indecent material involving children/young people whether photographs, films or other technologies
- Abuse through grooming whether via direct contact or the use of technologies such as mobile phones and the internet
- Abuse through trafficking for sexual purposes

Actions:

- | |
|--|
| ✓ Professionals who suspect a child has been or is at risk of sexual exploitation should refer to the Safeguarding and Promoting the Welfare of Children who are at risk of Abuse through Sexual Exploitation and the All Wales Child Protection Procedures and revised supplementary guidance; Safeguarding of Children and Young People from Sexual Exploitation |
|--|

7.4 Child Trafficking

7.4.1 The two most common terms for the illegal movement of people, **‘trafficking’** and **‘smuggling’**, are very different. In human smuggling, immigrants and asylum seekers pay people to help them enter the country illegally, after which there is no longer a relationship. **Trafficked** victims are coerced or deceived by the person arranging their relocation. However, there is a difference between adult and child trafficking, where the victim is a child neither coercion nor deception need to be present for the child to be considered trafficked. On arrival in the country of destination the trafficked child or person is denied their human rights and is forced into exploitation by the trafficker or person into whose control they are delivered or sold.

The *Palermo Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime to the UN Convention* (2000) (ratified by the UK on 06 February 2006) defines trafficking as: (Article 3)

“Trafficking of persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or

the removal of organs. The consent of a victim of trafficking in persons to the intended exploitation set forth in sub-paragraph (a) of this article shall be irrelevant where any of the means set forth in sub-paragraph (a) have been used. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in sub-paragraph (a) of this article “Child” shall mean any person under eighteen years of age.

The Palermo Protocol (United Nations, 2000) establishes children as a special case. Any child transported for exploitative reasons is considered to be a trafficking victim, whether or not they have been deceived. This is partly because it is considered not possible for children to give informed consent. Even when a child understands what has happened, they may still appear to submit willingly to what they believe to be the will of their parents or accompanying adults. It is important that these children are still protected.

7.4.3 The Council of Europe Convention on Action against the Trafficking in Human Beings, article 10 (3) presumes that a child is a child until otherwise verified even if age disputed. In addition, Article 4 also states that presumptions should not be made as to a child’s complicity in acts of exploitation, fraud, deception.

7.4.4 Unaccompanied children can be trafficked for a number of reasons which include; domestic servitude, sexual exploitation, benefits’ fraud, transportation of drugs, begging, criminal activity and forced labour. A child/young person cannot give informed consent to moving countries. Trafficking can happen internally (i.e. within the UK) and across international borders. Given the clandestine nature of trafficking activity, the incidence of child trafficking is very difficult to quantify and recent research in Wales suggests professionals may not always recognize and /or act on suspected cases of child trafficking⁸.

7.4.5 **There are clear links between unaccompanied children and young people, children/young people who go missing from Local authority care and children/young people who are at risk of trafficking.** UK Research suggests that many trafficked children/young people will present as being unaccompanied and seeking asylum, and will subsequently go missing from care, usually within 48 hours⁹.

7.4.6 Similarly, it is possible that trafficked children/young people may appear to be in a **private fostering arrangement** with extended family members. The *Children (Private Arrangements for Fostering) (Wales) Regulations (2006)*¹⁰ apply to children from abroad who are living with

⁸ Refer to *Agenda for Action*, Save the Children (2008), *Bordering on Concern: child Trafficking in Wales*, Children Commissioner for Wales (2010)

⁹ Of 330 identified trafficked children in the UK, 55%/183 children went missing from local authority care within 48 hours of initial placement, Kapoor, 2007.

¹⁰ Private fostering is defined under Section 66, *Children Act* (1989) as an arrangement for a child under the age of 16 years (or 18 if disabled) residing for more than 28 days in the care

extended family. Consideration may be given to the investigation of a private fostering arrangement and agencies may want to undertake an assessment in the child protection context in accordance with the *Framework for the Assessment of Children in Need and their Families*.

Actions:

- ✓ Professionals who may suspect trafficking should refer to the; *All Wales Child Trafficking Protocol* (2011)
- ✓ Refer to Child Trafficking in *Useful Resources, Practice Guidance and Further Reading* in [Annex 4 & 5](#).
- ✓ Refer to FGM Multi-agency guidelines:
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_124551

8. Interpretation and communication

8.1 Arrangements must be made for an interpreter to be available when communicating with children/young people for the purpose of safeguarding and promoting their welfare if their first language is not English. If a decision is made that an interpreter is not required the reasons for this should be clearly recorded on the child/young person's case notes/case file.¹¹ Children's Social Services should always work under these arrangements based on the findings of the Victoria Climbié enquiry; however this is good practice guidance for all agencies.

8.2 Professionals should be mindful that whilst some unaccompanied children and young people may appear to understand and speak English when talking about everyday things, they may not be able to accurately articulate their life experiences or fully express their feelings if they are not given the opportunity to speak in their first language or the correct dialect.

8.3 Unaccompanied children and young people are entitled to request a same gender interpreter or for their interpreter to be changed. Children/young people should have an interpreter who they trust and fully understand. It is important that this is discussed with them at an early stage, along with the role of the interpreter. During consultation with some unaccompanied children/young people as part of the process of writing this guidance, it was raised that having an interpreter present at GP and dentist appointments was particularly important.

8.4 Many agencies will have their own local arrangements in place to access interpreters and translators and professionals should follow these. Given the nature of the work involved it is important that these arrangements include agreements with interpreters around ethical issues, including independence and confidentiality. It is for these reasons that individuals that

of someone who is not a parent, close relative or someone with parental responsibility (close relatives are defined by the Act as step parents, siblings, siblings of a parent and grandparents).

¹¹ Recommendation 18, para 6.251, Laming (2003)

know the child/young person personally i.e. family members, friends or community members should not be used as interpreters. Interpreters should be CRB checked.

8.5 If an agency does not have arrangements in place to provide interpreters or translated information **or** existing arrangements are not suitable i.e. no interpreters are available who speak the child/young person's first language, alternative arrangements should be made. In Wales, interpretation and translation services include; The Wales Interpretation and Translation Services (WITS) and Barnardo's Interpreter Service. Refer to [Annex 4 Useful Resources](#)

8.6 Unaccompanied children and young people who are in receipt of services should also, where appropriate, be provided with age appropriate written information about services and other relevant documents e.g. leaflet about how to make a complaint about service providers including local authority, copies of LAC reviews. Some agencies may already have certain information published in a range of languages which will be appropriate. However arrangements may need to be made for information to be translated. Some children/young people may require information orally and efforts need to be made to ensure that the child/young person understands the information that they are provided with whether in writing or orally.

Actions:

- ✓ Refer to [Annex 4 Useful Resources](#) for interpretation provision
- ✓ Familiarise yourself with your agency's arrangements to organise interpreters and the translation of documents
- ✓ Ensure that at the earliest opportunity, children/young people are provided with relevant and age appropriate written information

9. Advocacy Services

9.1 Advocacy services should be discussed and offered to unaccompanied children and young people by Children's Social Services.

9.2 The role of an advocate for unaccompanied children and young people is extremely useful in enabling them to convey their wishes and feelings. It can give them a voice in decision making and can help to resolve some of their issues at an early stage. For example Advocacy Services could help unaccompanied children/young people challenge age assessments, access appropriate housing, assist with accessing legal advice or representation on particular matters.

9.3 Under Section 26 A of the [Children Act 1989](#) and the Leaving Care Act 2000 'Children in need' (S17, [Children Act 1989](#)) 'Looked After Children' (as prescribed s22 CA 1989) and care leavers ([Leaving Care Act 2000](#)) have a right to be provided with an advocate by Children's Services, if they would like one, for the purpose or representation or complaints.

9.4 Children and young people can often find expressing their opinions, experiences and emotions difficult, particularly when they are involved with complex processes in an adult dominated environment. Unaccompanied children and young people are no exception to this and may feel further inhibited for a number of reasons including; fear of an unknown country and culture, little or no other support networks in the UK (family or friends), negative experiences with government officials/professionals in their home country, barriers of language and social context.

9.5 Children and young people are also entitled to an advocate if they have a complaint about a service they have received/are receiving in hospital or from a primary care service i.e. dentist, doctors etc. Children's advocates can contact the complaints manager in the NHS Trust (if the complaint is about hospital or community services) or the Local Health Board (if the complaint is about general practitioners or dentists, pharmacists or opticians). NHS Direct Wales can provide contact details.

9.6 Social Workers should follow their own procedures when arranging an advocate for a child. If arrangements do not exist or are not appropriate to the circumstances of the case there are a number of advocacy services across Wales that can provide advocates. Unaccompanied children and young people should receive information about who to contact if they have a complaint about children's services.

Actions:

- ✓ Refer to the Advocacy section in [Annex 4 Useful Resources](#)
- ✓ Refer to Advocacy services in your area;
<http://www.childreninwales.org.uk/inyourarea/advocacy/index.html>
- ✓ Refer to Children's Advocacy Officer at Welsh Refugee Council;
<http://www.welshrefugeecouncil.org/youth/professionals/cild-advocacy-officer/>

10. Age Assessment Process

10.1 The age assessment process is about gathering a variety of information and conducting interviews with the child/young person in order to assess if the information gathered amounts to an accurate reflection of the child/young person's stated age (if they have one). An age assessment which incorrectly judges a child/young person to be over 18 can have severe consequences by denying young people under 18 access to statutory services and potentially placing them at risk. For example, a child/young person may be housed with other adults seeking asylum if assessed as over 18. Conversely, an incorrect age assessment which judges a young person to be

under 18 when they are in fact older may mean that they are inappropriately accommodated as a child. The assessment process does not impose a burden of proof on the child to 'prove' age.

10.2 It is recognised that age assessment is not an exact science,¹² but one that is best suited to a **holistic multi-agency assessment process** by social workers, with input from individuals in the child/young person's life, such as; representatives from health services, education, advocacy services, youth workers and foster carers. Failure to communicate with other agencies in order to have a complete picture of the child/young person should never place a child/young person at risk. This is a difficult area of practice because there is currently no statutory guidance on how to conduct an age assessment. The process has developed through local authority practice and case law. **An interpreter and an appropriate adult/independent advocate should be present at the age assessment.**

10.3 Children should not be routinely exposed to a full age assessment for various reasons unless there is a need, such as a dispute, however, all children will require a needs assessment and age should be included in this. An age assessment should be carried out if:

- There is a dispute about a young person's age
- or**
- If their appearance or demeanour suggests that they are younger or older than they claim to be
- and**
- There is no documentary evidence of their age

10.4 One of the risks of the age assessment process is incorrectly assessing a child/young person's age as over 18; this means that it is likely that the child/young person may be accommodated with adults in UKBA asylum support accommodation. There are no safeguards in existence to monitor the safety or protection of 'age disputed' children/young people in this context. Social Workers should have regard to this and other risks around welfare and safeguarding when making any decisions on age assessment or support.

10.5 **Why are some children 'age disputed'?**

Unaccompanied children who arrive in the UK without a parent or guardian are the responsibility of local authorities under the [Children Act 1989](#), Part III, Section 20. However, many of these children who arrive may appear to look younger or older than their stated age, possess false documents, or arrive without documents evidencing their identity and/or date of birth and may not know their age as some countries do not recognise birthdays. As a consequence they may find their age disputed by the UK Border Agency or Social Services. It is then for the local authority to decide whether the person is a child/young person and make an age assessment and allocate an age. In

¹²Immigration Law Practitioners Association, 2009, Children's Legal Centre 2009, Royal College of Paediatrics and Child Health, 2009

circumstances where age assessment is carried out as part of initial / core assessment, professionals must tell the child the purpose of the assessment so that it is not done under guise of 'needs assessment' but really about age.

10.6 UKBA Policy to be applied by UKBA staff when the person is first encountered ([2.1 Initial Assessment, Assessing Age](#))

- 1) *"The applicant should be treated as an adult if their physical appearance / demeanour **very strongly suggests that they are significantly over 18 years of age**.*

Careful consideration must be given to assessing whether an applicant falls into this category as they would be considered under adult processes, and could be liable for detention.

- 2) ***All other applicants should be afforded the benefit of the doubt and treated as children, in accordance with the [Processing an asylum application from a child AI](#), until a careful assessment of their age has been completed.** This policy is designed to safeguard the welfare of children. It does not indicate final acceptance of the applicant's claimed age, which will be considered in the round when all relevant evidence has been considered, including the view of the local authority to whom unaccompanied children, or applicants who we are giving the benefit of the doubt and temporarily treating as unaccompanied children, should be referred".*

In all cases the local authority has an obligation to conduct their own assessment and cannot simply adopt the Home Office/ UKBA decision.

10.7 If the local authority age assessment continues to dispute the child/young person's age, the child/young person must also be informed, via an interpreter, that he/she has the right to legally challenge the decision and referred to advocacy services and/or legal representative.

10.8 Following the outcome of the age assessment, Children's Services should inform the child that a summary/assessment of the decision on age will be given to UKBA. If the person is assessed as a child or young person Children's Services must then take any actions based on the outcome of their Child in Need Assessment. If the person is assessed as an adult they should be referred to UKBA.

Professionals should be aware that **UKBA guidance** to Case Owners states:

"Case owners should give considerable weight to the findings of age made by local authorities, recognising the particular expertise they have through working with children. In cases where the local authority's assessment is the only source of information about the applicant's age – their assessment will normally be accepted as decisive evidence.

Nevertheless, case owners should carefully consider the findings of the local authority and discuss the matter with them in appropriate circumstances, such as where the findings are unclear; or do not seem to be supported by evidence; or it appears that the case is finely balanced and the applicant has not been given the benefit of the doubt; or that it appears the general principles set out in the Merton judgement were not adhered to".¹³

Where there is any suspicion that an age disputed child may have or is being trafficked, immediate safeguarding actions must be taken and he/she "should be presumed to be a child and shall be accorded special protection measures pending verification of his/her age".

(Article 10, Council of Europe Convention on Action against Trafficking)

"Where there is any uncertainty as to a child's age, that child should be given the benefit of the doubt as standard practice".

(Age Assessment: Joint working protocol between the Immigration and Nationality Directorate (UKBA) and the Association of Directors of Social Services, 2005).

10.9 Conflicting local authority age assessments

It is made clear in ***Age Assessment: Joint working protocol between the Immigration and Nationality Directorate (UKBA) and the Association of Directors of Social Services, 2005*** that;

"A local authority approached for an age assessment should check whether any previous assessment has been carried out by another local authority. The host local authority should request a copy of the age assessment from the original local authority and base further action on the content. In the event that no new evidence is being brought forward that was not considered at the original assessment, the issue should be treated as a complaint about the original assessment and referred to the local authority responsible for it. In the event that new evidence has been brought forward the host local authority should continue to reassess the age of the applicant taking full account of all sources of information".¹⁴

10.10 Conducting age assessments and key legal judgements

Case law requires that a local authority age assessment is as full and comprehensive as possible and conducted in a clear, transparent and fair manner. Case law continues to evolve in respect of age assessments. Until

¹³ 5.2 Considering local authority age assessments

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>

¹⁴ Examples of new evidence could be; birth certificates, discovery of family members, professional opinions from health, education or advocates.

the point at which national guidance is available case law should be used to inform the practice of Children's Social services and other agencies involved.

Key judgements in Case law

[The Children's Legal Centre](#) has summarised the following key judgements in relation to age assessments;

R (B) v London Borough of Merton 2003 - This is a key judgement about age assessment and thus policy and practice guidance and other references to the process will often state that age assessments must be '**Merton-Compliant Age Assessments**'.¹⁵ The judgement established a vital baseline for age assessment, but this judgement should not be utilised in isolation from the growing body of emerging case law.

R (B) v London Borough of Merton 2003

An assessment cannot be made solely on the basis of appearance or demeanour, and should be a holistic one taking account of the young person's appearance, demeanour, background and credibility.

- Any assessment should take into account relevant factors which form the child's medical, family and social history and the decision maker should seek to elicit the general background of the application, including family circumstances and history, educational background and activities during the previous few years. Cultural and country of origin information is also important. General credibility of child as to their journey or past is not necessarily determinative of general credibility on age.
- There was a duty on the decision makers to give reasons for a decision that an applicant claiming to be a child is not a child.
- The young person should be given an opportunity during the assessment to answer any adverse points the decision maker concluded.
- Age assessments must be conducted by two experienced trained social workers (at least one should be a qualified Social Worker) and that all the safeguards to ensure fairness are in place.
- If the decision maker is left in doubt about the age of the claimant, the claimant should receive the benefit of that doubt.

R (on the application of A) v London Borough of Croydon: R (on the application of M) v London Borough of Lambeth 2009

¹⁵The term used to describe age assessments which comply with the Administrative Court's guidance on appropriate procedures to be adopted by a local authority when assessing a young person's age set out in R (B) v London Borough of Merton.

This judgement held that, although age assessment remained the responsibility of local authorities, in the event of a challenge by judicial review, it would be for the High Court itself to determine, as a matter of judicial fact, whether the person is a child and how old he or she is.

R (FZ) v London Borough of Croydon

This judgment included;

- a young person has a right to have an **Appropriate Adult** present at the age assessment interview. Social Workers should ensure that arrangements are made with independent advocacy providers to ensure that age disputed children have an advocate who can be present throughout the age assessment process,
- there is no burden of proof on the child to prove his age,
- affirms the *Merton* principles as to credibility,
- fairness requires that the assessors put to the child adverse inferences and matters which require clarification at the end of the initial interview so as to provide the child an opportunity to rebut / clarify matters before a final decision is reached on age.

Go to [Annex 2 \(c\) Basic Principles in Assessing Age.](#)

10.11 Summary of evidence for the UK Border Agency

The Age Assessment should be a careful and balanced consideration of various factors: including; cultural background, relevant country of origin information, social factors, demeanour, understanding and vulnerability as well as physical appearance. In addition age assessment should be a reflective practice and agencies' and individual initial assumptions may need to be questioned and critically-evaluated based on a holistic assessment of all contributing factors, as any assessment may be challenged in court and social workers will be expected to evidence how they arrived at their conclusions.

There is also a responsibility on local authorities to provide at least a **summary** of the age assessment to the relevant case owner at the UK Border Agency, in order that they can ascertain that a '**Merton compliant**' assessment has been conducted¹⁶.

Professionals should be aware that UKBA's position on this is as follows;

¹⁶ UKBA are currently working with the Association of Directors of Children's Services in England to develop a pro-forma that includes all the information from the age assessment report that UKBA requires to determine age.

“Case owners should request a full copy of the local authority’s age assessment and confirmation from the local authority that it has been carried out in compliance with the guidelines in the Merton case. In some instances local authorities may still feel unable to share their full age assessment with the Agency citing data protection and/or confidentiality concerns. Whilst accepting that the information contains sensitive personal data, it should be pointed out to the local authority that there is provision for sharing such information with the Agency within the Data Protection Act 2008”.¹⁷

10.12 **However, there is no requirement in statute or settled law** that a local authority should provide UKBA with a **full Merton compliant age assessment** of the information gathered during the age assessment process and the **Association of Directors of Social Services (ADSS)** joint working protocol acknowledges that UKBA does not need or require such extensive information.¹⁸

There is a responsibility on local authorities to provide a **summary** of the age assessment. **The summary of evidence to UK Border Agency should include:**

- An outline of the age assessment process (where it was conducted, who was present, e.g. interpreter in person, person assessed, informed of reason for assessment)
- Whether or not other sources of information have been considered, such as; documents, medical, education, health professionals, and foster carers
- A summary of the Social Workers’ analysis and weight given to conflicting information
- How the decision was communicated to the child/ young person

Go to Annex 2 (b) for a comprehensive list of what information should be included in a summary.

A fair, holistic, reliable, timely age assessment that limits uncertainty and stress is in the best interest of the child/young person.

Actions:

- | |
|---|
| <ul style="list-style-type: none">✓ Refer to Proforma for completion of age assessment of unaccompanied children and young people.✓ Refer to Hillingdon Practice Guidelines for Age Assessment of Young Unaccompanied Asylum seekers✓ Refer to other relevant Case-law in Annex 2 and Practice Guidance and Further Reading✓ Maintain an up to date knowledge base on developments in age assessment case law, guidance, policy etc. |
|---|

¹⁷<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>

¹⁸ Action on Rights for Children, *Unaccompanied Children Seeking Asylum: Privacy, Consent and Data Protection*, 2010

- ✓ UKBA guidance 'Assessing Age
- ✓ <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>

11. Accommodation and support

11.1 Unaccompanied children and young people remain the responsibility of the local authority in whose geographical area they seek help. Section 20 of the [Children Act 1989](#) requires local authorities to provide accommodation for children in need within their area whose assessed needs require this intervention. If a child is accommodated under Section 20 she/he becomes a 'Looked After Child'. There is a statutory duty placed on local authorities under the [Children Act 1989](#) to assist "children in need" and provide accommodation for certain groups of "children in need". An unaccompanied Asylum Seeking Child should always be accommodated under Section 20.

11.2 Following the *Hillingdon Judgement* (2003) guidance provided by the Department of Health (DoH) (2003) and the National Assembly for Wales (NAW) (2005), stipulates that support should be based on the same assessment procedures for citizen children, as set out in the *Framework for the Assessment of Children in Need and their Families* (NAW and the Home Office 2001).

11.3 The *Hillingdon Judgement* refers to the judicial review of *Berhe v London Borough of Hillingdon* [2003] EWHC 2075 (admin). *The Hillingdon Judgement*, 2003 established that Section 17 of the Children Act should not routinely be used to meet the accommodation and support needs of UASC's, in particular the 16+ age group and that such support should normally be met through Section 20 provision.

11.4 In following post-Hillingdon guidance, LAC 29 circular (NAW 2003) stipulates "the assessment of whether the child requires accommodation should first determine whether the child meets one or more of the criteria set out in section 20(1) the [Children Act \(1989\)](#). Those criteria are:

- (a) there being no person who has parental responsibility for him;
- (b) him being lost or abandoned; or
- (c) the person who has been caring for him/her being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation and or care."

11.5 Professionals must be mindful of the safeguarding implications, outlined in [section 10.1](#), in respect of identifying suitable accommodation when an age assessment is;

- needed but not yet been undertaken
- not concluded or
- in the process of being disputed.

12. Ensuring health needs of unaccompanied children and young people

12.1 Unaccompanied children and young people may arrive in the UK with existing health needs and/or health needs arising from their experiences pre-migration and during their journeys. Journeys to the UK may have placed children/young people under certain risks. It is important that professionals ensure children and young people are allocated a LAC nurse and/or medical care immediately if needed. Registration with a GP should be arranged at the earliest opportunity and an interpreter arranged when relevant. Refer to [Section 8. Interpretation and Communication](#)

12.2 All Local Health Boards have a named/lead Nurse for Looked After Children. Unaccompanied children/young people and age disputed children/young people who have been given the benefit of the doubt as to their age should be referred to the LAC Nurse and receive a **Health Assessment** as part of the Local authority needs assessment within 2 working days of referral.

12.3 An **enhanced health assessment** should be undertaken due to the particular circumstances of unaccompanied children and young people. The health assessment should take account of existing health issues, and must cover an individual child/young person's physical, emotional and psychological health needs. However, it may be difficult to ascertain a full or in-depth medical history for many unaccompanied children and young people due to the following;

- preventative health may not be available in their country of origin
- the child/young person may never have come into contact with medical professionals before
- the child/young person may not know about their health history
- it may be difficult to ascertain a child/young person's immunization history
- The child/young person may not disclose rape or sexual assault or exploitation

12.4 It is therefore essential that Local Health Boards and local authorities have clearly identified health assessment pathways, and undertake an enhanced health assessment to identify the complex spectrum of health and safeguarding risks and issues that an unaccompanied child or young person may arrive with, such as;

- previously unidentified congenital defects.
- consequences of pre and post flight trauma, from brutality experienced or witnessed by the child/young person in their country of origin, or on their journey to the UK or subsequent to their arrival, including severe depression.

- health risks from country of origin, is screening needed for TB, HIV, Hepatitis B and other infections; exposure to toxins; grief and loss of family.
- health risks from their journey into the UK, e.g. tinnitus, malnutrition abuse or injury.
- health risks from arrival into the UK as a consequence of child trafficking, maltreatment, isolation, fear and poverty.
- need for catch-up vaccinations.
- need for sexually transmitted disease screening or pregnancy testing.

12.5 The child/young person may also question why they need to see a health professional if they are healthy, as they may not be familiar with the concept of preventative health care and have other factors in their lives which they view as priorities. Some may even believe that information about their health will be considered as part of their asylum claim. It is important that Social Workers and Health Professionals provide accurate and easy to understand information to unaccompanied children and young people about the health care system using appropriate interpretation services and also explain the importance of continued health checks, such as opticians and dental checks for their well-being. It is important that children and young people have access to interpreters whilst at the GP/hospital/dentist and that they understand what is happening to them.

12.6 Mental Health

12.6.1. Mental Health resources for unaccompanied asylum seeking children in Wales are recognised as underdeveloped. One source states that, if the lives of unaccompanied asylum seeking children and young people are normalised through a stable home and school life and non-health support services, 50% will not need any mental health interventions. This source also states that 40% will need to access non specialist Child and Adult Mental Health Services (CAMHS), and 10% will need **specialist services** that are not currently available within Wales.¹⁹ These include children/young people who were child combatants and those who are victims of torture, thus a range of diverse and flexible responses are recommended from services to meet the needs of these children and young people.²⁰ What the equivalent profile of a population of unaccompanied asylum seeking children might be is not described in the literature, although their particular experiences and vulnerabilities would suggest that a higher percentage are likely to need intensive specialist services.

12.6.2 When unaccompanied children and young people's mental health needs cannot be met by standard CAMHS, other services are available and Local Health Boards should examine arrangements for spot purchasing where

¹⁹ Percentages quoted are for 2004-5. For more information contact Mike Davies, Consultant Family Psychotherapist (See Useful Resources, Health and well-being).

²⁰ Elliot V. (2007) Interventions and services for Refugee and Asylum-seeking children and their families. *Mental Health interventions for Vulnerable Children and Young People*. Edited by Panos Vostanis. London. Jessica Kingsley Publishers.

serious mental health difficulties continue to cause the individual and others serious harm.

12.6.3 Another referral pathway in cases of sexual exploitation is the Sexual Assault Referral Centre. This service may be useful if a child or young person has experienced rape, sexual or other abuse, or has been trafficked. Professionals should make use of national services such as the National Society for the Prevention of Cruelty to Children (NSPCC) Child Trafficking and Information Line (CTAIL), should they have any concerns. (refer to Child Trafficking in *Useful Resources, Practice Guidance and Further Reading* in [Annex 4 & 5](#)).

12.6.4 Professionals must take the time to discuss cultural differences with young people, such as how girls and women may dress differently in the UK, as young boys **may** exhibit inappropriate sexual behaviour due to an inability to understand western social mores and dress codes. If there are any concerns of this nature, professionals should respond appropriately and ensure that young people have appropriate information and guidance on appropriate sexual behaviour, age of consent and other relevant information.

Actions:

- ✓ Refer to Annex [4](#) & [5](#) – [Useful Resources](#) & [Practice Guidance and Further Reading](#)

13. Education

13.1 Unaccompanied children and young people aged 5–16 have the same entitlement to full-time education as other children in the UK. Education is very important to unaccompanied children and young people and has been numerously cited by unaccompanied children and young people as being a very important aspect of their lives and a contributing factor to their general feeling of well-being. Every child/young person has a right to an education and those working with unaccompanied children/young people should ensure that this specific group of children and young people are able to access education.

13.2 In addition, the Statutory School Admissions code introduced in 2009 by the Welsh Government makes clear reference to the preference that is given to looked after children in the admissions process. In circumstances where full-time school placement cannot be immediately secured, s19, EA 1996 requires local authorities to ensure children access interim education. It should not be presumed that a migrant child is only capable of accessing ESOL. The child's educational needs must be assessed.

Guidelines on setting fair oversubscription criteria

2.27 Looked after children (children in public care) are among the most vulnerable children in society. As set out in the Placement of Children (Wales) Regulations 2007 and Towards a Stable Life and a Brighter Future Guidance which came into force in July 2007, it is of paramount

importance that a school place is found as quickly as possible, that is in the best interests of the child.

*2.28 For the purposes of setting and administering oversubscription criteria a looked after child is a child who is looked after by a local authority in Wales or England in accordance with section 22 of the Children Act 1989 and whom the LA has confirmed will be looked after at the time of child's admission to the school. Subject to the exceptions in paragraphs 2.29 to 2.31 all admission authorities **must** give highest priority in their oversubscription criteria to these looked after children as required by the Education (Admission of Looked After Children) (Wales) Regulations 2009 and as required by this Code.²¹*

13.3 Support for young people in schools

Alongside generic pupil support services including pastoral support staff, education welfare staff, school nurses, school based counselling services, there are additional support mechanisms in place for unaccompanied asylum seeking children and young people. Professionals working with unaccompanied asylum seeking children/young people are encouraged to make links with such support services for advice and assistance, for example, there are **Minority Ethnic Achievement Service** teams in local authorities.

These teams work to support minority ethnic children/young people in schools to support their educational achievement and these teams receive additional funding from the Welsh Government via the Minority Ethnic Achievement Grant (MEAG). The objective of MEAG is to improve educational opportunity for all minority ethnic learners, particularly those for whom English is an additional language; to offer asylum seeker pupils the special support they need and, broadly, to improve minority ethnic pupils' standards of achievement across the board.

The Welsh Refugee Council, Displaced People in Action and Children in Wales have developed a pack for teachers and others on working with asylum seeking and refugee children.²²

13.4 Further Education

There is no obligation for local authorities to provide school places for 16 -18 year olds. However, there is a continuing duty under The Children Act to promote educational achievement²³ and further duties regarding financial assistance for higher education for looked after children.²⁴ Further duties are

²¹ http://www.governorswales.org.uk/media/files/documents/2009-08-13/School_Admissions_Code.pdf

²² Teachers Resource Pack: *Working with Asylum Seeker and Refugee Children*
<http://www.welshrefugeecouncil.org/wp-content/uploads/2010/02/Education-Pack-L.doc>

²³ Children Act 1989 s22(3A)

²⁴ Children Act 1989 s23C(5A)

imposed to ensure that assistance is provided so that care leavers post 16 can access education.

If a former relevant child under 25, but who ceased to be a former relevant child at 21, expresses a wish to seek further education, the leaving care duties resume even if there was a break in education after 21 years old.²⁵

However, currently, individuals with Leave to Remain, including those with Discretionary Leave will be eligible for English Spoken as Other Language (ESOL) funding. There are various ESOL programmes available in Wales and these are facilitated via schools, colleges and voluntary organisations.

Non British nationals in Wales aged 16-18 who have been granted Refugee Status, Indefinite Leave to Remain, Humanitarian Protection or Discretionary Leave are entitled to Educational Maintenance Allowance, subject to an assessment.²⁶ Applicants will need to show their Immigration Status Document and Home Office letter as proof of eligibility.

The Assembly Learning Grant for Further Education Scheme - ALG (FE) – is also available in Wales, this is designed to encourage people aged 19 or over and living in Wales to continue with their education. It is dependent on household income. In terms of immigration status, the eligibility is the same as for EMA.²⁷

13.5 Higher Education

Universities charge two rates of fees, home fees and international fees. The eligibility criteria that universities use to evaluate whether a student is charged 'home fees' rather than the 'overseas' rate is set out in the relevant Fees and Awards Regulations. In these regulations it stipulates that that only certain categories of students are eligible for "home" fees. In Wales those with the following categories of status will be eligible for home fees;

- Refugee status (recognised by the UK government) and their spouses / civil partners and children
- Indefinite Leave to Remain
- Humanitarian Protection
- Discretionary Leave to Remain

Categories of students who are eligible for the 'overseas' rates are;

- Individuals seeking asylum

²⁵ Children Act 1989 s23CA)

²⁶ EMA (Education Maintenance Allowance) is a scheme providing young people who wish to continue in education after school leaving age with an incentive to earn awards through good attendance and achieving agreed objectives.

²⁷ For further information about finance go to <http://www.studentfinancewales.co.uk>

In addition, institutions have the discretion to waive overseas fees and charge the home student rate.²⁸ In addition, those persons with discretionary leave to remain will also no longer be able to benefit from fee controls or student support.

Actions:

For more information about Education refer to:

- ✓ [Annex 4 Useful Resources](#)
- ✓ http://www.studentfinancewales.co.uk/portal/page?_pageid=616,6202177&_dad=portal&_schema=PORTAL
- ✓ http://www.childrenslegalcentre.com/Resources/CLC/Documents/PDF%20N-Z/Education_March_2011.pdf
- ✓ <http://www.sharedfutures.org.uk/about>
- ✓ <http://www.welshrefugeecouncil.org.uk/youth/professionals/education-pack/>
- ✓ Department for Education – Aiming High: Guidance on Supporting the Education of Asylum Seeking and Refugee Children
<https://www.education.gov.uk/publications/standard/publicationdetail/page1/DfES%200287%202004>

14. Legal Context

Key relevant legislation

- 14.1 [The Children Act 1989](#) places a responsibility upon local authorities to safeguard and promote the welfare of children and young people living in their area. When ‘children in need’ are identified, an assessment of their needs should be undertaken.
- 14.2 [The Children \(Leaving Care\) Act 2000](#) introduced new requirements for local authorities to strengthen planning and support for ‘looked after children’ during their transition to adulthood. It created the new definitions; ‘Eligible’, ‘Relevant’ and ‘Former relevant children’ and placed various duties on the local authorities depending on a young person’s circumstances. These duties include; providing the young person with a young person’s advisor, devising a pathway plan, providing support and in certain cases financial assistance in relation to education and training.
- 14.3 Further guidance including the full definition of eligible, relevant and former relevant children can be found in [The National Assembly for Wales Children \(leaving Care\) Act 2000 Guidance September 2001](#)
- 14.4 [The United Nations Convention on the Rights of the Child](#) (UNCRC) acknowledges the rights of this group of children and young people by the provision of special protection measures within the UNCRC. This is an international set of minimum standards for all children/young people up to

²⁸ [Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2011, Regulation 7 \(a\), at www.legislation.gov.uk/uksi/2011/87/made](#)

the age of 18 across the world. In 2004, the Welsh Government adopted the UNCRC as the basis of all policy making for children/young people and is committed to making the principles of the UNCRC a reality for all children and young people in Wales. The UNCRC has now been found to be directly applicable to the exercise of statutory duties by public authorities including the UKBA and can be applied across to social services as well.²⁹

14.5 [Human Rights Act 1998](#) The Human Rights Act came into effect in the UK in October 2000. The Act enabled people in the UK to take human rights cases to court in the UK, whereas before they had to be taken to Strasbourg. There are 16 basic rights in the Human Rights Act, all taken from the European Convention on Human Rights.

14.6 [The Rights of Children and Young Persons \(Wales\) Measure 2011](#) was introduced to ensure that the principles of the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols are embedded into Welsh Law. The Measure makes a requirement on the Welsh Minister and First Minister to;

- Have ‘due regard’ to the rights and duties in the UNCRC and OP’s when making policy decisions of a strategic nature.

It then makes further requirements of the Welsh Ministers to:

- Create a Children’s Scheme: The scheme must outline the functions of the Welsh Assembly where ‘due regard’ must be given (Section 2 [Proposals for a Rights of Children and Young Persons \(Wales\) measure](#)).
- Produce reports to evidence whether the duty to give ‘due regard’ to the functions outlined in the children’s scheme are being met.
- Take appropriate steps to make more people aware and understand the UNCRC and its operational protocols.
- Change certain laws to ensure that the principals of the UNCRC are embedded into policies and strategies in Wales.

By introducing the Measure it is hoped that new and better ways to support and improve the wellbeing of children and young people in Wales are developed.

14.7 ‘Best Interests’ Principle

“The best interests of the child must be a primary consideration in all actions concerning every separated child. Any determination or assessment of best interests must be based on the individual circumstances of each child and must consider the child’s family situation, the situation in their country of origin, their particular vulnerabilities, their safety and the risks they are exposed to and their

²⁹ Supreme Court’s judgement in ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC 4.

protection needs, their level of integration in the host country, and their mental and physical health, education and socio-economic conditions. These considerations must be set within the context of the child's gender, nationality as well as their ethnic, cultural and linguistic background. The determination of a separated child's best interests must be a multi-disciplinary exercise involving relevant actors and undertaken by specialists and experts who work with children".³⁰

14.8 Key Immigration legislation:

- [Immigration and Asylum Act 1999](#)
- [Nationality, Asylum and Immigration Act 2002](#)
- [Asylum and Immigration \(treatment of Claimants etc.\) Act 2004.](#)
- [Borders, Citizenship and Immigration Act 2009](#)

14.9 Section 55 of the [Borders, Citizenship and Immigration Act 2009](#)

A reservation on Article 22 of the UNCRC was lifted in 2008, leading to the development of *Section 55* which came into force on 2 November 2009. It required, with immediate effect, the **UK Border Agency to make arrangements to safeguard and promote the welfare of children in discharging its immigration, nationality and general customs functions.**

Actions:

- ✓ For immigration legislation and policy refer to:

- ✓ <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/legislation/bci-act1/>
- ✓ <http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/>
- ✓ www.refugeecouncil.org.uk
- ✓ Familiarise yourself with your agency's arrangements in respect of seeking legal advice about legislation

15. Asylum Claim

15.1 Professionals should identify the immigration status of an unaccompanied child or young person on arrival. If there is a need, establish if contact has been made with UKBA, (Cardiff regional office or others) if so they may have already claimed asylum and have undertaken the initial 'screening' process. In all other circumstances a referral will need to be made to UKBA (local/regional office).

³⁰ *Statement of Good Practice, Separated children in Europe Programme, 2009*
<http://www.unhcr.org/refworld/pdfid/415450694.pdf>, p.6

15.2 Social Workers responsibilities include;

- contacting UKBA to establish if any information is already known about the child or young person,
- appointing legal representatives,
- appointing an 'Appropriate Adult' for the 'Substantive Asylum Interview' at UKBA office,
- arranging interpreters within Children's Services,
- referring children/young people to advocacy services.

It is also Social Workers' responsibility to monitor how the child/young person is getting along with these services. Children and young people have a right to change any services that they are entitled to if they have good reason to do so.

15.3 Throughout the asylum process the importance of children and young people having experienced legal representatives, who are able to support them throughout their asylum application cannot be over emphasised. This is also the case in respect of using good, reliable interpreters and advocates.

15.4 Unaccompanied children and young people often feel stressed, anxious and worried about their asylum claim, the process of visiting the UKBA offices, talking to the interpreter and UKBA staff, the asylum interview itself and of course, the stress about waiting for the eventual outcome of their asylum application. It is important that professionals working with unaccompanied children and young people have some knowledge of the asylum process in order to support the child/young person effectively. This includes, for example, indication of timescales of the asylum process and what to expect at the 'substantive interview'. This information should be given via an interpreter wherever possible and/or professionals could use the multi-lingual leaflets available from the Refugee Council website. It is recommended that any professional working with unaccompanied children and young people should attend appropriate training courses. All asylum claims from unaccompanied asylum seeking children will be dealt with by case owners who have received specific training to deal with claims from asylum seeking children.

Actions:

- ✓ Refer to [Annex 3 Asylum Process for children](#)
- ✓ Refer to; *what makes a good legal representative*, page 20, 'Seeking Support'
<http://www.childrenslegalcentre.com/Resources/CLC/Documents/PDF%20A-M/Seeking%20Support%20Complete.pdf>
- ✓ Young people are often confused about their rights and entitlements. Refer to [Annex 5 Practice Guidance and Further Reading](#)
- ✓ Refer to [Annex 4 Useful Resources](#)

- ✓ Enquire about quality assured training courses about working with asylum seeking children

16. Pathway planning – Safeguarding and vulnerabilities

16.1 The vulnerability of children and young people subject to immigration control is an additional vulnerability to that experienced by all children/young people. Research into the emotional well-being and mental health of unaccompanied children/young people has shown that uncertainty concerning their immigration status causes extreme anxiety and distress to them, **particularly those who are in their late teens and nearing the end of their Discretionary Leave in the UK.** It is important that professionals are mindful and take account of these issues, and that appropriate planning is considered throughout the whole care process. Children and young people may want to trace family and return to their country of origin. If this is the case there are organisations such as the British Red Cross who can assist ([refer to Annex 4 Useful Resources](#)).

16.2 LAC Plans and Pathway Plans, coordinated by children's services, need to realistically consider the possibility of all outcomes and ensure that they are discussed openly and sensitively with the child/young person. Plans should consider what skills, education and training would be most useful, not only if the young person remains in the UK, but also if they have to return to their country of origin. Professionals should consider how best to protect children and young people when all their appeals are exhausted, giving the broadest interpretation to the type of support they can be given to avoid a breach of their rights.

16.3 Social Workers should plan for the possible outcomes for those unaccompanied children and young people. This is known as 'Triple Planning' and should be part of their regular statutory planning through the Care Plan, Pathway Plan and Review Process. Triple planning will enable both Children's Services and the young person to plan for every eventuality. Social workers should be particularly mindful that upon turning 18, young people subject to immigration control may face difficulties and they should plan, as far as practicable for the various eventualities in good time, liaising with other services providing support to unaccompanied children and young people in Wales.

Potential scenarios in respect of the young person's asylum claim include;

- The asylum application is successful and the applicant is granted limited leave to remain in the UK for 5 years. (After 5 years this will be reviewed). Any unaccompanied child/young person who has received refugee status should be integrated and be supported into accessing mainstream

housing, benefits, training, employment etc. After turning 18, he/she is entitled to work and/or apply for mainstream welfare benefits.

- Young person is granted Humanitarian Protection (limited leave in the UK for 5 years).
- For those granted **Discretionary Leave** and have applied for **Further Leave**, the application for **Further Leave** may be refused, and the young person should be supported throughout appeal. ([Go to Asylum Process for Children](#))
- If a young person becomes 'Appeal Rights Exhausted' they can apply for Assisted Voluntary Return (AVR)³¹ to their country of origin and they must be informed that they may be subject to **administrative removal** by UKBA at any point due to being someone who is 'unlawfully in the UK'. In addition, a young person over 18 could be detained by UKBA before they are removed.

16.4 Voluntary Return

[Refugee Action](#) facilitates a **Choices Assisted Voluntary Return Service** which provides independent and confidential advice and assistance for children and adults who may be considering voluntary return. Refugee Action has partner agencies, including staff based in Wales to deliver this service. They also offer advice to immigration detainees in detention centres, who would like to consider voluntary return.

16.5 Support for young people post 18

A number of unaccompanied young people go missing between the age of 17 and 18. It is recognised that one of the main reasons for this is related to them feeling anxious about the outcome of their asylum claim and possibly having to leave the UK. They may also have concerns about the change of support that they will receive. To try and alleviate some of these concerns and reduce the risk of the young person running away it is important that professionals with relevant knowledge help the young person discuss their options. However, all professionals involved can contribute to preparing the young person and listen to their concerns.

16.6 Support from a local authority should continue post 18 as most will be entitled to leaving care services. Unaccompanied children and young people 'looked after' for 13 weeks or more are entitled to leaving care support from the local authority that looked after them, under the Children (Leaving Care) Act (2000). In many cases young people will qualify for leaving care services. Young people who have been accommodated by the local authority will be eligible to continue to receive advice, support and assistance from the care leaver's service as a former relevant person until the age of 21yrs (24 yrs. if in education).

In addition, the case of *R (Birara) v Hounslow LBC [2010] EWHC Civ 2113* specifically states, in respect of education and support, that the support for former relevant children must be as set out clearly in the pathway plan. If the

³¹ AVR can be applied for at any stage in the asylum process if the young person wants to return home.

pathway plan is not done properly, the LA cannot rely on that to state that support can be terminated at 21.

16.7 In the past there has been confusion about whether local authorities are required to support unaccompanied young people who have turned 18 and have become 'Appeal Rights Exhausted', but have not been 'removed' from the UK by UKBA nor have they opted for voluntary return.

16.8 In 2010, a legal judgement³² relating to the accommodation duties towards 'Former Relevant Children' found that; if a young person over 18 is entitled to leaving care support, including accommodation if their welfare or education and training needs requires it, this should be provided by the local authority rather than the UK Border Agency through asylum support or section 4 support³³.

Actions:

- ✓ For more information about support for young people turning 18 go to <http://www.childrenslegalcentre.com/Resources/CLC/Documents/PDF%20N-Z/Support%20at%2018%20edit%20November%202010.pdf>
- ✓ For more information about triple planning go to *Young People Turning 18* in [Practice Guidance and Further reading in Annex 5](#).

17. Complaints

17.1 Everyone who makes a complaint has a right to be listened to properly and have his/her concerns resolved quickly and effectively – see [Listening and Learning: A guide to Handling Complaints and Representations in Local authorities in Wales](#).

17.2 All local authorities, the Police and Health are required by law to have complaints procedures and make them available to members of the public. A number of other agencies are also likely to have complaints procedures.

17.3 Unaccompanied children and young people should be made aware at the earliest possible opportunity that they are entitled, like any other child or young person, to make a complaint and be provided with information about the complaints process. They should also be made aware that they can also seek independent advice regarding their concerns from the [Office of the Children's Commissioner for Wales](#).

Actions:

- ✓ Familiarise yourself with your agency's arrangements to organise interpreters, advocacy and the translation of documents

³² R (on the application of SO) v London Borough of Barking and Dagenham [2010] EQCA Civ 1101

³³ <http://www.childrenslegalcentre.com/Resources/CLC/Documents/PDF%20N-Z/Support%20at%2018%20edit%20November%202010.pdf>

- ✓Familiarise yourself with your agency's arrangements regarding complaints
- ✓Ensure that at the earliest opportunity, children/young people are made aware of their rights and entitlements around complaints, advocacy and interpreters and take action to arrange these as required
- ✓Ensure that at the earliest opportunity, children/young people are provided with relevant age appropriate written information

Annex 1. Working in Partnership and Information Sharing

Working together with the best interests of the child/young person in mind, professionals should share information (adhering to local information sharing protocols). This is particularly important in relation to changes in the child/young person's circumstances that are likely to impact upon the child/young person's situation such as age assessments, accommodation, family arrangements and relationships, missing children, trafficking concerns and health and well-being.

Chapter 14 of [Safeguarding Children: Working Together under the Children Act 2004](#) provides overarching guidance on the principles of information sharing specifically for the purpose of safeguarding and promoting the welfare of children and young people. The guidance also outlines how these principles fit within the context of legislation and discusses the decision making process when sharing information. **Anyone** who works with children and young people should be aware of the aspects outlined in this section and apply the principles whilst working or volunteering.

Some organisations, particularly statutory agencies like Social Services and Health, will have information sharing arrangements in place and these should be underpinned by the principles in *Working Together*. In some areas **Local Safeguarding Children's Boards** may have developed multi agency protocols for information sharing to which statutory agencies will have agreed to operate.

Professionals should make sure that they are aware of the overarching principles of information sharing, and work to their own agency's information sharing arrangements. **Go to [age assessment process](#) for information sharing relating to age assessment.**

Annex 2. (a) Case law relevant to age assessment³⁴

A v L.B. Croydon and WK v Secretary of State for Home Department and Kent [2009].

This judgement provides guidance to Local authorities and the Secretary of State on the weight and importance that may be placed on a paediatrician's report as part of the age assessment process. Justice Collins found that while local authorities should take such reports into account, they are entitled to prefer the views of their own social work age assessment. Providing that:

- the social work assessment was conducted over a longer period of time
- all available information was considered, analyzed and evaluated
- it was conducted by Social Workers who are suitably trained and experienced in the assessment of age

"It is always necessary to be sure that the assessment was properly conducted and has reached a sustainable conclusion and the record of and reasons for the assessment will be crucial."

11.6. R (F) .v LB Southwark [2009] EWHC 3542 (Admin).

This was the first judgement following the Supreme Court's ruling and provides initial guidance about how the Administrative Court will execute its fact finding role when considering age assessment judicial reviews:

- Age dispute cases remain proceedings for judicial review. In common with all such claims, permission is required before the claim can proceed. Unarguable cases will be refused permission.
- If local authorities want to defend the age assessment reports, then the Social Workers who prepared them will have to give oral evidence and submit to cross examination.
- The applicant must be available if required to give evidence, although how and under what circumstances is a "matter for the judge at the hearing itself".
- Medical and paediatric evidence are admissible - providing they have previously been submitted to the local authority for consideration - as is the opportunity for evidence in response from local authorities.

³⁴ It is advisable to establish the latest developments in Case Law relating to age assessment.

Annex 2 (b) Information that should be included in an age assessment summary submitted to UKBA (in lieu of submitting a full age assessment to UKBA)

Details of the Child/young person;

- Full name and any other names
- Claimed D.O.B
- Country of Origin
- UKBA/Home Office Reference Number

Details of assessing workers

- Names
- Job Titles
- Experience
- Qualifications
- Contact details

Outline of age assessment process

- Dates of age assessment interview/s
- Where, who was present during interview/s i.e. interpreter
- Child/young person informed of reason for assessment

Age Assessment factors considered (evidence of compliance with case law)

- Was the child informed of purpose of interview/s
- Was an Appropriate Adult/ Independent Advocate present
- Was child informed of the outcome of the age assessment and how was this decision communicated to child/young person
- Was the age assessment read back to the young person with an advocate and interpreter present. Record if any adverse findings have been addressed
- Any weight given to sources of information such as; documentary evidence, medical reports, education, health professionals, and foster carers

Other:

- Was trafficking/exploitation considered/addressed

Outcome of age assessment

- New D.O.B and effective date
- A summary of the Social Workers' analysis and weight given to conflicting information
- How was the decision communicated to the child/young person

- Was the child/young person given the opportunity to see the assessment and informed of their right to challenge the assessment through advocacy services or solicitor
- Signatures of assessment workers and manager
- Date assessment completed

Annex 2 (c) Basic Principles in Assessing Age

The *Merton* principles have evolved over the years through litigation and can be summarised as follows.

Procedure

- **Two qualified and properly trained social workers** should conduct the age assessment: see the Court of Appeal in *A v Croydon LBC* [2008] EWCA Civ 1445. The qualifications of social workers can be checked with the register at the General Social Care Council.
- An appropriate adult should be present. The child should be offered the opportunity to have an appropriate adult (*FZ v Croydon*). The purpose of an appropriate adult has been set out in clear terms by the Home Office in the context of criminal law.

The appropriate adult's role is:

- (i) to ensure that the child understands what is happening to them and why;
 - (ii) to support, advise and assist the child, including asking for breaks in interviews if the child needs the break either to consult with the child or to assist the child to seek legal advice (particularly if the interview is a lengthy one or the child is distressed or ill);
 - (iii) to observe whether the assessors are acting properly and fairly and to intervene if they are not;
 - (iv) to assist with communication between the child and the assessors; and
 - (v) to ensure that the child understand their rights, including the right to seek legal advice before continuing further with any interview, and the appropriate adult's role in protecting the child's rights.
- **The child should be informed of purpose of the assessment.** Often age assessments are done in the context of a Child in Need assessment under the Children Act 1989. In principle, using this assessment process is not problematic but the child in this context must be told that the assessment is done for a primary purpose of assessing age.
 - **The child should be informed that the consequence of assessment decision** is not only for determination of services by the local authority but also will be relied on by the UK Border Agency for the determination of the asylum claim.

- **Duty to give reasons.** The decision must be based on firm grounds and reasons for them must be fully set out and explained to the child. The duty to give reasons is not just for the sake of formality but must be based on evidence. Thus consideration should be paid to whether the information gathered in the course of the assessment actually backs up the conclusion on age reached by the assessors.
- **Child-friendly approach.** The approach of the assessors must be professional and sensitive to the young person. Concerns raised in the past as to the approach taken to the assessment interview highlight the importance of having an appropriate adult present, who can intervene.
- **Procedural Fairness.** The child should be given a fair and proper opportunity to deal with important points adverse to their age case which may weigh against them: see Court of Appeal in *FZ v Croydon*. Whilst there is no prescriptive way in which the disputed child should be given an opportunity to respond / rebut / clarify information which may be adversely relied upon to dispute their age, it would be a haphazard way of discharging the duty of fairness by simply asking a series of questions during the course of an interview and would be intrinsically likely to lead to subsequent controversy in the absence of an expensive transcript of the interview.
- **Burden of Proof at assessment stage.** As is affirmed by *Merton* and *FZ*, the disputed child is not to be put in a position where they have to prove their age. The assessment should be a process by which together, the assessors and the child explore the necessary information to establish age.
- **Benefit of Doubt.** The benefit of any doubt should always given to the unaccompanied asylum-seeking child since it is recognised that age assessment is not a scientific process (*A & WK*). This is not a term of art. There should be no assumption that the child is telling untruths; to the contrary, there should be an assumption that the child is telling the truth. Where there are doubts or inconsistencies, questions should be put in an open-ended way to explore these doubts.

Substance of Assessment

- **Physical appearance:** An assessing social worker is not entitled to simply look at a child determine they look 18 years old and therefore

does not require an assessment of their age, particularly where the child is claiming to be a child (*A & WK*). The SSHD's policy divides unaccompanied asylum seeking minors into 3 categories:

- Those who are obviously children (whether the age claimed or some years older);
- Those whose physical appearance and demeanour **very strongly** suggest they are **significantly** over the age of 18;
- Those who are borderline (i.e. may be an adult or a child)

The SSHD refers all applicants in the 3rd category to the local authority for an age assessment. Some in the 1st category, although accepted as children by the SSHD may be age-disputed after referral to the local authority.

- **Demeanour** is not determinative of age. See *A & WK* per Collins J: "what is meant by the observation that he appeared to be comfortable in his body? It is difficult to follow what this does mean and how a discomfort with a changing body can manifest itself." It can only be relevant in the totality of the evidence before the assessors.
- **Must be decided on particular facts of particular case:** Questions asked must relate to the determination of age. Although general credibility may be relevant, a history that is accepted as true and is consistent with an age below 18 will enable the decision maker in such a case to decide that the applicant is a child. Conversely, however, an untrue history, while relevant, is not necessarily indicative of a lie as to the age of the applicant. Lies may be told for reasons unconnected with the applicant's case as to his age, for example to avoid his return to his country of origin." (*Merton*)
- **Medical Evidence:** It is not determinative, but the local authority is not entitled to ignore a medical report. It goes to weight rather than providing conclusive evidence of age.
- **Expert Evidence of other nature:** The same principle should apply to expert evidence of a different nature. See further below on 'Evidence Gathering'.

Annex 3. Asylum process for Children

When an unaccompanied child or young person claims asylum he/she is immediately screened by UKBA representatives to establish identity, assess basic details such as how he/she entered the UK and will be asked why he/she entered the UK. The child/young person is given a *Statement of Evidence form* and this form must be returned within 20 working days. The legal representative should assist the child/young person with this.

Substantive Asylum Interview

Social Workers/Advocates should attend the substantive interview as a Responsible Adult³⁵ with the aim of supporting the unaccompanied child or young person. A responsible adult will usually be a Social Worker.³⁶ The presence of both a legal representative and responsible adult is necessary as their roles are different. The child/young person can request a female or male interpreter. UKBA will only interview children/young people over the age of 12 and with a Responsible Adult present. The legal representative should also attend the **asylum interview** and the Legal Services Commission will provide funding for this. Asylum interviews can be lengthy and the child/young person should be prepared for this. Interviews can take place at a UKBA regional office or other suitable location.

Asylum Decisions

Possible outcomes of the asylum process for unaccompanied children and young people are;

Refugee Status

The Home Office has accepted that a child/young person has a well-founded fear of persecution under one or more of the reasons set out in the **1951 Convention relating to Refugees**. Refugee Status or Leave to Remain is given for 5 years, after which the applicant can apply for Indefinite Leave to Remain. Few unaccompanied children/young people are granted Refugee Status and should therefore be prepared for this eventuality in their **Pathway Plans**.

Humanitarian Protection (HP)

If a person does not meet the criteria for Refugee Status they may still be considered for Humanitarian Protection. It is a form of leave granted to a person who would, if removed, face in the country of a return a serious risk to life arising from the death penalty; unlawful killing; or torture or inhuman or degrading treatment or punishment. Humanitarian Protection is normally granted for 5 years, after which the person can apply for Indefinite Leave to Remain.

³⁵ Pages 10, 16 and 45 http://www.ilpa.org.uk/publications/ilpa_working_with_children.pdf

³⁶ UKBA policy states that only a responsible adult is needed for the substantive interview

Refused Asylum, refused Humanitarian Protection and granted Discretionary UASC Leave (DL)

The Home Office has refused the child/young person's claim for Refugee Status and Humanitarian Protection and has granted temporary leave in the form of Unaccompanied Asylum Seeking Child (UASC) Discretionary Leave (DL) due to the lack of adequate reception arrangements in the applicant's country of origin. The majority of asylum seeking children/young people will receive DL. This decision can be appealed against if a minimum of 12 months leave was granted. UASC DL will be given for a period of three years or until the child/young person is 17.5, whichever is the shorter period of time.

The Home Office could also refuse a child/young person's claim outright and grant no form of leave, but this is more unusual. UKBA have recently updated the *Asylum Process Instruction* for children/young people and now includes details of outright refusals and the conduction of 'Best Interests Assessments' before a child/young person is removed to the country of origin.

Application for Further Leave (Active Review)

Children and young people with UASC DL have a right to apply for an extension of leave. **The child/young person should contact a solicitor or be referred to a solicitor by their Social Worker approximately 6 weeks before UASC DL expires. It is very important that an application for further leave has been applied for at least 4 weeks before UASC DL expires. (This is called an 'in time' application)** Failure to apply for further leave before the current leave expires means that the child/young person becomes an 'overstayer' and will have no right to appeal the decision in the UK if it is refused. Therefore, if the 'in time' application is refused the child/young person will have a right of appeal. An applicant can appeal against an 'in time' negative decision, including the decision to refuse asylum and grant Discretionary Leave and must always be given the opportunity to do so.

Education and Employment services may request evidence of DL, but the child/young person may have returned documentation to the UKBA. In this instance, services can be advised to contact UKBA (using Home Office reference number) to confirm the status verbally or in writing. The UKBA operates an Employer Checking Service³⁷ that can be used to check the status of an individual to work in the UK.

Appeal Rights Exhausted (ARE)

Local authorities who are supporting unaccompanied children and young people who become 'Appeal Rights Exhausted' will be issued with a letter from the UKBA. This could happen when a young person reaches age 17.5 and applies for an extension to his/her discretionary leave. If that extension is refused, the applicant has a right of appeal. If the appeal is dismissed the case will become Appeal Rights Exhausted.

³⁷ <http://www.ukba.homeoffice.gov.uk/employers/preventingillegalworking/support/ecs/>

Detention and removal

Young people, who have turned 18, and have been refused Refugee Status, further leave to remain and exhausted all appeal rights are likely to be detained prior to being removed from UK. Immigration detainees can apply for bail if they have been in the UK for more than 7 days.

Professionals must familiarize themselves with the asylum process for children/young people.

For more detailed information about the **asylum process** and the rights and entitlements of Refugee and Asylum Seeking children and young people go to;

[Seeking Support, the rights and entitlements of separated refugee and asylum seeking children, Children's Legal Centre, Third Edition, 2009.](#)

[Processing an asylum application from a child, UK Border Agency](#)

[Active Review of Unaccompanied Asylum Seeking Children \(UASC\) Discretionary Leave \(DL\), UK Border Agency](#)

Annex 4. Useful Resources

[Barnardo's Cymru](#)
[British Association of Adoption and Fostering](#)
[British Red Cross](#)
[Childhood Bereavement Network](#)
[Children's Commissioner for Wales](#)
[Children in Wales](#)
[Children's Legal Centre – Migrant Children's Project](#)
[CRUSE Bereavement Care](#)
[Immigration Advisory Service](#)
[Immigration Law Practitioners' Association](#)
[Independent Asylum Commission](#)
[Legal Services Commission](#)
[Refugee Action](#)
[Refugee Council UK](#)
[Refugee Council - Children's Panel](#)
[Separated Children in Europe Programme](#)
[Wales Strategic Migration Partnership](#)
[Welsh Refugee Council](#)
[UK Border Agency](#)
[UNICEF](#)

Legal Representation

Unaccompanied children and young people are entitled to free legal advice regarding their asylum claim. Only solicitors franchised by the **Legal Services Commission** (see list below) to undertake immigration work should be used by asylum seekers.

Albany Solicitors

Cardiff
(Bridgend, Cardiff and South East Wales)
Tel: 02920 472 728/02920 495 096
<http://www.albany-solicitors.co.uk/contact.html>

Asylum Justice is a charity which provides legal advice to asylum seekers and refugees. The charity is run by volunteers, including lawyers. Drop-in sessions are held in Swansea, Newport and Cardiff.

Cardiff; Tuesday afternoons and Saturday mornings at the *City United Reform Church* Cardiff; c/o *City Church*, Windsor Place, Cardiff CF10 3BZ
Tel: 07766600656
Fax: 02920225190

Newport; Thursday afternoons at the *Welsh Refugee Council*
Newport; c/o 51 High Street, Newport, NP20 1GB
Tel: 07766656012
Fax: 01633266421

Swansea; Wednesday and Saturday afternoons in the *Quakers Meeting House*

Swansea; c/o YMCA, 1 The Kingsway, Swansea SA1 5JQ

Tel: 07876636673

Fax: 01792368461

Crowley & Co. Solicitors

Cardiff

(Bridgend, Cardiff and South East Wales)

Tel: 02920 458895/02920 458894

<http://crowleysolicitors.co.uk/immigration.html>

Duncan Moghal Solicitors and Advocates

(Bridgend, Cardiff and South East Wales)

Newport

Tel: 01633 211600 Fax: 01633 211500

Cardiff

Tel: 029 2064 4999 Fax: 029 2066 5620

Swansea

(Neath Port Talbot and Swansea)

Tel: 01792 450930 Fax: 01792 480688

<http://duncanmoghal.com/>

Ty Arian Ltd. Solicitors

Swansea

1 Alexandra Road Swansea, SA1 5ED

Tel: 01792 484200

Virgo consultancy Services Ltd. Solicitors

Barry

Tel: 01446 749330

Fax: 01446 749331

<http://www.virgoconsultancy.com/>

For more information about legal aid for immigration and asylum cases go to:

http://www.legalservices.gov.uk/civil/immigration_asylum.asp

Advocacy

MEIC Advocacy Service

MEIC is a new helpline service for children and young people up to the age of 25 in Wales. The MEIC advocacy service provides children and young people with independent advice about advocacy and information via telephone and their website. The service is bilingual (Welsh and English) and also uses telephone interpreters if needed. MEIC's services can be accessed by any child or young person and should be promoted when working with children and young people.

Tel: 080880 23456

SMS txt: 84001

<http://www.meiccymru.org/>

Tros Gynnal Advocacy Services

Tros Gynnal is a charity that works with children and young people. Cardiff

Advocacy Team is part of this.

12 North Road, Cardiff, CF10 3BY

Tel: 029 2039 6974

Tel: 029 2066 8956

www.trosgynnal.org.uk

- **Cardiff Advocacy Team (CAT)**
36 Dogfield Street, Cardiff, CF24 4QZ
Tel: 029 2066 8956; Young people's free phone: 0800 581 862; Young people's text: 079 6762 8846
email: cat@trosgynnal.org.uk
- **Young People Speak Out Self Advocacy Project (YPSO)**
YPSO is a **Self-advocacy group** for asylum seeking and refugee children living in Cardiff, Newport and Swansea.
36 Dogfield Street, Cardiff, CF24 4QZ
Tel: 029 2066 8956

Welsh Refugee Council

Welsh Refugee Council is an independent charity that empowers refugees to rebuild their lives in Wales. The WRC provides advice to asylum seekers and refugees and has offices in Cardiff, Wrexham, Swansea and Newport.

- **Child Advocacy Officer**
The main role of the Child Advocacy Officer is to;
a) provide support and advocacy to vulnerable unaccompanied asylum seeking children and young people in Wales. The role is to guide them through the asylum process and to ensure that the statutory provisions to which they are entitled are provided for them.
b) assist those young people who have been age-disputed by the Home Office and by Social Services. This assistance can be through advocating on behalf of the young people with various organisations in order for them to be accepted as their stated age and be provided with appropriate services to which they are entitled.
Welsh Refugee Council
Phoenix House, 389 Newport Road, Cardiff, CF24 1TP
Tel: 029-2048-9800
<http://www.welshrefugeecouncil.org/>

Interpretation and translation

Barnardo's

The Neville St Service
7a Neville St, Riverside, Cardiff, CF11 6LP
Tel: 02920 229585

Language Line

Language Line is the UK's largest independent interpretation and translation organisation, offering 170 languages. They generally only provide interpretation over the telephone, so could be used for initial referral and emergencies but not ongoing interpretation, if their attendance is needed for example, at LAC meetings & UK Border Agency interviews. Contact details for Other Interpreters, Advocates and Legal Representatives. Tel: 0800 169 2879, 24hours.

Wales Interpreter and Translation Service (WITS)

The Wales Interpretation and Translation Service provide full linguistic services 24 hours a day to public services across Wales. Organisations can now request interpreters or translators by telephone or email:
Tel: 02920 857500
Email: wits@gwent.pnn.police.uk

Refugee Council Multilingual Asylum Information

<http://www.refugeecouncil.org.uk/practice/multilingual>

Trafficking Guidance and Advice

Barnardo's Cymru Seraf Service

This service works with children and young people who are at risk of or abused through sexual exploitation in Wales.
44-46 Marlborough Rd, Roath, Cardiff, CF23 5BX5
Tel: 029 2049 1743
http://www.barnardos.org.uk/who_we_are/in_your_region/wales.htm

Black Association of Women Step Out (BAWSO)

BAWSO is an all Wales, voluntary organisation, providing specialist holistic services to black and minority ethnic women and children, who are, or are about to be made homeless through a threat of domestic abuse, suffering or fleeing domestic abuse in Wales.
<http://www.bawso.org.uk/>

Cardiff
Tel: 02920 644633
Fax: 02920 644588
Email: cardiff@bawso.org.uk

Newport
Tel: 01633 213213
Fax: 01633 213219
Email: newport@bawso.org.uk

Swansea
Tel: 01792 642003
Fax: 01792 645207
Email: swansea@bawso.org.uk

Wrexham
Tel: 01978 355818
Fax: 01978 355707
Email: wrexham@bawso.org.uk

General Information:
Email: info@bawso.org.uk

NSPCC Child Trafficking Advice and Information Line (CTAIL)

CTAIL is a specialist service for any professional working with children who may have been trafficked into the UK.

Tel: 0800 107 7057

http://www.nspcc.org.uk/Inform/resourcesforprofessionals/ctail/child_trafficking_advice_and_information_wda77600.html

End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes (ECPAT) UK

ECPAT UK is active in research, campaigning and lobbying government to prevent child exploitation and protect children in tourism and child victims of trafficking.

Tel: 0207 233 9887

Email: info@ecpat.org.uk

<http://www.ecpat.org.uk>

United Kingdom Human Trafficking Centre (UKHTC)

The UKHTC is a multi-agency unit that provides a point of co-ordination for the development of expertise and cooperation to combat the trafficking of human beings (THB). It works with stakeholders from the governmental, non-governmental and inter-governmental sectors in the UK and abroad, including all UK police forces, the UK Border Agency, and charitable organisations.

<http://www.soca.gov.uk/about-soca/about-the-ukhtc>

Wales Strategic Migration Partnership for Asylum Seekers, Refugees & Migrants (WSMP)

WSMP works with partners to ensure asylum seekers, refugees and migrants receive the services to which they are entitled and assist organisations in managing immigration and asylum policy within a devolved context.

Tel: 029 2090 9550

www.wsmp.org.uk

- **WSMP Refugee Children Advice and Information Worker**

The aim of the WSMP Refugee Children Advice and Information Worker is to develop and maintain a policy, practice and information resource on the rights and entitlements of unaccompanied asylum seeking children, children within families, trafficked children and child migrants.

Tel: 02920 909542

<http://www.wsmp.org.uk/children/?id=SXB785-A77FED88>

UK Border Agency and Asylum

UK Border Agency (UKBA) Wales and South West

General Buildings, 31-33 Newport Road, Cardiff, CF24ODD

UASC Team contacts:

Manager:

Ben Bruten 02920 924464

Case Owners:

Siobhan Bickerton 02920 924413

Clare Hurley 02920 924518

Rhiannon Croot 02920 924500

Useful web-links for UK Border Agency

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/>

Processing applications from Children

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/processingasylumapplication1.pdf?view=Binary>

Assessing Age

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>

Further Leave (at age 17 and half) 'Active Review'

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/consideringapplications.pdf?view=Binary>

Services for Unaccompanied Asylum Seeking Children and Young People in Wales

ABCD Cymru

62 Charles Street, Cardiff, CF10 2GG

Advocacy and support for disabled or chronically ill children and young people in black minority ethnic communities in Wales.

<http://www.abcdcymru.org.uk>

Barnardo's

Flintshire One Community Project

This service offers specialist support to BME children, young people and families including migrants and unaccompanied asylum seeking children and young people.

The Old Baths, Mold Road, Buckley, CH7 2JB

Tel: 10244 539928

Barnardo's

Seren Service

Seren offers individual support to BME young women aged 16-21 including unaccompanied asylum seeking children. Seren supports young women who have experienced, or who are at risk of, violence in their home, community or in their country of birth.

46 Marlborough Rd, Roath, Cardiff, CF23 5BX

British Red Cross International Tracing and Message Service

Guidelines for Restoring Family Links for Unaccompanied and Separated Children (UASC)

North Wales: Elinor Davies,

Email: EDavies@Redcross.org.uk, 01745 828331

Mid Wales: Glyn Evans,

Email: GEvans@Redcross.org.uk, 01874 611984

South West Wales: Janet Edwards,

Email: JEdwards@Redcross.org.uk, 01792 772146

South East Wales: Edward Anderson,

Email: EAnderson@Redcross.org.uk, 01633 245750

<http://www.redcross.org.uk/Search?q=uasc>

Welsh Refugee Council

- **Child Advocacy Officer**

The main role of the Child Advocacy Officer is to;

a) provide support and advocacy to vulnerable unaccompanied asylum seeking children and young people in Wales. The role is to guide them through the asylum process and to ensure that the statutory provisions to which they are entitled are provided for them.

b) assist those young people who have been age-disputed by the Home Office and by Social Services. This assistance can be through advocating on behalf of the young people with various organisations in order for them to be accepted as their stated age and be provided with appropriate services to which they are entitled.

- **Children's Senior Policy Officer**

The Children's Policy Officer promotes fair policies and practices regarding asylum seeker and refugee children living in

Wales in order that they receive the respect and care that all children in Wales deserve.

Welsh Refugee Council

Phoenix House, 389 Newport Road, Cardiff, CF24 1TP

Tel: 02920 489800

<http://www.welshrefugeecouncil.org>

Displaced People in Action (DPIA)

- Supports the development of new and existing refugee community groups across Wales.
- Provides advice, guidance and support on training, volunteering and employment issues
- Promote inclusion to mainstream child and youth facilities such as Duke of Edinburgh for asylum seekers and refugees
- Work in partnership with key agencies from the statutory and voluntary sectors
- Provides training, information and resources on asylum and human rights issues facing displaced people.

- **Children and Young Person's Project Worker**

DPIA Youth ESOL classes

The class is delivered twice a week and is taught by a qualified ESOL tutor. It is open to 16-18 year olds, male and/or female students, and from mixed level educational backgrounds. All of the Youth ESOL students also benefit from taking part in the projects' inclusion initiatives such as; educational activities, residential breaks and visits; as well as benefiting from listening to visiting guest speakers. DPIA also delivers the Duke of Edinburgh Bronze Award Scheme for young asylum seekers and refugees aged between 16 & 18 years.

DPIA, The Coal Exchange, Mount Stuart Square, Cardiff, CF10 5EB

<http://www.displacedpeopleinaction.org/children.htm>

Henna Foundation

(Honour Based Violence, Forced Marriage, Domestic Violence)

Tel: 029 20496920

<http://www.hennafoundation.org/home.html>

Office of the Children's Commissioner for Wales

The Commissioner's principle aim is to safeguard and promote the rights and welfare of children and is enabled to provide advice and assistance to children and the adults who work with them. The Commissioner has a team of dedicated Advice and Support Officers who are contactable on 0800 801 1000 which is a freephone number or by text on 80800 or by e-mail at advice@childcomwales.org.uk

Newport Gwent Association of Voluntary Organisations (GAVO)

Young Asylum Seeker Support Worker

Tel: 07794 191479

01633 241579 (GAVO)

01633 266420 (Welsh Refugee Council)

Wales Strategic Migration Partnership (asylum seekers, refugees & migrants)

<http://www.wsmp.org.uk/>

- **Refugee Children Advice and Information Worker**
WSMP Refugee Children Advice and Information Worker

The aim of the WSMP Refugee Children Advice and Information Worker is to develop and maintain a policy, practice and information resource on the rights and entitlements of unaccompanied asylum seeking children, children within families, trafficked children and child migrants.

Tel: 02920 909542

Email: kathryn.tucker@wsmp.org.uk

<http://www.wsmp.org.uk/children/?id=SXB785-A77FED88>

Schools/Education

Ethnic minority language achievement services in schools in Wales provide support to those pupils in education who do not speak English or Welsh as their first language.

Cardiff Ethnic Minority and Traveller Achievement Service

School Services, County Hall, Atlantic Wharf, Cardiff, CF10 4UW

Contact would first have to go through main reception at County Hall.

Tel: 0292087 2456 / 2457

Gwent Education Multi-Ethnic Service (GEMS)

Newport City Council, Stow Hill, Newport, South Wales, NP20 4UR

Tel: 01633 255473

Email gemss@newport.gov.uk

Swansea Ethnic Minority Language and Achievement Service (EMLAS)

Dynevor Centre, Dynevor Place, Swansea, SA1 3ET

Tel: 01792 465406

Wrexham English as an Additional Language Service

16 Lord Street, Wrexham, LL11 1LG

EAL Service Co-ordinator

Tel: 01978 298848

English for Speakers of Other Languages (ESOL)

DIRECTORY OF ESOL AND ESOL SUPPORT IN WALES, ESOL National Support Project, 2007

http://www.newport.gov.uk/stellent/groups/public/documents/leaflets_and_brochures/cont434012.pdf

The Parade ESOL Service

The Parade Centre, 28 The Parade, Roath, Cardiff, CF24 3AB

Tel: 029 2049 5578

Fax: 029 2048 4022

Email: paradeac@cardiff.gov.uk

Drop in centres/ refugee support groups

Cardiff Refugee & Asylum Seeker Welcome

Oasis Cardiff

YMCA, The Walk, Cardiff, CF24 3AG

cardiffwelcome@gmail.com

Newport and District Refugee Support Group (N&DRSG) is an umbrella group whose volunteers work with local partners on cultural and educational activities. The group runs informative public meetings and provides purposeful activities.

Please contact Emmy Chater

Mob: 07855514379

SOVA Wales Refugee Services

YANA (You Are Not Alone) Drop-in Centre for young asylum seekers and refugees

YANA provides emotional support and mental wellbeing to young people who are experiencing feelings of isolation, to help overcome trauma and to empower them to access mainstream facilities/services.

Cardiff

Tel: 02920 495281

Fax: 02920 492148

Email: gparry@sova.org.uk

Swansea Bay Asylum Seekers Support Group

c/o YMCA1, The Kingsway, Swansea, SA1 5JQ

marilyn-thomas@lineone.net

Wrexham Methodist Church Drop-in Centres

The contact details for the Methodist Church which hosts the Asylum Seeker Drop-ins are:-

Eileen Hughes: e.hughes3@btinternet.com

Richard Sharples: rvsharples@phonecoop.coop

Biddy Sharples: showers@phonecoop.coop

Wrexham Refugee and Asylum Seeker Support Group (WRASG)

<http://www.wrexham.gov.uk/>

Health and Wellbeing

Dr Elspeth Webb

Reader

Department of Child Health, Cardiff University School of Medicine, University Hospital of Wales, Main building, Heath Park, Cardiff CF14 4XN

Tel: 029 2074 2653

Email: WebbEV@cf.ac.uk

Mike Davies, Consultant Family Psychotherapist

Pontypridd

Tel: 01443 791419 , Fax: 01443 791419

Email: mgdavies1@btinternet.com

Professor Jonathan Bisson

Traumatic Stress Service, Monmouth House, University Hospital of Wales, Heath Park, Cardiff, CF14 4XN

Tel: 029 2074 2284

Dr Jennifer Evans

Paediatric specialist in HIV and infectious diseases.

University Hospital of Wales, Heath Park, Cardiff, CF14 4XN

Cruse Bereavement Care

Tel 02920860339

<http://www.crusebereavementcare.org.uk/LocalCruse.html>

Childhood Bereavement Network

<http://www.childhoodbereavementnetwork.org.uk/index.htm>

Conwy and Denbighshire Bereavement Service for children aged 0-18 years.

Tel: 01492 879058 [9-5 daily]

Monmouthshire Youth Services –‘Face 2 Face’ for young people aged 11 - 25 years.

Tel: 01291 673937

<http://youth.monmouthshire.gov.uk/>

The Unicorn Project, St David’s Foundation Hospice, Newport; this is a new dedicated service for any bereaved children; the hospice has been supporting those children known through the hospice for many years and is now offering this to all children who are bereaved.

Tel: 01633 270980

School based Counselling Services

Please contact your local authorities' Education Counsellor

<http://wales.gov.uk/docs/dcells/publications/091019toolkiten.pdf>

Sexual Assault Referral Centres

A Sexual Assault Referral Centre is a safe-haven where victims of sexual violence can receive medical support, long-term counselling, and legal aid under one roof. New service level agreements mean that young asylum seekers can access these services based on clinical need regardless of where the actual sexual assault took place.

<http://www.south-wales.police.uk/en/content/cms/Help-and-Advice/Victims/Sexual-Violence/sarc/>

The Baobab Centre for Young Survivors in Exile, is a London based therapeutic centre that provides long-term specialised therapy and practical support to children who have experienced humiliation, violence, trafficking and violation during their developmental years. Whilst it would be impractical to refer young survivors of torture to their services, Baobab have stated that they will be providing training to professionals in the future and are an excellent source of expertise.

<http://www.baobabsurvivors.org/>

The Medical Foundation for the Care of Victims of Torture

Dedicated to the treatment of torture survivors.

http://www.torturecare.org.uk/contact_us/238

Training

Children in Wales

<http://www.childreninwales.org.uk/Events/index.html>

Displaced People in Action

<http://www.displacedpeopleinaction.org/>

E learning course from ECPAT and the Welsh Government

'In Your Hands' Safeguarding Child Victims of Trafficking Wales Version

<http://www.ecpat.org.uk/content/e-learning-courses>

Refugee Council

<http://www.refugeecouncil.org.uk/eventsandtraining/>

The Children's Legal Centre

<http://www.childrenslegalcentre.com/Consultancy+and+training/Training>

Wales Strategic Migration Partnership

<http://www.wsmp.org.uk/>

Welsh Refugee Council

<http://www.welshrefugeecouncil.org/>

Legislation and policy

Children Acts [1989](#) & 2004

[Children \(Leaving Care\) Act 2000](#)

Framework for the Assessment of Children in Need and their Families DOH 2000

Local authority Circular 13 (2003) DfES Guidance & Hillingdon Judgement 2003 – Unaccompanied Children seeking Asylum

The United Nations Convention on the Status of Refugees (UNHCR) of 1951, amended by the 1967 Protocol.

United Nations Convention on the Rights of the Child (1989)

<http://www.unicef.org/crc>

UNHCR Guidelines on determining the best interests of the child

<http://www.unhcr.org/4566b16b2.html>

[Immigration Act 1971](#), (and the Immigration Rules published under this and updated and amended) [Immigration and Asylum Appeals Act 1993](#), [Asylum and Immigration Act 1996](#) [Immigration and Asylum Act 1999](#), the [Nationality Asylum and Immigration Act 2002](#) and [Asylum and Immigration \(treatment of Claimants etc.\) Act 2004](#).

S.55 of the Borders, Citizenship and Immigration Act 2009, <http://www.legislation.gov.uk/ukpga/2009/11/contents>

[The Equality Act 2010](#)

[The Data Protection Act 1998](#), Information Sharing Protocol.

Annex 5. Practice Guidance and Further Reading

There is a body of UK, Wales and local authority literature and guidance in the promotion of 'best practice' in working with unaccompanied asylum seeking children and young people.

This is a complex policy and legislative field and thus we have provided a selection of recommended reading, along with web links where available.

Note: caution should be used when referring to these documents because there are 'landmark' dates within immigration policy that may result in some of the earlier work being outdated by policy developments.

Barnardo's. *Like Any Other Child* - Asylum Report 2008
http://www.barnardos.org.uk/like_any_other_child_asylum_report08_full.pdf

Children's Legal Centre. *Seeking Support, A guide to the rights and entitlements of separated and refugee children*, Third Edition, CLC: London. (2009)
<http://www.childrenslegalcentre.com/Resources/CLC/Documents/PDF%20A-M/Seeking%20Support%20Complete.pdf>

Crawley, H. *Working with Children and Young People Subject to Immigration Control. Guidelines for Best Practice*. London: ILPA. (2004).
http://www.ilpa.org.uk/publications/ilpa_working_with_children.pdf

Crawley, H. *Child first, migrant second, ensuring that every child matters*, Immigration Law Practitioners Association, (2006). <http://www.ilpa.org.uk/>

Free, E. *Providing emotional support to young separated refugees in the UK*. London: Save the Children. (2003).
<http://www.savethechildren.org.uk/en/docs/emotional-health.pdf>

Kapoor, A, *A Scoping Project on Child Trafficking in the UK*, Child Exploitation and Online Protection Centre, London, June 2007.

Kidane, S. *Food, Shelter and Half a Chance. Assessing the needs of unaccompanied asylum seeking children*. London: BAAF. (2001).

Kohli, R. *Social Work with Unaccompanied Asylum Seeking Children*. Basingstoke: Palgrave Macmillan. (2007).

Laming, *The Victoria Climbié Inquiry: report of an inquiry by Lord Laming*. CM730, HMSO: London. (2003).
http://www.londonscb.gov.uk/files/library/climbie_inquiry.pdf

National Children's Bureau, *Good Practice with UASC's* - National Children's Bureau.
<http://www.ncb.org.uk/>

Rutter, J. *Supporting refugee children in 21st century Britain: a compendium of essential information*. Stoke-on-Trent: Trentham Books. (2001).

Rutter, J. *Working with Refugee Children*. London: London Metropolitan University and Joseph Rowntree Foundation. (2003).
<http://www.jrf.org.uk/sites/files/jrf/1859351395.pdf>

Reakes, A. and Powell, R. *The Education of asylum seekers in Wales: implications for LEAs and Schools*. Slough: the National Foundation for Educational Research. (2004).

Save the Children Alliance & UNHCR *Separated Children in Europe Programme - Good Practice*. 4th edition. Save the Children Alliance, UNHCR: Brussels. (2010).
http://www.separated-children-europe-programme.org/separated_children/good_practice/index.html

Save the Children, *Uncertain Futures: children seeking asylum in Wales*. Cardiff: Save the Children. (2005). Available as pdf at:
http://www.savethechildren.org.uk/en/docs/uncertain_futures_report.pdf

Save the Children. *Agenda for Action – The Care and Protection of asylum seeking and trafficked children in Wales*. Cardiff. (2008). [PDF] [Summary Report](#).

Save the Children *Young refugees: Setting up mentoring schemes for young refugees in the UK*. London: Save the Children (2002a).
<http://www.savethechildren.org.uk/en/docs/mentoring.pdf>

Save the Children *Young refugees: Setting up youth groups for young refugees in the UK*. London: Save the Children (2002b).
<http://www.savethechildren.org.uk/en/docs/groups.pdf>

Social Care Institute for Excellence (SCIE), *Good practice in social care with refugees and asylum seekers, Workforce development SCIE Guide 37*, (June 2010). <http://www.scie.org.uk/publications/guides/guide37/files/guide37.pdf>

Syd Bolton, Kalvir Kaur, Shu Shin Luh, Jackie Peirce and Colin Yeo, for ILPA, *Working with Refugee Children: Current Issues in Best Practice*, 2011
[Download pdf version](#).

University Of London, *Promoting the emotional wellbeing and mental health of unaccompanied young people seeking asylum in the UK*, research summary, July 2008.

Wade, J., Mitchell, F., Baylis, G. *Unaccompanied Asylum Seeking Children - The Response Of Social Work Services*. York University: York. (2005).
http://www.york.ac.uk/inst/swrdu/Publications/asylum_summary.pdf

Young people turning 18

ADASS Asylum Task Force. *Key transitions for unaccompanied asylum seeking children: Guidance for Social Workers, personal advisors and their managers working with unaccompanied asylum seeking children (UASC)* (2005).

Children's Legal Centre. *Seeking Support, A guide to the rights and entitlements of separated and refugee children*, (p.37-42). Third Edition, CLC. (2009).

<http://www.childrenslegalcentre.com/Resources/CLC/Documents/PDF%20A-M/Seeking%20Support%20Complete.pdf>

Free, E. *Turning 18. Separated refugees and asylum seekers turning 18. A guide for Social Workers and other professionals*. London: Save the Children (2006).

Kane, S. *Needs assessment and planning for asylum seeking refugee young people: a good practice note*. National Children's Bureau: London. (2006).

http://www.ncb.org.uk/dotpdf/open%20access%20-%20phase%201%20only/arc_1_4needsassesspracnote.pdf

Kane, S. *The ecological approach to the assessment of asylum seeking and refugee children*. National Children's Bureau: London. (2006).

http://www.ncb.org.uk/dotpdf/open%20access%20-%20phase%201%20only/arc_1_1ecologicalapproach.pdf

UKBA Policy Bulletin 29.

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylum/supportbulletins/children/pb29?view=Binary>

Unaccompanied refugees and asylum seekers turning 18, Save the Children 2006.

Age Assessment

Action on Rights for Children, *Unaccompanied Children Seeking Asylum: Privacy, Consent and Data Protection*, 2010
www.archrights.org.uk

Age Assessment Joint Protocol between Immigration and Nationality Directorate of the Home Office (IND) and Association of Directors of Social Services, 2005

Assessing Age

[UKBA Asylum Process Guidance 'Assessing age'](#)

Crawley, H. *When is a Child not a Child? Asylum, Age Disputes and the Process of Age Assessment*. London: Immigration Law Practitioners' Association (2007).

[Practice Guidelines for Age Assessments of UASC - Approved via Case Law \(Merton & Enfield\)](#)

Royal College of Paediatricians and Child Health. *Assessment on the Age of Refugee Children*. London: Royal College of Paediatricians and Child Health (2003).

Foster Care

British Association of Adoption and Fostering (BAAF), *Caring for a young person who has been trafficked, a guide for Foster Carers*.

www.baaf.org.uk

Chase, E., Knight, A. and Statham, J. *The emotional well-being of young people seeking asylum in the UK*, London, British Association for Adoption and Fostering (2008).

Monmouthshire Guide for Foster Carers.

Please contact Monmouthshire Social Services.

Children's Placement Duty Team. Tel: 01873 735950

Child Trafficking

BAAF, *Caring for a young person who has been trafficked*, a guide for Social Workers.

www.baaf.org.uk

Children's Commissioner for Wales, *Bordering on Concern, Child Trafficking in Wales*, (2009). <http://www.ecpat.org.uk/>

Harrow Children's Services, *Good Practice for Trafficked Children in Care*.

http://www.londonscb.gov.uk/files/2010/trafficking/harrow_good_practice_guide.pdf

Harrow Council, *Additional guidance on use of the risk assessment matrix*

[Agency specific indicators to help identify a trafficked child \(Harrow Council\)](#)

NSPCC, *Breaking the wall of silence, Practitioners responses to trafficked children and young people*, (2009).

http://www.nspcc.org.uk/Inform/research/findings/breaking_the_wall_of_silence_report_wdf66135.pdf

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Webb E, O'Hare B, Ryan A. *Meeting the needs of children newly arrived from abroad*. *Current Paediatrics* 2005; **15**: pp. 339–346.

³⁸ For access to resources listed here, please contact Elspeth Webb (WebbEV@cardiff.ac.uk)

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Resources

Migrant Children's Project, Children's Legal Centre.
<http://www.childrenslegalcentre.com/Migrant+Childrens+Project/Resources/transitionat18.htm>

The **Shared Futures DVD** and **resource pack** can support practitioners working with children and young people in a range of settings, including:

- schools
- extended services, such as after-school and study support activities
- youth groups and other community settings
- supplementary and community education projects
- faith communities.

<http://www.sharedfutures.org.uk/about.html>

Teachers Resource Pack: Working with Asylum Seeker and Refugee Children, Welsh Refugee Council, Displaced People in Action & Children in Wales.

<http://www.welshrefugeecouncil.org.uk/youth/professionals/education-pack/>

Annex 6. Listening to children: Good practice, the views of unaccompanied asylum seeking children and young people in Wales on their care and everyday support

In May 2010, staff from the Wales Strategic Migration Partnership for asylum seekers, refugees and migrants, Displaced People in Action and Young People Speak Out held focus groups with children and young people in Cardiff, Swansea and Wrexham.

The following thoughts and opinions are those that were voiced by children and young people in Wales when asked about their current care and protection and how it could be improved. The information is grouped into themes; rights and entitlements, communication and health and leisure.

Rights and entitlements

1. Children and young people should be made aware of their rights and entitlements as children/young people in care in Wales, whatever their status is.
2. Children and young people should be made aware from practitioners as to what to expect from the UK Border Agency, asylum timescales, interviews, etc.
3. Children and young people should be made aware of the asylum process for children/young people via an interpreter if needed or be given materials about this in their own language or via other media.
4. Some young people are not entitled to go to school, are refused permission to work, would like to learn to drive etc. Practitioners should clearly explain why a child or young person is not entitled to something and what their entitlements are.
5. Children and young people should be told by Social Workers how to complain about UK Border Agency, Children's Services etc.
6. Interpreters – Children and young people should be informed by Social Workers that they have the right to change their interpreter at any point.
7. Solicitors – Social Workers can be present when a child or young person is with a solicitor. Solicitors should not interrogate or disbelieve them and they should not feel under pressure from the solicitor.
8. The importance of independent interpreters cannot be underestimated. Children and young people need interpreters who do not misrepresent or misunderstand them. It is good practice to confirm with children/young people that they feel happy with the level of interpretation, in particular at the UK Border Agency office or at the GP: effective interpretation can help ease stressful situations.
9. Transition at 18 - Any child or young person who has received refugee status should be assisted into integration and supported in applying for benefits and housing etc. by Social Workers and advocates.

Communication

1. Practitioners should signpost children and young people to refugee organisations and mainstream organisations within their local area for recreation, socialising and education. Children and young people should be encouraged to be involved in support services, such as ESOL classes and drop in centres, advocacy services, self-advocacy, education, religious activities and sport. This will help the child or young person learn about UK culture, make friends and integrate, all of which should benefit the child or young person.
2. Practitioners should try and make time for children and young people, Foster Carers and any other professionals involved in the child or young person's life to ascertain if the child or young person is happy and to identify any problems or potential problems and to respond timely to any concerns. It has been identified that young people respond well to professionals who make time and effort to help them integrate.
3. Practitioners should speak truthfully and directly to children and young people.
4. Children and young people take a long time to build up trust with professionals and Foster Carers and should always be involved in any conversations about them. It is important for Foster Carers to treat the child or young person equally and be respectful of their background and any cultural or religious issues.
5. Practitioners and Foster Carers should take any concerns from children and young people seriously.
6. When visiting the dentist/GP/hospital it is important that there is an interpreter present and that the child or young person fully understands what is happening.
7. Social Workers should try and make time for the child or young person.
8. Foster Carers: If children or young people have concerns, Social Workers and Foster Carers should discuss the concerns and take them seriously.
9. Social Workers should not delay and try and respond to the needs/concerns of children and young people as soon as they can.
10. Social Workers should not make promises they cannot keep.
11. Children and young people respond well to Social Workers who helped them integrate, showed them around etc.
12. Some young people had experienced, in their view, Foster Carers and Social Workers apparently 'colluding' over age of young person.
13. Some young people felt that Foster Carers had broken trust with them by informing Social Workers about them.
14. Some young people felt 'a lack of respect' from Foster Carers and did not feel part of the family.
15. It is important that the Social Workers and Foster Carers listen to the concerns of children and young people who are in a foster home and take seriously any concerns/needs/wants that the child or young person has.

Health/leisure

Children and young people stated that they feel extreme pressures – including the inherent stress of being a young asylum seeker and worrying if they will be believed by the Home Office. They worry about the substantive asylum interview and about the decision. Overall, this type of anxiety can overshadow any positive experiences they have.

1. Housing; if children and young people are not comfortable where they live for a variety of reasons, this can affect their health. They are likely to suffer more anxiety if, for example, they are in noisy/shared accommodation and, as a result, are unable to sleep. Some young people stated a preference for smaller accommodation i.e. for 1-2 people.
2. Support services, such as English for Speakers of Other Language (ESOL) classes, social drop in centres, advocacy services, friends, mosques etc. are all viewed positively by young people and they should be enthusiastically encouraged to attend. At these places, children and young people learn about UK culture, meet new people and learn English; all of these are very important to them and they would like more of these services.
3. GP/Dentist – It is important that children and young people use interpreters under these circumstances, and that they understand what is happening to them.
4. It would be beneficial for children and young people to take part in more sport and recreational activity, a lack of funds can make this impossible.
5. Education is extremely important to children and young people in general.

Annex 7. Glossary³⁹

Active Case Review

An Active Case Review will be required where an application is made for further Leave to Remain by a person who has been granted -

1. Humanitarian Protection
2. Discretionary Leave to Remain

The purpose of the Active Case Review is to determine whether a person continues to qualify for Leave to Remain in the UK.

Age Assessment

If there is doubt about the age of a child or young person then an age assessment process should be undertaken. An appropriate Age Assessment in Unaccompanied Asylum Seeking Children (UASC) cases is crucial to both the outcome of the Asylum application, and the appropriate provision of services to meet their needs. Age assessments are undertaken by Children's Services Departments to determine the age of a young person.

Age Disputed

An age-disputed child or young person is an asylum applicant who's claimed date of birth is not accepted by the UKBA, and/or the local authority who have been approached to provide support. This term is used to cover all applicants where UKBA is either not sure of the person's age and treats them as a child until all evidence has been considered (including local authority age assessment) or UKBA assesses person's appearance / demeanour as significantly over 18 and treats them as an adult. Whether an individual is treated and as an adult or as a child has significant implications for the way in which the person's claim for asylum is treated, and the level of support received.

Asylum Seeker

An asylum seeker is a person who has fled their country and arrived to a country with the intention of seeking asylum / sanctuary within that country. The country they arrived in is also known as the "host country". People are known as asylum seekers whilst they are making an application for and until granted Refugee Status or Humanitarian Protection.

Case Owner

The UKBA uses the term 'Case Owner' to refer to an official within the 'Asylum' process who is responsible for an asylum seeker's case throughout the process, from application to the granting of full Asylum status or Removal Process. Their roles include deciding whether status should be granted, handling any appeal, dealing with Asylum support, and integration into Citizenship or Removal.

³⁹ Some definitions taken from *Seeking Support, A Guide to the Rights and Entitlements of Separated Refugee and Asylum Seeking Children*, The Children's Legal Centre, Third Edition 2009 and the UK Border Agency website.

Failed Asylum Seeker

Those who are refused asylum have the opportunity to appeal, when they run out of appeal rights they are known as a failed asylum seeker and are no longer entitled to receive support from the state unless they are a former relevant child or unless they have applied for section 4 'hard case support' because of specific circumstances such as women in late stages of pregnancy, family with children, unable to return to their country of origin, have applied to return voluntarily to their country of origin, or they have evidence for a fresh asylum claim.

Humanitarian Protection (HP)

Humanitarian Protection is a form of immigration status.

If a person does not meet the criteria for Refugee Status, and is not offered Asylum, they may still be considered for Humanitarian Protection. Humanitarian Protection is normally granted for a period of 5 years, after which the person can apply for Indefinite Leave to Remain. A person who is granted Humanitarian Protection is allowed to work and has access to public funds.

Leave to Remain

Permission to stay in the UK, temporarily.

Indefinite Leave to Remain

Permission to stay in the UK, permanently.

Refugee

A refugee is a person who 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country...' (Definition quoted from the 1951 & 1967 UN Refugee Convention)

If an applicant's Refugee Status has been proven, they will be offered leave to remain in the UK for 5 years.

Removal

The UK Border Agency (UKBA) encourages refused asylum-seekers who have no legal basis to remain in the UK (and sometimes even those who are yet to receive a decision) to make voluntary departures. For those that do not do so, the UKBA makes arrangements to administratively remove them from the UK.

Statement of Evidence Form (SEF)

Every new unaccompanied asylum seeking child will be issued with a Statement of Evidence Form (SEF) by the United Kingdom Border Agency (UKBA) at the time of their initial application for asylum. This contains questions directed at establishing whether the applicant meets the criteria for Refugee Status.

Substantive Asylum Interview

The substantive asylum interview with UKBA is mandatory, and the purpose of the interview is to establish whether or not an applicant is at risk of persecution and/or ill-treatment.

UASC Discretionary Leave to Remain (DL)

Time limited permission to stay, granted where the Home Office has decided the individual does not qualify for Refugee Status or Humanitarian Protection, but where there are other strong reasons why the person needs to stay in the UK. This is the most common form of leave given to unaccompanied asylum seeking children and young people when there are no adequate reception arrangements in their country of origin. It is normally given for 3 years or until the individual reaches 17.5 years of age - whichever is the shorter period. There are certain other specified reasons where DL would be granted to an asylum seeker.