



Hertfordshire Unaccompanied Migrant Children and Child Victims of Trafficking and Modern Slavery Procedure

Please read in conjunction with the following HSCB chapters:

- [Children Who May Have Been Trafficked](#)
- [Safeguarding Children from Abroad \(including children who are Victims of Trafficking and Unaccompanied Asylum Seeking Children\)](#)
- [Modern Slavery](#)

To access forms regarding Unaccompanied Children and Young People, see [LINK](#)

- Safeguarding Accompanied and Unaccompanied and/or Trafficked Children and Young People Flowchart
- UASC Checklist Parts 1 and 2
- UASC Age Assessment and Guidance
- UASC Claim Checklist
- Brief Enquiry as to Age

See also the Finance Diagram which contains the finance documents related to Unaccompanied Children and Young People, including Transition to Adulthood (Leaving Care) Finance Policy and Guidance - [LINK](#)

For **accompanied** children and young people, please refer to the chapter on Families with No Recourse to Public Funds (if relevant) [LINK](#)

For the purposes of this chapter, the term “child” and “young person” will refer to anyone under the age of 18.

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1.0 Migrant Children and Young People Entering Hertfordshire

1.1 The National Transfer Scheme Protocol for Unaccompanied Asylum Seeking Children.

The National Transfer Scheme Protocol has been created to enable the safe transfer of unaccompanied asylum seeking children (UASC) from one UK local authority (the entry authority from which the unaccompanied child transfers) to another UK local authority (the receiving authority). [LINK](#)

- The protocol is a voluntary arrangement between local authorities to ensure a fairer distribution of unaccompanied children across all local authorities and regions across the UK.
- The protocol provides guidance on the process of transferring a child / young person into the care of another local authority

The parameters to initiate the protocol are as follows:

Where an unaccompanied child first presents in a local authority which is over the ceiling of 0.07% UASC to child population, the local authority is expected to arrange for the transfer of the child through the national transfer scheme, unless there are clear reasons why it would not be appropriate to transfer the child. Key transfer rules include:

- a) If the region (i.e. east of England) in which the child presents is under the ceiling of 0.07% then the child would be expected to be transferred to a local authority **within** that region. (For example, if a child / young person presents in Hertfordshire but Hertfordshire is above the threshold, then the child/young person should be transferred to another local authority within the East of England that is under the threshold.
- b) If the region is over the ceiling of 0.07% then the child would be expected to be transferred **out of** the region using the transfer protocol.
- c) Due to the preponderance of UASC arriving in Kent, the county of Kent will be treated as a region in itself until further notice.

Below includes documentation around the Transfer Scheme:

- National UASC Transfer Scheme Information Pack
Contains Details on how to contact the Home Office and submission of Transfer Requests from entry Local Authorities
- Interim National UASC Transfer Protocol
Guidance on the Transfer Protocol Scheme
- UASC Transfer Flowchart
The process of what happens when the UASC enters the UK and responsibilities of the Local Authority.
- Unique Unaccompanied Child Record Performa
 - Part A completed by the Local Authority as soon as a UASC becomes Looked After – Submitted to Central Admin
 - Part B completed by the Local Authority when requesting a transfer. Sent to Central Admin

- Part C: completed by Central Admin for transfer allocation
 - Part D: completed by the Local Authority accepting the transfer
 - Part E: completed by the Local Authority to update LAC Status and send to Central Admin
 - Appendix – First 72 hours Trafficking Good Practice
- UASC Funding Instructions

Details on how the Home Office will financially assist Local Authorities in respect of their costs of supporting Unaccompanied Asylum Seeking Children.

Any comments / queries regarding application of the protocol may be made to UASCcentralAdmin@homeoffice.gsi.gov.uk

The percentage criterion is not a target but will be used to determine capacity. The percentage criterion will be reviewed annually.

The Central Admin Team can inform Local Authorities if they are above or below the threshold when transfer requests are sent to them. Local Authorities may also check for themselves via the [Office for National Statistics](#).

1.2 At Point of Referral

When a referral is received, a duty worker will be assigned to assess the child / young person. It is likely that the following will already have been established, but you should check you have the following basic information:

- Full name and date of birth of the young person;
- Country of origin and ethnicity;
- Languages spoken and whether an interpreter is required;
- Asylum status (i.e. has the child/young person made a claim), whether they have or can obtain any ID/travel documents in their possession;
- Whether or not their age has been disputed by the Home Office;
- Any concerns that the child/young person may have been trafficked.

Depending on the day and time of the referral, it may be necessary to place the child / young person in emergency accommodation overnight. Operations Director/Head of Service will make the decision regarding the type of placement that is needed and the appropriate procedures should be followed.

The child/young person may have undergone considerable discomfort by the time they first come to the attention of Children's Services. They may not have slept, eaten, or even had a drink for some time. They may have been wearing the same clothes for several days and the clothes may be inadequate for them in what may be a very different climate from their originating area. They may not be able to explain these needs because of language and cultural differences and they may be confused and scared to ask for what they need.

The attending Social Worker should make them welcome, introduce themselves and make sure the young person knows they are not the police or immigration staff.

Attending to their most immediate needs of hydration, nourishment, cleanliness and comfort is as important as fulfilling other legal and procedural requirements. The individual's basic

needs have to be met with compassion and care. Offer them a drink and the opportunity to use the toilet.

Communication will be a priority so ask about the young person's first language and make any necessary arrangements for Interpreters.

A child or young person may make an asylum application to:

- An Immigration Officer at the point of entry;
- Or, in the case of children already in the UK, at one of the Border and Immigration Screening Units, or a Police Station;
- If a child is already in the UK and is picked up and detained by the Police, the Officer in Charge can make an application on their behalf and inform the Border and Immigration Agency (BIA);
- Immigration will inform the local authority within whose jurisdiction the UASC is found;
- A child/young person may present to Children's Services, but they cannot make an asylum application to Children's Services but may need assistance to approach the Immigration Service or Police to do this.

2 Trafficking and Safeguarding Concerns

Where there are concerns that a child or young person may have been trafficked to the UK, the Hertfordshire Safeguarding Children Board (HSCB) as well as the Police and the Home Office (via the National Referral Mechanism (NRM)) should be informed, and consideration made to complete an assessment under [S47](#) Children Act 1989.

In accordance with the [Care of Unaccompanied and Trafficked Children: Statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children \(2014\)](#) *where the age of a person is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate assistance, support and protection in accordance with Article 10(3) of the European Convention on Action Against Trafficking in Human Beings.*

See also [Children Who May Have Been Trafficked](#) and [Safeguarding Children from Abroad \(including who are victims of trafficking and unaccompanied asylum seeking children\)](#).

If there are safeguarding concerns or no reception arrangements in their country of origin, they should be supported in line with the Children Act 1989 which will need to be considered in specific relation to their immigration status. Legal advice should be sought as part of the s20 and s31 processes regarding the child's / young person's immigration status and /or the need for an asylum application in the child's / young person's own right. In such instances social workers should always seek the advice of the legal service team.

Where we think the child/young person is at risk of trafficking the following should be initiated:

- Activating a [National Referral Mechanism \(NRM\)](#);
- Referral to Police;
- Temporarily removing their mobile phone to prevent traffickers getting in touch; ensuring other methods of keeping in touch with family and friends are put in place if

- required;
- Encouraging children / young people to memorise a phone number so that if they find themselves at risk they can contact their carer/social worker;
- Allowing access to the internet in group settings only;
- Providing 24 hour supervision for the first few months of care;
- Ensuring the child's / young person's room is not easily accessible or provides an easy exit.

Actions required at entry where there are safeguarding risks, risk of trafficking or going missing, and particularly in relation to vulnerable young people from high risk areas:

At the Police station:

The Police will go through their Safeguarding Migrant Children and Young People Pack

- All UASC are subject to Police and Criminal Evidence Act 1984 (PACE) detention and therefore must be thoroughly searched, DNA, Finger prints and photographs;
- Any item from their property that may be used to communicate, phones, SIM cards, phone numbers etc. should be seized a subject to PACE detention;
- Other than access to language line, they should not be allowed to make generalised phone calls or use the internet;
- Once in the care of the Local Authority the child becomes Local Authority responsibility, therefore any phones, SIM cards etc. to be booked into Police property store. If child / young person goes missing this can be analysed with consent of Local Authority. As the risk assessment is progressed, the allocated Social Worker will be responsible for managing the return of any items;
- The Social Worker will complete at the police station the [Key Contacts Form \(CS0484\)](#), using [Language Line](#) where necessary and take a photo for the Key Contacts Form. Where there is no Social Worker available, police will complete this form.

After leaving police station/at the care provision:

- The Social worker will hand the Key Contacts Form to the care provision. Out of Hours, police will hand this form to secure escort to hand to the care provision.
- The care provision will not permit any phone or internet use (other than to Social Worker), and will switch off Wi-Fi where available.
- The care provision will be responsible for high levels of supervision during the first 24 hours at least. All orienteering activity and appointments should be supervised by the care provision.

If the child / young person is also at risk of Modern Slavery, please see HSCB Chapter on [Modern Slavery](#).

Link : [Modern Slavery Victims: Referral and Assessment Forms](#)

3 Assessment

Please see also [CS0368 UASC Checklist Part 1 and 2](#)

3.1 Age Disputes at Referral

The applicant should be treated as an adult if their physical appearance /demeanour very strongly suggest that they are significantly over 18 years of age. In these cases they should be provided with a letter setting out the reasons for this view.

The [Brief Enquiry as to Age](#) form can be used to make a provisional decision about age in order to ascertain as to whether or not a full age assessment would be required; this should only be used where the presenting migrant very strongly appears significantly over the age of 18. If there is doubt whether a young person may or may not be over 18, the young person should be received into Local Authority care and a Merton Compliant Age Assessment completed at the appropriate point.

If the child / young person has provided details of family within the UK and these details are sufficient to complete an assessment, arrangements should be made to gain the consent and gather information from those family members to complete police and Local Authority checks and assess whether the young person may be placed directly with that relative. This does not necessarily remove the Local Authority's responsibility for the child / young person, nor the need for them to assist the young person to make a timely application to the Home Office. Legal advice should be sought at this point including a referral for the child / young person to access independent legal advice in order to make any relevant applications to the Home Office, based on circumstances under the following categories of the Human Rights Act 1989 ([Schedule 1 - The Articles](#)):

- Article 3 (*No one shall be subjected to torture or to inhumane or degrading treatment or punishment*); or
- Article 8 (*Right to Respect for Private and Family Life*)

If there are no suitable family members or no family members at all, the young person will be accommodated, in suitable accommodation for their projected age, until the age assessment is completed. Consideration at this point should be made as to whether foster care or Supported Lodgings (see [Placement of Children Looked After in Supported Lodgings Procedure](#)) or Semi-Independent Placement ([Placement of Children Looked After and Care Leavers Aged 16 and 17 in Semi-Independent Placement - 'Other Arrangements'/'Suitable Accommodation' Procedure](#)) will be most appropriate, given their age and experiences to date. This should be discussed with the young person, and recommendations made to brokerage/ Operations Director when requesting accommodation.

3.2 Age Assessments

An assessment of age is only carried out if:

- There is no documentation to prove a young person's age; **and**
- Their physical appearance and demeanour suggests they may be older or younger than they claim to be; or
- If the Home Office has disputed their age. In this case, a IS97M will be issued.

Age Assessments should be completed within 5 working days of the young person being accommodated, however due consideration should be taken regarding case law recommendations (need for experienced workers, independent adult and interpreter) which may impact on this.

Age Assessments (see [Unaccompanied Asylum Seeking Children Age Assessment CS0343F12](#)) should be carried out by two workers one of whom should be social work qualified, trained and experienced. It is important to make the role of Children's Services clear to the young person who is being assessed.

The assessment takes into account the following factors: physical appearance and demeanour, interaction, social history and family composition, developmental considerations, education, independence / self care skills and health. Information from other sources, such as carers / key workers or medical reports also have to be taken into account. A conclusion is formed based on the assessing worker's professional judgement on whether or not the available information casts considerable doubt on the claimed age of the young person.

Age assessments are not an exact science, and young people should therefore be given the benefit of doubt. It is impossible to determine a child or young person's age exactly, the margin of error can be a number of years either way. Bear in mind that:

- Children can look and act older (because of their experience);
- Facial hair grows on some boys earlier;
- Child / young person may not know their date of birth (birthdays not celebrated, calendars not used). Converting from one calendar to another, mistakes can be made;
- Child /young person may have given different ages to different professionals/authorities;
- Within ethnic and national groups there are wide variations in children's /young people's growth, age of puberty etc;
- Some children and young people will be traumatised and/or illiterate and this may impact on their ability to communicate and provide information in a coherent manner.

When completing an Age Assessment – the assessment should be compliant with the R (B) v Merton (2003) 4 All ER 280 guidelines (see Section 2 Legal Issues and Case Law) and the following must be taken into account:

- The child /young person should be accompanied during the assessment by an appropriate adult;
- The child / young person should be informed of the purpose of the assessment and of the consequences of the assessment decision;
- An assessment cannot be made solely on the basis of appearance and should be holistic;
- An assessment should take into account relevant factors from the young person's medical, family, social and educational history, including their activities over the past few years;
- It is advisable to complete a timeline of their life history with the child / young person;
- A child/young person-friendly and sensitive approach should be adopted, and the assessor should check that questions have been understood, and breaks offered;
- The child / young person should be given an opportunity within the assessment to answer any adverse points the decision maker is minded to hold against them.

Even if the Home Office is treating the person as an adult and they have stated they are a child, they have the right to approach Children's Services who must make their own assessment as to age. Children's Services MAY override an age decision made by immigration officers.

The child / young person must be informed at completion of the Age Assessment whether or not their age is accepted or disputed. They must be provided with a copy of the assessment, shared with the support of an interpreter. The child /young person must be given the chance to respond to the reasons for disputing their age claim, and this must be recorded.

In cases where the Home Office has disputed the person's age, they will need to be advised on the outcome of the assessment, so they can amend their records if necessary. Contact should be made with the applicants Case Owner located at the Home Office.

If a young person is assessed to be over 18, they may be entitled to support from the Home Office. However, guidance issued under the Nationality, Immigration and Asylum Act 2002 (section 55 guidance), if the Home Office is not satisfied that the young person has made their claim as soon as reasonably practical or that they are destitute, they may not be granted support. Young people whose age has been disputed should therefore be referred to the [Refugee Council](#) for further advice.

The ADCS Asylum Task Force has worked with the Home Office to provide a set of jointly agreed "[good practice documents](#)". These documents are offered as practice guidance, by way of assistance to local authorities and their partners. The use of the proforma and consent form is voluntary. The content does not, nor does it seek to, be binding on local authorities. It is simply a recommended approach.

3.3 Following the Age Assessment (0-16 year olds) and the Leaving Care Assessment of Need (16 & 17 year olds)

The social worker should discuss the outcome of the assessment with their manager. If the child / young person has been assessed as being under the age of 18, the Authority will remain responsible for their care pending any further assessments or until a decision is reached on the child's /young person's application from the Home Office. The young person will usually be accommodated under [Section 20](#), unless there are specific reasons that warrant an alternative response. This could be because the child / young person has access to suitable alternative accommodation in the meantime. This decision will be made by Operations Director/Head of Service. Ensure that they have sufficient information to make a decision regarding accommodation. If a placement is required contact Brokerage Service at the earliest stage to enable a placement search. If a placement is arranged, or if the child / young person is returning to a placement set up by Children Services Out of Hours Service make sure that the carers understand how to use [Language Line](#), have any relevant information from the assessment and know of reporting issues and the importance of children/ young people carrying identification.

Explain to the child / young person what will happen next and make sure they know about the [Refugee Council](#).

3.4 Capacity Assessment

As noted within the assessment process the child or young person's level of understanding

and decision making should be identified, and if the assessment highlights concerns related to the child or young person's understanding and decision making abilities (not based on difficulties with understanding due to language barriers but based on other concerns such as brain injury, learning disability, etc.) a Capacity Assessment should be undertaken with reference to guidance within the Mental Health Act Code of Practice. It should always be noted that a person's capacity (or lack of capacity) refers specifically to their capacity to make a particular decision at the time it needs to be made.

For Under 16's – The Mental Capacity Act (2005) does not generally apply to children/ young people under the age of 16, however there are exceptions (e.g. court of protection making decision about a child's / young person's property, finances, Deprivation of Liberty if the child/ young person lacks capacity).

For Over 16 & 17 Year olds – See Hertfordshire's Policy on Mental Capacity, Mental Capacity Act Forms and Deprivation of Liberty Safeguards ([Link to Mental Capacity Tab](#))

3.5 Child in Need Assessment

See also [Child and Family Assessments Procedure](#).

If a child / young person is presumed a minor, make it a priority to get the child / young person to an appropriate and comfortable location (this should be away from a police station) where you can talk to them and start your assessment. Many trafficked children / young people go missing from care, often within 48 hours, so the location of their whereabouts must not be divulged to any enquirers.

The following should be assessed:

- How they are feeling, do they need to see a doctor or dentist? Are they hungry? Tired? Scared? Make sure that any urgent needs are met;
- The young person is likely to have experienced traumatic events and their mental health needs should be assessed accordingly; consider mental health first aid and support;
- Ask if there is anyone the child / young person needs to phone to let them know they have arrived safely. Make sure they know that making a call will not put their asylum claim in jeopardy. Let them know that they can make a call when you have finished your discussion;
- The circumstances under which the child / young person has left their country of origin and come to the UK. Ask about their journey (this will help you to assist in their applications/appeals). Find out about any links to family and friends in the UK and if there are any links to other Local Authorities;
- The immigration / asylum status of the child / young person and whether they have accessed legal advice. If they have not yet made a claim for asylum, they will need to present to an asylum screening unit as soon as possible. The Children's Panel at the Refugee Council can provide assistance with the asylum process and help young people to access appropriate legal representation. It is important that children / young people have competent legal representation, as the solicitors will be responsible for preparing the child / young person's Statement of Evidence (SEF), forming the basis of their claim for asylum. The child / young person will need a clear explanation of the roles of all those individuals and agencies and the separation between police, immigration and the Local Authority's care responsibilities;

- Where appropriate, the details / circumstances of the child / young person's local connection to Hertfordshire should be established (i.e. via the National Referral Mechanism to Hertfordshire or child/young person sought asylum in Hertfordshire directly);
- Complete a [Child and Family Assessment](#) of their needs. This should include full name, date of birth, country of origin, diet, allergies, religious and cultural needs, background details and reasons for fleeing. The assessment should ascertain any particular psychological or emotional impact of their experiences, and consider the need for mental health services. The risk of them going missing from care should be evaluated and recorded on the child's / young person's case summary;
- Ask the child / young person what they want in terms of outcomes. Do not make any assumptions as they may wish to return home. The assessment should establish that the child / young person understands their situation, how they will be supported, and the risks they may face from traffickers. Unaccompanied children / young people should be informed that they will not be removed from the UK before their 18th birthday, and they should be asked what would help them to feel safe;
- The child's / young person's extended network in the UK should be explored fully as there may be options for placement with family members, or friends, which would better meet the child's / young person's cultural and emotional needs. If a viable placement is adopted, legal advice should be sought regarding the Local Authority's continued responsibility to the child once placed. Consider the implications of related guidance such as [Private Fostering Arrangements](#). See [Private Fostering Procedure](#).

It is important to bear in mind that some young people may have encountered traumatic experiences, that they may find it difficult to talk about family members or that they may be suspicious towards Children's Services staff.

If you are in contact with interviewing Immigration Officers, ensure you have recorded their name and contact details.

3.6 [Liaison with Foreign Embassies](#)

For children and young people who arrived in the UK accompanied but due to circumstances are now within the UK unaccompanied, they will be considered abandoned and every effort must be made to make contact with their family. For any accompanied or unaccompanied child / young person with links to a foreign country (e.g. foreign national child, a child with dual nationality or a British child of foreign parents/national origin) the social worker may also need to work with colleagues abroad (e.g. via the Embassy) to gather information for the assessment.

Liaison with foreign Embassies should be risk assessed to determine if there will be any risks to the child/young person and/or their family should enquiries be made in the child/young person's/family's country of origin.

For a list of Foreign Embassies based in the UK, please see the [GOV.UK website](#). The Embassies should be able to provide information about the Social Care organisation in their respective countries.

See also chapter on [International Cross Border Child Protection Cases](#).

4 Decision on Services Offered

When a young person is accepted as a Child in Need for whom Hertfordshire has responsibility, a decision will be made on whether they should be accommodated under Section 20 of the Children Act 1989 or supported under Section 17 Children Act 1989.

Where a newly arrived young person has no parents or suitable carers in the UK, the presumption is that he or she "would fall within the scope of section 20 Children Act 1989 and become looked after, unless the needs assessment reveals particular factors which would suggest that an alternative response would be more appropriate".

However, wishes and feelings of the young person, who may not want to become looked after, need to be taken into account. In some cases young people may wish to live with friends or relatives. The Local Authority should assess whether the young person has any other needs apart from accommodation. If the needs assessment concludes that accommodation under section 20 is not a suitable course of action, young people will be supported under section 17 Children Act 1989. It is important to explain the implications of different services to young people as part of the assessment and decision-making process.

In the first instance, efforts should be made to contact the child's / young person's family in the UK or abroad. Depending on the outcome of investigations into locating family members, for UASC being Looked After under Section 20 a decision should be made determining if a Care Order would be a suitable option (dependent on age, circumstances, capacity of young person, etc.) to allow Hertfordshire to obtain Parental Responsibility in order to ensure child / young person has access to a variety of services and activities such as school trips, medical intervention, etc.). If applying for a Care Order is not suitable, include details in the child's records.

To support children and young people tracing family members abroad the British Red Cross supports contact with family separated by armed conflict, disaster or migration.

5 Asylum Status, Legal Support and Immigration Appeals

If a child or young person does not have any form of ID (e.g. passport), the following documents may be used as proof of their immigration status, but are not limited to:

- Immigration Papers – (IS96 if applying at the Port of Entry) IS96 is a paper giving right of entry to the UK;
- 'One Stop Notice' and Statement of additional ground (extra information on reasons why asylum is applied for);
- Asylum Screening Unit (ASU) documentation - If a child / young person has been accepted as an unaccompanied minor, they should have been issued with a special screening letter from the ASU. This screening letter should contain the date when they need to return to the Home Office (usually within 2-4 weeks). The child / young person will need to be accompanied by a responsible adult, such as a legal representative, Social Worker, Keyworker or Refugee Council Panel Advisor. If the child / young person's age has been disputed, a different screening letter stating this will have been issued to them. Either Screening letter, or the first page of the Statement of Evidence (SEF) Form, should contain the Home Office Reference number (usually starting with a capital letter followed by several digits). This number is important for any enquiries to the Home Office;

- Asylum Registration Card (ARC) - UASC are usually issued with the ARC photo card either on the day of their asylum claim or at their second screening appointment. This is usually their only identification with a photograph. The ARC card states the full name, Date of Birth, Nationality and languages spoken by the child / young person;
- Letter from a legal representative - If the child / young person has a solicitor, they should issue them with a letter on headed paper confirming the fact that they will be acting on their behalf in immigration matters and stating the child / young person's current asylum status.

A copy of all the above should be certified seen and signed by the social worker before scanning and placed on the child / young person's LCS file.

The Home Office policy is not to seek to remove an unaccompanied minor from the UK unless it is possible to put in place acceptable reception and care arrangements in his/her country of origin and that it is safe to do so.

Newly arrived unaccompanied minors will usually be asked to return to the Home Office within 2-4 weeks. For this appointment, they should be accompanied by a responsible adult, i.e. a legal representative, Refugee Council Panel Advisor, Social Worker or Key Worker or a family /friend. It is important to establish who will accompany the child / young person. A letter from Children's Services needs to be provided to the Home Office to state that the unaccompanied minor is receiving support.

In the first 4 weeks, young people will also need to see their solicitor to receive legal advice on their asylum claim and complete their Statement of Evidence (SEF) Form. In some cases, young people may need to be accompanied to some of these meetings by any of the responsible adults listed above.

There are a variety different possible outcomes arising from an asylum claim. The legal team will be aware of the most up to date legislation and can advise the young person and social worker of these.

According to the Care of Unaccompanied Migrant Children and Child Victims of Modern Slavery Guidance 2017 (*paragraph.21*) *legal advice about immigration must be provided by a registered immigration adviser, who is either a regulated solicitor or registered with the Office of the Immigration Service Commissioner (OISC) to provide immigration advice to the relevant level.*

Immigration Appeals

With increasing numbers of Unaccompanied and Accompanied Asylum Seeking Children and Young People coming into Hertfordshire, it is vital that we ensure we are proactive with supporting these young people with any immigration appeals.

In order to support children/young people in Hertfordshire to have the best possible opportunity to regularise their immigration status, children/young people will be supported by their Allocated Worker to appeal any adverse immigration decision (such as discretionary leave to remain until 17.5 years) as soon as the adverse decision is made.

It is expected that all appeals for children/young people under the age of 18 will be made, subject to appropriate legal advice, under Article 3 (Freedom from torture or inhumane or

degrading treatment – e.g. the child or young person will experience adverse effects by returning to their country) and therefore subject to legal aid. In these instances, HCC will generally not provide any funding for the appeal. Also note that the only time HCC will fund legal costs after the age of 18 is where the child/young person has not had an initial decision prior to turning 18 or unless extenuating circumstances determine that we should. This will be decided on a case by case basis. It is important to note that children / young people only have 14 days from the decision date to appeal this decision. The solicitor is responsible for lodging an appeal.

From 1st April 2013 Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) brought significant cuts to legal aid for immigration cases. These changes are now incorporated into the Children Act 1989 guidance and regulations volume 2: Care Planning, Placement and Case Review (2015).

Although there is no explicit provision stating that Local Authorities are required to underwrite the cost of a child/care leaver's legal fees if they cannot access mainstream legal aid, we have to consider whether to do so will be the best way to meet the child/ care leaver's identified needs and whether by not doing so would breach the legal obligations under the UN Convention on the Rights of the Child (UNCRC) to treat the child's best interests as a primary consideration in all actions. Where regularising a child/ care leaver's immigration status will have a significant impact on their present and future wellbeing, stability and prospects, Hertfordshire will take active steps to support them in resolving their immigration case. This may include supporting the child/ care leaver to access appropriate independent legal assistance and underwriting the cost. See [CS0369 UASC Protocol Appendix E - Finance Process](#).

Hertfordshire will support young people to access appropriate legal representation in order to appeal an immigration claim refusal if it is an assessed need; legal aid does not cover the costs; the legal representative for the Young Person advises there is more than a 50% chance of success; and the young person cannot fund this appeal themselves.

Legal Aid is not available if the application falls under Article 8 (Right to respect for private and family life – e.g. child/young person wants to remain with family in England). In these instances, HCC will generally not provide any funding for the Appeal.

If at any time during a child/young person's immigration process the Allocated Worker receives a request to write a supporting letter for the child/young person to make an appeal, this letter must be reviewed by the relevant Team Manager and HCC Legal Services before sending.

Under 18's

It is the responsibility of the Allocated Social Worker to liaise regularly with the child/young person and his/her solicitor in order to ensure we are aware of any decisions made regarding immigration status.

Within 5 working days of a child/young person receiving an asylum refusal with discretionary leave to remain the Allocated Social Worker must send an up to date copy of the child/young person's care/pathway plan (which must evidence an accurate analysis of the child/young person's situation including: official information, child/young person's support network in the UK and in their country of origin and the child/young person's needs) and advice on the

merits of an Appeal from their solicitor to their line manager and Legal Services for consideration. Legal Services can signpost the worker to information regarding the appeals process. Every attempt must be made to secure legal aid funding for asylum appeals via the child/young person's solicitor. It is the responsibility of the child/ young person's solicitor to lodge the appeal.

It is expected that all appeals for children/young people under the age of 18 will be made under Article 3 and therefore subject to legal aid. In these instances, The County Council will generally not provide any funding for the appeal. If the child/young person's solicitor advises that the appeal cannot be made under Article 3, it is the responsibility of the Allocated Social Worker to query and challenge this advice, seeking support from Legal Services where needed. If the appeal is being made under Article 8, it is the responsibility of the Allocated Social Worker to ask for the child/young person's solicitor to clearly outline the reasons for appeal under Article 8 and not Article 3. If any funding is required as advised by HCC legal services, this request must be sent to the Head of Commissioning, CLA and Safeguarding without delay.

Over 18's

All immigration appeals should have been made prior to young people leaving care. In general, the only time that the County Council will fund legal costs after the age of 18 is where the young person has not had an initial decision prior to turning 18 or where extenuating circumstances determine that we should. However, this will be on a case by case basis. Where the young person is still waiting for their initial immigration decision upon turning 18, it is the responsibility of the Personal Adviser to liaise with the young person and his/ her solicitor regularly to ensure we are aware of any decisions made regarding immigration status.

Every attempt must be made to secure legal aid funding for appeals, which will be for appeals under Article 3. If the young person's solicitor advises that the appeal cannot be made under Article 3, it is the responsibility of the Personal Adviser to query and challenge this advice, seeking support from Legal Services where needed. If the appeal is being made under Article 8, it is the responsibility of the Personal Adviser to ask for the child / young person's solicitor to clearly outline the reasons for appeal under Article 8 and not Article 3.

When supporting a young person to appeal an initial or subsequent immigration decision, the Personal Adviser must complete the Application for funding to cover legal costs for 18+ UAS [CW4 Review of Refusal Form](#) . This form must be accompanied by the pathway plan (which must evidence an accurate analysis of the young person's situation including: official information, young person's support network in the UK and in their country of origin and the young person's needs). This application for funding form must be completed and sent to the UAS Practice Manager within 5 working days of notification of any adverse decision which will be appealed. The Practice Manager will then send this form to the Head of Commissioning, CLA and Safeguarding, Brokerage and Legal Services for approval of any necessary costs.

A UASC Claim Timeline has been developed to provide guidance for practitioners on the information required and timings for a successful Home Office UASC grant claim. (Link to UASC Claim Checklist Document in Appendix) [LINK](#)

Approved Immigration Solicitors

The child / young person to be provided with a list of certified solicitors that they should choose from.

6 Provision of Support

6.1 Support Under Section 20 Children Act 1989

Young people who are deemed in need of accommodation and support under section 20 Children Act 1989, will be offered support as a Looked After Child. The allocated social worker is responsible for carrying out statutory visits (see [Statutory Visits to Children Looked After Procedure](#)) and for completing further CLA paperwork. The child's social worker or carer should accompany them to all meetings with legal or immigration professionals.

If there is a reason to believe the child is a victim of [Trafficking](#) and/or Modern Slavery this must be recorded on their [Care Plan](#). The Plan should include a description of how the child's needs in relation to being unaccompanied or trafficked will be met. The plan should record what access to specialised legal advice and support in relation to immigration and asylum applications, decisions, and court proceedings will be provided. A photograph of the child should be kept on file for use if the child goes missing. See [Hertfordshire Safeguarding Children Board, Children Who May Have Been Trafficked](#).

In line with statutory requirements, [CLA reviews](#) will be held at regular intervals, during which decisions will be made on whether the young person should remain accommodated or become a relevant child.

It may be appropriate after a period of 3-6 months to review the young person's [Age Assessment](#). There may be additional information via health and education available at this time which may make such as assessment more accurate, and the young person may benefit from a review to ensure they are receiving services commensurate with their developmental needs.

A [Pathway Plan](#) should be completed no later than 3 months after the young person's 16th birthday or 3 months after they became a Child Looked After, after the age of 16. The Plan is subject to regular review, and follows existing procedures for children leaving care but should take particular account of the status and specific needs of unaccompanied children.

6.2 Permanence Planning

The full duties which apply to looked after children, apply to UASC children, including the duties to return a looked after child to their family where possible and to endeavour to promote contact between the child and parents or other family members who may have parental responsibility if this is reasonably practicable and consistent with their welfare. Planning for permanence should include consideration of reunification with the child's family. However, social workers should be mindful that family tracing and reunification need to be handled sensitively for this cohort of children, and should also recognise that it will not always be possible to trace the child's family. For more information about family finding, British Red Cross – [Find My Missing Family](#)

Children / young people supported under [Section 20 Children Act 1989](#) may be placed in foster / residential care if this appears the best option due to their development and vulnerability. For many young people aged 16-17, a S 20 placement in Semi-Independent Placements (see [Placement of Children Looked After and Care Leavers Aged 16 and 17 in Semi-Independent Placement - 'Other Arrangements'/'Suitable Accommodation' Procedure](#)) or Supported Lodgings (see [Placement of Children Looked After in Supported Lodgings Procedure](#)) may be more appropriate, where they receive support from key workers. For children / young people who may have been trafficked, an out of area placement may be appropriate to put distance between the child / young person and where the traffickers expect them to be.

Foster carers may need support in understanding the particular needs of UASC in relation to cultural differences, education, language differences, religious differences and the effects of trauma. The Fostering Service provides a support group for foster carers caring for UASC, offer specific training if required and ensure each child / young person and placement has a personalised plan to meet identified need (which needs to be discussed at the placement planning meeting).

The Brokerage Service will be a key partner during all stages of a UASC placement. Follow the checklist to ensure Brokerage Support are informed of all key appointments and changes in the child's immigration status. A HARP referral should be made within 5 days of the placement or within 5 days of the Age Assessment if one will be required.

6.3 Health Support for UASC

Children / young people should be helped to access relevant primary health care services (GP, dentist, and optician) as soon as possible after their arrival including a CLA health assessment. See [Health Care Assessments, Health Checks and Health Care Plans Procedure](#). This task is usually undertaken by carers or supported housing key workers, and needs to be addressed in Care Plans. Health information may inform a child / young person's age assessment, however dental or medical procedures including X-rays should not be undertaken for the sole purpose of informing a young person's age. The Health Plan should also consider the child's / young person's emotional and psychological needs which may have arisen from their experiences in their country of origin, their journey to the UK, or at the hands of traffickers and how these will be addressed. They may need access to specialist mental health services and treatment, and the plan will need to set out the objectives, actions, timescales and responsibilities of which agency providing the assessment and support.

6.4 Education Support for UASC

Child / young people will need particular support in accessing appropriate education and unaccompanied minors, as looked after children, are entitled to priority admission into school. As a looked after child, they are entitled to the same provisions as any other looked after child, including PEPs, Education Plans, and support. See [Education of Children Looked After Procedure](#). The Education plan should include the pathway for securing high quality provision in school or other settings, and support if they have a special educational need. This will include access to English for Speakers of Other Languages (ESOL) classes which are held at local colleges or community learning centres. Carers may also support language acquisition through supporting young people with English as An Additional Language (EAL) homework and strategies –early links between the carers and education support should be

set up soon after placement.

The [Virtual School](#) will be a key link to ensuring the child's education needs are met and reviewed regularly.

Specific issues affecting UASC in relation to accessing education includes gaps in formal education; types of previous education (some children may only have had religious education); cultural confusion; community isolation; language difficulties; racist abuse; impact of trauma.

Carers may access Pupils with English as An Additional Language (EAL) homework to support the acquisition of English and provide strategies to use at home.

The Social Worker / Personal Adviser should check with the college to confirm funding arrangements as to:

- Whether the young person's course will be funded until it's completion, regardless if the young person turns 18 while the course is in situ; or
- Whether the young person will be funded if they choose to complete another course after their 18th birthday.

See also [Short Guide on Access to Further Education in England for Asylum Seekers and Refugees 2017](#)

6.5 Referral to the Refugee Council Children's Panel

The [Refugee Council](#) Children's Panel can provide advice and support for UASC, particularly in the following areas: accessing appropriate and competent legal immigration advice, contact to refugee community organisations, advocacy or contact to family tracing services.

If a child / young person are considered to be particularly vulnerable and in need of additional support, the [Refugee Council](#) may allocate a Panel Advisor who will have regular contact, usually during the initial period after a young person has arrived in the UK. The Refugee Council can also assist with voluntary return if the child / young person has exhausted all appeal rights.

6.6 Case Transfer within Hertfordshire Children's Services Team for CLA

The Assessment Team will transfer to the Children Looked After Service at initial [CLA Review](#). The Assessment team should alert CLA Service Manager of the date of the Review as soon as this is generated, as an early alert. The Case Summary on LCS should be updated at that point to record key information about the child's situation and key dates for appointments with Refugee Council, Home Office, Health Assessments, etc.

The CLA Team will transfer to Targeted Youth Service (TYS) when the young person reaches 18. All transfer information to be completed, including supplementary asylum sections (e.g. UASC Checklist Part 1 and 2).

6.7 Support under Section 17 Children Act 1989

The service under section 17 Children Act 1989 may include accommodation (in exceptional cases), financial assistance and social work support relevant to the developmental needs of the young person. This involves regular meetings with the young person (home visits, office appointments).

The support under section 17 Children Act 1989 usually continues until they reach the age of 18, or until they no longer require support as children in need through other circumstances (i.e. reunification with family or extended family).

Issues around accommodation and support after their 18th birthday, such as application for relevant housing schemes, Housing Benefit, or, depending on their status, Home Office support, have to be addressed through a [Pathway Plan](#) via support provided under [Section 20](#) of the Children Act 1989 (See section 6.1 above).

6.8 Missing UASC

See [Hertfordshire Safeguarding Children Board, Children Who May Have Been Trafficked and Protocol for Children Missing From Care or Home](#) and [Hertfordshire Safeguarding Children Board, Safeguarding Children from Abroad \(including Children who are Victims of trafficking and UASC\)](#).

All residential home staff, foster carers or support workers of semi-independent accommodation caring for unaccompanied children / young people and child victims of modern slavery (including independent advocates where appropriate) should be aware of any particular risks of them going missing, or of any risk to the child / young person from those who wish to exploit them. Processes for managing risks should be incorporated into care plans.

UASC are vulnerable to 'people traffickers'. They are often targeted, recruited or coerced into the sex industry or the 'slave trade' (indentured service). Children / young people who have been trafficked may be reluctant to disclose the circumstances of their exploitation or arrival into the UK through fear of reprisals, coaching/grooming or out of misplaced loyalty.

When any UASC goes missing, or does not go where they are expected to go, the Police must be contacted and all available information given that may lead to the child or young person being recovered. The young person may need to be discussed at SEARCH panel.

The [UK Visas and Immigration](#) must be informed as they hold a current photograph and finger print record. Details of the missing UASC will be posted on the UASC index. This will ultimately be part of the national Child index for England and Wales.

When a missing UASC is located, it may appear that the young person is willingly involved in the sex industry or as an indentured worker, but this must be carefully explored as the UASC may be paying back a debt of honour, and it may put them or their family of origin at risk if they do not continue to co-operate. They should be viewed as at risk, and continuing efforts should be made to protect them and their family of origin. This requires a strategy meeting with the Police and agreement about how to proceed, including consideration of the need for a S47 investigation /Care Proceedings under The Children Act 1989. [National Referral](#)

[Mechanism](#) should also be considered under these circumstances.

7 Supporting Migrant Care Leavers

7.1 Leaving Care Support

The care leaver service for unaccompanied asylum seekers post 18 years of age is provided within Services for Young People. This service is responsible for planning continuing support with care leavers until they reach the age of 21 or up to 24 years for young people where they have refugee status and are in education or training.

The majority of former Unaccompanied Asylum Seeking Children aged 18+ will have been supported under section 20 of the Children Act 1989 and will therefore be '[Former Relevant Children](#)'.

Each young person will have a [Personal Adviser](#), who will provide support and be responsible for keeping in touch and the co-ordination and delivery of the young person's [Pathway Plan](#). When the young person reaches 17 ½ years, the Children Looked After team will provide the 18+ service with an early alert form. This will include a summary of the young person, their current asylum status and details of the last CLA review meeting. A representative from the UAS 18+ service will attend the last CLA review to support introductions with the young person and to promote a smooth transition across the services. Once the young person reaches 18 years of age, the UAS 18+ service will assume case responsibility.

When a case is transferred it is important to know the immigration status of the young person. This will centre on their Asylum application and appeal. Former looked-after children whose asylum cases are still pending will remain eligible for UK Visas and Immigration grant funding and those with [Discretionary Leave to Remain](#) will be eligible for public funds. Those with Refugee Status or [Indefinite Leave to Remain](#) can apply to remain in a foster placement under the Staying Put Policy (see [Staying Put Policy](#)). Where an Unaccompanied Asylum Seekers immigration status is yet to be determined, private rented accommodation will be explored.

The care leaver service will support the young person in seeking to make contact with relatives from whom they have become estranged, usually in their country of origin. This would be done by linking the young person into established organisations tracing facilities. It is important to note that any outcomes from this search are confidential to the young person and they are therefore not obliged to share the information with the Local Authority. It is important to stress this to young people when 'signposting' them to this service. Workers should encourage all former UASC to attempt to make contact with their families.

The possibility of return to their country of origin should be discussed as part of the young person's Pathway Plan. This should begin whilst they are Children Looked After. Workers must ensure that care leavers are aware of the [Assisted Voluntary Returns Scheme](#) which assists repatriation home. Workers should link the young person into organisations that can support them through this process. Workers need to provide sufficient information and support to enable a young person to make an informed choice regarding this option. It is also important that these discussions are reflected in the young person's Pathway Plan and reviewed where circumstances might change.

The Asylum Seekers (Reception Conditions) Regulations 2005 provide that the UK Visas and

Immigration has a duty to provide support to asylum seekers under Section 95 of the Immigration and Asylum Act 2002 if the UK Visas and Immigration considers that the individual is destitute. However, current case law is very clear that if a former relevant child has a welfare need, Local Authorities can only rely on support provided under Section 95 or Section 4 of the Immigration and Asylum Act 1999 if they have evidence that the offer of accommodation from the UK Visas and Immigration will meet the needs of the young person. This point has not been tested in Court. If in this position, please seek specialist legal advice. Should the young person be under twenty-one years of age and in receipt of UK Visas and Immigration accommodation and subsistence, the County Council will continue its obligations to the young person as Former Relevant care leaver by providing them with a [Personal Adviser](#) and having their Pathway Plan reviewed a minimum of every six months and ensure reasonable contact.

7.2 Appeals Rights Exhausted

The financial cost of providing accommodation and subsistence for former relevant children is usually provided through mainstream benefits, if the child / young person has leave to remain in the UK, although the cost of these and other services may need to be supplemented by Local Authority expenditure and grant funding from UK Visas and Immigration)

Access to Benefits ceases once a young person no longer has leave to remain in the UK. In practice, this is likely to only happen in cases where the young person has been refused asylum and the period of limited '[Discretionary Leave to Remain](#)' that was awarded to them before they turned 18 expires. The young person then becomes [Appeal Rights Exhausted \(ARE\)](#). In addition to the young person losing access to benefits HCC will only be able to access UK Visas and Immigration funding for a period of 3 months after the ARE date.

HCC currently continues to support young people who become [ARE](#) (where Human Rights Assessment requires such) until they become twenty-one years old. This support would continue until the young person's removal date, or 21st birthday, whichever comes first.

The decision of the Court of Appeal in R (O) v. LB Barking & Dagenham (2010) found that a Local Authority does have a general duty to provide a former relevant child with accommodation under section 23C(4)(c) of the Children Act 1989 'to the extent that his or her welfare requires it'. The second point of this ruling was that a Local Authority is not entitled, when considering whether the young person should be provided with accommodation, to take account of the possibility of their receiving support under Section 44 of the Immigration and Asylum Act 1999. A Local Authority cannot therefore look to the Home Office to provide for the accommodation or support needs of a former UASC who is ARE.

At twenty-one, depending on their circumstances, HCC will no longer support a young person who is ARE. Those former UASC who are not former relevant children will not be entitled to support from HCC but will be entitled to support from UK Visas and Immigration if they have an outstanding asylum claim.

Section 54, Schedule 3

Section 54, Schedule 3 of the Nationality, Immigration and Asylum Act 2002 restricts Local Authorities from providing assistance to four categories of persons from certain social

services provisions unless the withdrawal of services will result in a breach of the individual's human rights.

The four categories of ineligible groups are:

1. A person granted refugee status by another state;
2. An [European Economic Area \(EEA\)](#) national and any dependants;
3. A failed asylum seeker who has failed to comply with removal directions;
4. A person unlawfully present in the UK, which includes failed asylum seekers who applied for asylum in-country.

The Leaving Care Provisions of the Children Act 1989 is one of the provisions of support that is excluded under Section 54, Schedule 3 of the Nationality Immigration and Asylum Act 2002.

Asylum seeking care leavers who become ARE are likely to fall within the fourth category. Any young person who lodged their application in-country rather than at the port of entry will be deemed unlawfully in the UK if their asylum claim is refused and any appeals finally rejected. In the case of those initially granted a period of [Discretionary Leave to Remain](#) once any application and appeal is finally dismissed, the same applies.

Those young people who claimed asylum at the port of entry will also fall into the "unlawfully present in the UK" category after they turn 18 if their asylum claim fails and any applications for further DL have been rejected and their appeals finally dismissed.

Those young people who were not granted Discretionary Leave to Remain and applied for asylum at port of entry can be classified as "lawfully present" and not caught by Schedule 3 when they become ARE. However, these young people will fall into category 3 above if their asylum claim is rejected and they fail to comply with removal directions i.e. they have been given a time and a means to leave the UK and have failed to take this up.

The general position is that young persons who fall into categories 3 or 4 above will be excluded from support under the leaving care provisions. However, HCC has a duty to provide support if the withdrawal of support will result in a breach of the young person's human rights.

7.3 [Human Rights Assessments](#)

A Human Rights Assessment should be completed to establish whether there is an obligation to support young persons who are [ARE](#) under the Leaving Care Provisions in order to prevent a breach of their human rights.

The relevant articles of the [European Convention on Human Rights](#) are:

- Article 3 – prohibition on torture or inhuman or degrading treatment or punishment
- Article 8 – respect for private and family life
- Article 6 – right to a fair and public hearing (in cases where the person is involved in court proceedings in the UK)

A [Human Rights Assessment](#) should include:

- The support history of the young person in the UK;
- Family, friends and other ties the young person has in the UK and in the country of

- origin;
- Whether the young person will be homeless, be able to work, access services in the country of origin;
- Whether there are any health needs that need to be considered;
- Case law and legislation that requires consideration;
- Whether there are any legal or practical barriers to the young person returning to their country of origin;
- Whether there would be any Article 3, 8 or 6 HRA breaches if the young person were to return to their country of origin;
- What support will be offered to the young person by the Local Authority in order to avoid breach of their human rights.

A legal barrier is when a young person has made a fresh application for asylum or fresh representations to the UK Visas and Immigration based on human rights. Practical barriers to return to the country of origin can include factors such as lack of travel documents or being temporarily unable to travel due to a medical condition. It may be appropriate at this stage for the Local Authority to conduct a [Human Rights Assessment](#) to ascertain whether support is necessary to avoid a breach of the young person's human rights. The [No Recourse to Public Funds Network](#) has a [template](http://www.nrpfnetwork.org.uk/guidance/Pages/default.aspx) <http://www.nrpfnetwork.org.uk/guidance/Pages/default.aspx> for Human Rights Assessments which the HCC can use when assessing young people.

Case law provides that if there are no legal or practical barriers to the child / young person returning to their country of origin, the denial of support does not constitute a breach of the individual's human rights and the Local Authority can assist the child / young person with travel arrangements to facilitate his/her return to their country of origin.

7.4 Local Connections for Housing Purposes

In Hertfordshire the Brokerage Service, in conjunction with the ten Housing Departments, runs a 'Local Connection' rota system for Unaccompanied Asylum Seeking children/young people who are eligible for public funds/housing support that allocates a connection for housing purposes.

When an Unaccompanied Asylum Seeking child/young person becomes Looked After and receives an Asylum Status decision to enable them to access public funds, the allocated Social Worker must notify Brokerage Accommodation Team Admin of the decision and outcome as soon as possible.

Once the Brokerage Accommodation Team has the information, the Senior Placements Officer in the Brokerage Accommodation Team will manage the housing rota application and inform the allocated Social Worker of the 'Local Connection' allocation and available resources.