

Working with children  
and young people  
subject to immigration control  
Guidelines for best practice



Immigration Law Practitioners' Association

# Working with children and young people subject to immigration control Guidelines for best practice

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with

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Immigration Law Practitioners' Association

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## Acronyms

ACPO	Association of Chief Police Officers
ARC	Application Registration Card
BID	Bail for Immigration Detainees
CAFCASS	Children and Family Court Advisory and Support Service
CRB	Criminal Records Bureau
CRC	Convention on the Rights of the Child
CYPU	Children and Young People's Unit
DCA	Department for Constitutional Affairs (formerly LCD)
DfES	Department for Education and Skills (formerly DfEE)
DoH	Department of Health
ECPAT	End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes
ECHR	European Convention on Human Rights
FCO	Foreign and Commonwealth Office
IAA	Immigration Appellate Authority
ILPA	Immigration Law Practitioners' Association
IND	Immigration and Nationality Directorate of the Home Office
LCD	Lord Chancellor's Department (now DCA)
NAGALRO	National Association of Guardians Ad Litem and Reporting Officers
RCPCH	Royal College of Paediatrics and Child Health
SCEP	Separated Children in Europe Programme
SFLA	Solicitors Family Law Association
UASC	Unaccompanied Asylum-Seeking Children
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commission(er) for Refugees

## SECTION 1

# Aims of the guidelines

1

- 1.1 These guidelines on working with children and young people subject to immigration control represent best practice in the context of United Kingdom immigration control based on contemporary knowledge and relevant national, international and regional norms, standards and principles.
- 1.2 These guidelines are aimed principally at those who play a role in decisions that are taken in relation to children's immigration status, most notably the Immigration and Nationality Directorate (IND) of the Home Office<sup>1</sup> (including interviewing officers, caseworkers, policy officers and presenting officers) and in the Immigration Appellate Authority (IAA).

The guidelines will also be of use to others responsible for the provision of non-legal services to children and young people subject to immigration control, and to immigration practitioners who work with such children and represent their interests.

- 1.3 In the absence of any existing UK-specific guidance, these guidelines assist decision-makers to obtain sufficient information to enable an immigration decision to be taken that looks at the best interests of the child and considers that decision in the light of the UK's obligations under the UN Convention on the Rights of the Child (CRC) (1989), the European Convention on Human Rights (ECHR) (1950), the Children Act (as amended) (1989) ('the Children Act'), the Children (Leaving Care) Act (2000) and the 1951 UN Convention relating to the Status of Refugees ('the Refugee Convention').

<sup>1</sup> IND is the part of the Home Office responsible for immigration control at air and sea ports throughout the UK. IND also considers applications for permission to stay, citizenship and asylum and deals with removing unsuccessful applicants.

1.4 In this context the purpose of these guidelines is:

- to ensure that immigration and asylum decision-makers use the most appropriate techniques and procedures to enable children and young people to state their case effectively and exercise their legal rights
- to minimise risks to children and young people seeking entry to the UK
- to provide assistance for professionals working with children and young people subject to immigration control
- to provide a framework for best practice for interviewing children and young people
- to provide a framework for interpreting a child or young person's experiences in order to make a decision
- to provide a framework for best practice in the appellate system
- to ensure the UK abides by its international obligations.

1.5 Because these guidelines represent best practice for working with children and young people subject to immigration control, they do not necessarily reflect current law, policy or practice. Reference to specific case law is not included because this changes frequently.

1.6 These guidelines deal with issues relating to the immigration status of children and young people who are subject to immigration control in the UK. They do not provide best practice for welfare or educational provision and support, which is a complicated and wide-ranging area where separate best practice guidance is needed.

Close co-operation between all the various agencies that come into contact with children who are subject to immigration control is needed to ensure systematic, comprehensive and integrated care and protection. All children in the UK should be treated in the same way and should have access to the same levels of welfare and support regardless of their immigration status.

## Existing guidance and good practice

- 1.7 Children and young people in the UK can be involved in many different types of legal proceedings including care proceedings, other proceedings before the family courts, in the criminal justice system, in Chancery and elsewhere. The asylum and immigration system stands out as having the least formal, specialised provision for children and young people.
- 1.8 These guidelines draw on existing good practice guidelines developed by UNHCR and in other countries to assist decision-makers in dealing appropriately with children and young people who are subject to immigration control.

They also draw extensively on best practice guidance which exists in other areas of policy and practice in the UK including guidance produced by CAF/CASS, the Court Service, Department of Health, Department for Education and Skills (DfES), Department for Constitutional Affairs (DCA), previously the Lord Chancellor's Department (LCD), Law Society, NSPCC and Royal College of Paediatrics and Child Health as well as the specific, but limited, guidance that has been produced in relation to immigration issues affecting children by IND and the IAA ►see Annex 1.

## How to use these guidelines

- 1.9 Adopting the best practice set out in these guidelines does not require any changes to the existing legislative framework.
- 1.10 The guidelines are structured around a number of key themes that arise in working with children and young people who are subject to immigration control. These themes are inter-related but each section is designed to be freestanding. Repetition and cross-referencing is indicated where appropriate.
- 1.11 These guidelines cover an area in which knowledge and practice are growing and improving. They are intended neither to be exhaustive nor to preclude further development.

## SECTION 2

# Definitions and roles

## Definition of a child or young person

- 2.1 The Convention on the Rights of the Child (CRC) and the Children Act define a 'child' as any person under the age of 18.

The Immigration Rules provide that: '[A] child means a person who is under 18 years of age or who, in the absence of documentary evidence establishing age, appears to be under that age' (paragraph 349, HC 395 (as amended)).

- 2.2 In some cases the age of an applicant and whether he or she is a child may be disputed. Guidance on best practice in these cases is provided in section 9 of these guidelines.
- 2.3 Although the legal definition of a child is someone under 18, the consequences of an application made before the age of 18 may continue when the person is beyond this age.

There are particular issues for these young people when they turn 18 if they have an outstanding or unresolved immigration or asylum application. ► See section 10. These guidelines refer to children and young people where appropriate to reflect this situation.

## Definition of a separated child

- 2.4 'Separated children' is the term used in most countries to describe those children who are outside their country of origin and separated from their parents or legal or customary primary carer. In some cases they arrive on their own. In other cases they may be accompanied by an adult who is not their parent or legal or customary carer. In each case separated children are, by definition, children who have been deprived of their family environment.

Separated children may include but are not limited to, those who:

- are entirely on their own in the UK
- are accompanied by a relative who is not their primary carer and who is unable or unwilling to take responsibility for them and abandons them shortly afterwards
- are accompanied by a person who is or is not a relative who may be caring for them or may be exploiting them
- are sent by their parents for safety, education, health or other reasons with or without their consent
- are separated from their families who are in countries other than their country of origin
- are trafficked against their will.

- 2.5 In the UK, separated children who have applied for asylum are commonly referred to as unaccompanied asylum-seeking children (UASC). These guidelines do not use this term because it is limited to those children who are seeking asylum. Instead the term 'separated children' is used throughout these guidelines and includes the experiences of unaccompanied children who are seeking asylum.

- 2.6 The term UASC also implies that children who are accompanied by an adult who is not their parent, guardian or primary carer are therefore not separated, which is not necessarily the case.

It is important that the separation of children from their parents is recognised because children and young people suffer physically, socially and psychologically as a result of being deprived of the care and protection of their parents or other primary carer(s). Separation is a devastating experience for children and young people and can have serious long-term consequences for their wellbeing.

- 2.7 Although separated 16 and 17 year olds may come across as being self-reliant and as having the same needs as adults, these children are often extremely vulnerable and in need of reassurance, care and support.

## Children and young people subject to immigration control

- 2.8 There are a variety of circumstances where children and young people are within the jurisdiction of the UK without a settled immigration status and/or in need of protection.

Some children are subject to immigration control because their parents are seeking leave to remain or challenging a decision by the IND to remove them from the UK. Others will be seeking leave to remain or to challenge removal in their own right. Some children may have been born here, some may have been brought into the UK and abandoned. Others may have been trafficked for labour or sexual exploitation or may have fled to the UK either at their own instigation or at the wishes of their parent, guardians, or carers for safety and freedom from persecution or for other reasons.

- 2.9 Children and young people arriving, or already resident, in the UK and subject to immigration control include, but are not limited to:
- those applying for entry clearance abroad
  - those seeking leave to enter the UK
  - those who are already living in the UK with unresolved immigration issues or whose status is unclear
  - those seeking international protection.
- 2.10 The vulnerability of children and young people subject to immigration control is an additional vulnerability to that experienced by all children. Separated children who are subject to immigration control are some of the children in greatest need in the UK.

### Children applying for entry clearance abroad

- 2.11 Families do not always have the means or the opportunity to travel to the UK together and there are often situations when one parent and children are applying to join the other parent in the UK, or children and young people are applying to join a parent or parents, or other relatives.

## Children seeking leave to enter the UK

- 2.12 Children seeking leave to enter the UK include, but are not limited to:
- children abandoned at the port
  - children who arrive without the correct entry clearance or documentation, with or without their families.

## Children already living in the UK

- 2.13 Children may have travelled to the UK (often sent by their parents) to escape conditions of deprivation, for example, lack of education, housing or health care. Those children who are already living in the UK with unresolved immigration issues or whose status is unclear, can include, but are not limited to:
- children taken into care by the local authority and whose immigration status may never have been fully considered
  - children accommodated by a local authority because of conflict with families
  - children who are in private fostering arrangements
  - children brought in as visitors who overstay
  - children whose immigration status is unclear, including where this is because that of their family is unclear
  - children born in the UK who are abandoned by parents unable to care for them
  - children brought into the UK for adoption where the adoption order is refused or the arrangement fails
  - children who are in the UK as private students where the payment system has broken down
  - children who come into contact with the criminal justice system or mental health system
  - children who are members of a family split between countries or where the actual family relationships are difficult to determine.

- 2.14 A child may voluntarily come for help and advice on leaving an abusive situation, either from their family or from others, and may need their own separate application to be made to IND. Or another person involved with a child, such as a teacher, may have recognised a problem and seen the need for independent help.
- 2.15 Immigration officers may come across children and young people in different situations where their immigration status will need to be established. For example, there may be a raid on premises in which a child is found, or a child may be interviewed by police as a witness to a crime or accident and his or her identity will have to be established, or a child may be with parents or carers who have an unclear immigration status and who come to the attention of the immigration authorities.

### Children and young people in need of international protection

- 2.16 Children and young people suffer many of the same human rights abuses as adults, but may also be targeted simply because they are dependent and vulnerable.

Children are tortured and mistreated by state officials; they are arbitrarily or unlawfully detained, often in appalling conditions; in some countries they are subjected to the death penalty. Countless thousands are killed or maimed in armed conflicts; many more have fled their homes and become refugees. Because children are 'easy targets', they are sometimes threatened, beaten, or raped in order to punish family members who are not so accessible.

- 2.17 Children and young people forced by poverty or abuse to live on the streets are sometimes detained, attacked, and even killed in the name of 'social cleansing'. Many millions of children and young people work at exploitative or hazardous jobs, or are the victims of child trafficking and forced prostitution.

- 2.18 Children and young people who may be in need of international protection can include, but are not limited to:
- children who arrive as members of a family claiming asylum or human rights protection and who may or may not make a separate application
  - children who arrive separated or unaccompanied and who claim asylum or human rights protection
  - children who arrive with an agent and are then abandoned to become unaccompanied children, but do not make an asylum or human rights claim and later come to the attention of the authorities
  - children who are part of a system of trafficking
  - children who are subject to forced marriage.<sup>1</sup>

### The role of 'professionals'

- 2.19 The term 'professionals' is used throughout these guidelines to refer to those persons who, within the context of their work, are in contact with children and young people who are subject to immigration control, and to whom these guidelines are relevant. This includes, but is not limited to: IND staff, interpreters, charities and non-governmental organisations dealing with children and young people, child protection and child welfare agency staff, detention staff, legal representatives, consular staff, adjudicators and tribunal members, law enforcement officials, medical and mental health professionals, education professionals, foster carers and social workers.
- 2.20 Children and young people who are subject to immigration control in the UK come into contact with a range of professionals from different backgrounds. Their broken narratives, the risks that they may have run in gaining entry to the UK, and the trauma and uncertainty that they may experience can mean that they have complex needs which cannot be met by a single agency and that they are at risk of falling through gaps in provision.

<sup>1</sup> The Home Office, FCO and ACPO have published guidance for police in dealing with cases of forced marriage which is available at [www.fco.gov.uk/Files/KFile/forcedmarriageguidelines.pdf](http://www.fco.gov.uk/Files/KFile/forcedmarriageguidelines.pdf)  
See also Southall Black Sisters (July 2001) *Forced Marriage: An abuse of human rights* which can be ordered at [www.southallblacksisters.org.uk](http://www.southallblacksisters.org.uk)

This raises practical issues about resourcing both mainstream and specialist services that are capable of both understanding and responding to the experiences of these children and young people.

- 2.21 All professionals working with children and young people who are subject to immigration control should be aware of the need to safeguard and promote the welfare of children, and to work together to achieve this purpose. Delivering an effective continuum of care and protection for children and young people requires close co-operation of a variety of government bodies, specialised agencies and professionals. This is widely recognised across government in relation to children who are not subject to immigration control.<sup>2</sup> Professionals must be aware of the procedures they should follow when they have any child protection concerns about any children and young people they are dealing with.

## Adults' roles and responsibilities

- 2.22 A wide range of terminology is currently used to describe adults who have a direct role in relation to children and young people who are subject to immigration control. Their roles and responsibilities are not always defined in the same way across different areas of policy and practice.

The terms 'responsible adult', 'appropriate adult', 'suitable adult', and guardian are used interchangeably despite the fact that the legal status and/or role of these adults may be very different. These definitions should not be confused (►see Figure 1 page 16).

### The role of a responsible adult

- 2.23 A child or young person who is subject to immigration control and who arrives or remains in the UK alone will usually have no one who has parental responsibility for him or her. Children who are alone in an unfamiliar country and culture, who often speak no English and who have unresolved immigration issues,

<sup>2</sup> See, for example, DoH (2002) *Safeguarding Children: A Joint Chief Inspectors' report on arrangements to safeguard children*, available at [www.dh.gov.uk/assetRoot/04/06/08/33/04060833.pdf](http://www.dh.gov.uk/assetRoot/04/06/08/33/04060833.pdf) and *Keeping Safe* which is the government's response to *The Victoria Climbié Inquiry Report*, available at [www.dh.gov.uk/assetRoot/04/07/19/80/04071980.pdf](http://www.dh.gov.uk/assetRoot/04/07/19/80/04071980.pdf)

need a responsible adult to protect and promote their interests from the moment that they arrive in the UK. In all cases involving separated children, a responsible adult should be appointed to safeguard the best interests of the child and provide a supportive role which provides a link between all those who may provide services to the child.

- 2.24 Although some children *appear* to be accompanied on arrival in the UK, the adults with them are not necessarily able or appropriate to assume responsibility for them or be responsible for them in law. The fact that a parent or another adult may be accompanying a child does not necessarily mean that they are appropriate, for example, if they are abusing or trafficking the child.
- 2.25 The term 'responsible adult' is used in these guidelines to mean a parent, guardian, carer or another adult who takes responsibility for a child.

It is the general duty of every local authority to safeguard and promote the welfare of children within its area who are in need. Social services will have responsibility for a separated child and a social worker will often take on the role of the 'responsible adult'. Although part or all of the role of a 'responsible adult' may be delegated to others, for example a foster carer or someone else who has been CRB checked,<sup>3</sup> the overall responsibility for safeguarding the child's welfare lies with the local authority.

An immigration officer, police officer, officer of the Secretary of State, legal representative or interpreter cannot be a 'responsible adult'.

- 2.26 Where a child is looked after or assisted by a local authority, there is no transfer of parental responsibility to the local authority. It is only where a local authority has taken care proceedings or an emergency protection order under Section 44 of the Children Act that there will be any assumption of parental responsibility by it. Unrelated adults may obtain parental responsibility through residence, guardianship or adoption orders.
- 2.27 Anyone caring for a child for whom they do not have parental responsibility as part of a private fostering arrangement which will last more than 28 days must inform social services prior to, or within 48 hours, of the child's arrival.

<sup>3</sup> For further information see [www.crb.gov.uk](http://www.crb.gov.uk)

Under the Children Act, it is the duty of every local authority to satisfy itself that the welfare of children who are privately fostered within its area is being satisfactorily safeguarded and promoted.<sup>4</sup>

2.28 A person who does not have parental responsibility for a particular child but has care of the child may, subject to the provisions of the Children Act, do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.<sup>5</sup>

2.29 The role of a responsible adult as defined in these guidelines is:

- to ensure that the welfare of the child is the paramount consideration in all decisions
- to be sensitive to issues of age, gender, race, sexuality, culture, religion, and any mental health problems or learning difficulties in working with the child
- to ensure that a separated child has suitable care, accommodation, education, language support and health care
- to ensure that a child or young person has suitable legal representatives to deal with his or her immigration status or asylum application ► see paras 2.30–2.32 and paras 5.13–5.15
- to ensure that the child's legal representative has the necessary instructions and information to act in his or her best interests and to be aware of the progress of the case
- to attend all asylum or immigration interviews with the child to ensure that the child is not unduly inhibited or alarmed by the interview process and to fulfil the functions set out by the Home Office; as set out in Figure 1 and at 5.12 of these guidelines

<sup>4</sup> This is particularly important given the report of the Victoria Climbié inquiry which was set up to investigate the circumstances leading to the death of Victoria Climbié and to recommend action to prevent such a tragedy happening again. Victoria Climbié was living with relatives in a private fostering arrangement. The report of the inquiry into her death can be found at [www.victoria-climbié-inquiry.org.uk/finreport/report.pdf](http://www.victoria-climbié-inquiry.org.uk/finreport/report.pdf)

See also DoH guidance on the responsibilities of birth parents, foster carers and local authorities in private fostering arrangements available at [www.dh.gov.uk/assetRoot/04/01/47/40/04014740.pdf](http://www.dh.gov.uk/assetRoot/04/01/47/40/04014740.pdf)

<sup>5</sup> See Section 3(5) of the Children Act (1989), available at [www.hmso.gov.uk/acts/acts1989/Ukpga\\_19890041\\_en\\_1.htm](http://www.hmso.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm)

- to consult with and advise the child as appropriate
- to provide a link between the child or young person and various organisations which may provide services to the child
- to advocate where necessary on behalf of the child or young person
- where appropriate, and taking great care not to increase the vulnerability of the child and/or his or her family, to explore the possibility of family tracing and reunification.

## Role of the legal representative<sup>6</sup>

2.30 All children should be represented throughout any legal proceedings by specialist legal representatives. There should be no cost to the child for legal representation or other expenses arising out of the process.

2.31 The child's legal representative has no parental responsibility for him or her and is not able to take decisions on the child's behalf.

The representative's role is limited to advising the child on his or her legal options and then acting on his or her instructions, to the extent that a child or young person is capable of giving them.

2.32 The role of a legal representative is to ensure that a child or young person is able to present all the information relevant to his or her immigration or asylum application. Acting for a child involves a high degree of commitment, expertise, knowledge and training.

In order to fulfil this role the legal representative will need to:

- assess the child's understanding, maturity and capacity to give instructions, to understand the nature of the proceedings and to have an appreciation of the possible consequences of the application both in the long and short term
- take a child's social history and a statement about the basis of his or her application unless the maturity of the child makes it inappropriate to do so

<sup>6</sup> Detailed guidance on the role of the legal representative in cases involving children and young people has been produced by, among others, CAF/CASS, the Law Society and the SFLA. For further information see Annex 1.

- obtain the child's permission to pass on information about his or her social history to the responsible adult in order to reduce the need for this information to be collected repeatedly
- inform themselves about conditions in the country from which the child or young person has originated
- be sensitive to issues of age, gender, race, sexuality, culture, religion and any mental health problems or learning difficulties both in dealing with the child as client and the issues in any particular case
- be sensitive to the effects of trauma and to the impact that the child's experiences prior to, and since, arriving in the UK may have on his or her ability to provide information ►see also sections 5, 6 and 7 for further information on gathering information from children and on interpreting what is said
- collect information from third parties, including the responsible adult and other individuals or organisations who have been working with the child during his or her stay in the UK
- be professional in all dealings with the child or young person, with the child's parent or carer or responsible adult, and any other persons or organisations involved in the case
- provide the Home Office with a written statement of the basis of the application
- explain the purpose of any immigration interview which the child is expected to attend
- attend all interviews and represent the child's interests by following the best practice guidance set out in section 5 of these guidelines
- recognise the limits of their experience and expertise and seek advice from mentors, experts and specialists as appropriate
- commission expert reports, medical reports and other additional information as necessary to support the application
- keep the child informed about the progress of the application by the means most appropriate to his or her level of understanding, and ensure that an older child who is a client has sufficient information to be able to make informed decisions

- with the child's consent, communicate with the responsible adult about the progress of the application and be aware of any changes in the child's situation that may be relevant
- be aware of local authorities' duties to separated children and young people and refer to other organisations and agencies where appropriate
- meet deadlines imposed by IND and if unable to do so then explain why the deadlines cannot be met and seek extensions where appropriate with supporting information
- advise the child of decisions that are made in relation to the application, advise the child of any right of appeal, and ensure that any appeal papers are submitted in time.

## FIGURE 1 Definitions, usages, roles

### Responsible adult – usage

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#### In these guidelines

The term 'responsible adult' is used in these guidelines to mean a parent, guardian, carer or another adult who takes responsibility for a child.

It is the general duty of every local authority to safeguard and promote the welfare of children within its area who are in need. Social services will have responsibility for a separated child and a social worker will often take on the role of the 'responsible adult'. Although part or all of the role may be delegated to others, for example a foster carer or someone else who has had a Criminal Records Bureau check, the overall responsibility for safeguarding the child's welfare lies with the local authority.

An immigration officer, police officer, officer of the Secretary of State, legal representative or interpreter cannot be a 'responsible adult'.

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#### Home Office (IND)

The term is also used in the Home Office's *Unaccompanied Minors Best Practice* document to mean 'a parent, guardian, representative or another adult who for the time being takes responsibility for a child at an asylum interview'.

According to the Home Office, a responsible adult can include the legal representative, social worker, guardian/relative, foster carer, doctor, priest, vicar, teacher, charity worker or Refugee Council Children's Panel representative.

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### Responsible adult – roles

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#### In these guidelines

- to ensure that the welfare of the child is the paramount consideration in all decisions
- to ensure that a separated child has suitable care, accommodation, education, language support and health care
- to ensure that a child or young person has suitable legal representatives to deal with his or her immigration status or asylum claim
- to attend all asylum or immigration interviews with the child to ensure that the child is not unduly inhibited or alarmed by the interview process and to fulfil the functions set out by the Home Office (see opposite) and at 5.12 of these guidelines
- to consult with and advise the child as appropriate
- to provide a link between the child or young person and various organisations which may provide services to the child
- to advocate on the child or young person's behalf where necessary
- where appropriate, and taking great care not to increase the vulnerability of the child and/or his or her family, to explore the possibility of family tracing and reunification.

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#### Home Office (IND)

- to be present at interview to ensure that the child is not unduly inhibited or alarmed by the interview process
- to ensure that the child understands the interview process
- to give moral support and reassurance as necessary to the child;
- to facilitate communication between the child and the interviewing officer where necessary;
- to ensure that any welfare needs relating to the child are sufficiently provided for e.g. adequate breaks, refreshments etc;
- to offer any additional information to the interviewing officer which may have a bearing on the child's emotional wellbeing and fitness for interview

According to the Home Office definition, the responsible adult is *not* present to answer questions on behalf of the child but may intervene if it is clear to him/her that the child is becoming distressed or tired and a break is required.

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FIGURE 1 continued

## Appropriate adult – usage

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### Police

The term appropriate adult is used in relation to the specific definition set out under the Police and Criminal Evidence Act (PACE). According to PACE, all people under the age of 17 and those over 17 with mental health problems or learning difficulties *must* have an appropriate adult present when they are being questioned by the police.

An appropriate adult is defined as someone who is either a parent, known to the person being questioned or experienced in dealing with children, such as a social worker or teacher.

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### Home Office (IND)

The term appropriate adult is used in the Home Office's *Unaccompanied Minors Best Practice* document to describe the role of a social worker or other adult in relation to a separated child.

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### Immigration Appellate Authority (IAA)

The IAA requires an 'appropriate adult' to accompany a child at all hearings.

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## Suitable adult – usage

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### Home Office (IND)

This term is used in Home Office's *Unaccompanied Minors Best Practice*. Its meaning is not defined.

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## Appropriate adult – roles

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### Police

- to give support and advice to the detained person
  - to facilitate communication between the police and the detained person
  - to ensure police interviews are conducted fairly and properly
  - to check welfare issues
  - to look at custody records to ensure the person has been treated properly
  - to make sure the person understands the interview process
- 

### Home Office (IND)

The role of an appropriate adult is not specified but appears to be similar to that outlined for a 'responsible adult' (see above).

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### Immigration Appellate Authority (IAA)

The role of an appropriate adult in this context is not specified.

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## Suitable adult – role

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### Home Office (IND)

The role of a suitable adult is not defined.

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**FIGURE 1** continued**Adviser or advocate – usage****Home Office (IND)**

This term is used by the Home Office to describe a representative from the Refugee Council's Children's Panel (see below).

**Refugee Council Children's Panel**

The Children's Panel is an independent body funded by the Home Office and administered by the Refugee Council. The Panel employs around 20 advisers to support separated asylum-seeking children. Resource constraints mean that Children's Panel advisers are no longer able to fulfil their role and function in all circumstances.

**Voice for the Child in Care (VCC)**

The term advocate is used to describe those trained staff who are able to provide telephone and one-to-one support and advice for children in care.

**Adviser or advocate – roles****Home Office (IND)**

According to the Home Office, the role of the Children's Panel adviser is 'to provide independent guidance and support to ensure that the child is aware of his/her rights and the services to which he/she is entitled throughout the asylum process. The Panel does not offer legal advice'.

**Refugee Council Children's Panel**

- to assist the child in accessing quality legal representation
- to guide the child through the complexities of the asylum procedure
- if necessary, to accompany the child to asylum interviews, tribunal and appeal hearings, magistrates and crown court appointments
- to build up a support network for the child involving a range of statutory and non-statutory service providers
- to support the child during appointments with GPs, hospitals, social service or other service providers.

**Voice for the Child in Care (VCC)**

- to empower children and young people to resolve any problem they may have with their care by giving information, advice and support
- to help children express their own views directly or by speaking on their behalf.

FIGURE 1 continued

## Personal adviser – usage

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### Local authority

Social services have a statutory duty under the Children (Leaving Care) Act to appoint a personal adviser to all relevant and eligible children and young people. The personal adviser will usually be a social worker but may be a Connexions personal adviser (see below) or someone from another organisation who is subcontracted to take this role (for example, someone from a voluntary or children's organisation).

For separated children and young people who are subject to immigration control, the personal adviser may have an important role to play in ensuring that the local authority and other agencies are fulfilling their roles and obligations in relation to the child or young person.

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### Connexions

Connexions is the government's support service for all young people aged 13 to 19 in England. The service aims to provide integrated advice, guidance and access to personal development opportunities for this group and to help them make a smooth transition to adulthood and working life.

All young people aged 13–19 have access to a Connexions personal adviser. The overall aim of providing a personal adviser through Connexions is to make sure that the needs of young people are met so that they are able and motivated to take education, training and work opportunities and achieve to their full potential.

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## Personal adviser – roles

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### Local authority

The personal adviser's role as prescribed by the Children (Leaving Care) Act is:

- to provide advice (including practical advice) and support
- where applicable, to participate in the child or young person's assessment and the preparation of his or her Pathway Plan (see glossary)
- to participate in reviews of the Pathway Plan
- to liaise with the responsible authority in the implementation of the Pathway Plan
- to co-ordinate the provision of services and to take reasonable steps to ensure that the child or young person makes use of the available services
- to keep informed about the young person's progress and wellbeing
- to keep a written record of contacts with him or her.

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### Connexions

A Connexions personal adviser's role is to get to know a child or young person and, once they do, to keep in close contact with him or her and to bring together effective support for that child or young person.

The role of the personal adviser varies depending on the needs of a child or young person. For some young people this may be just for careers advice, for others it may involve more in-depth support to help identify barriers to learning and find solutions brokering access to more specialist support.

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**FIGURE 1** continued**Children's guardian – usage****Children and Family Court Advisory and Support Service (CAFCASS)**

The term 'children's guardian' replaced the term 'guardian *ad litem*' in April 2001 with the introduction of the new combined service CAFCASS.

Children's guardians are qualified and experienced in social work.

They are appointed by the family court to represent the rights and interests of children in cases that involve social services (for example, in care proceedings) or other family court cases. They are independent of social services, courts, and everyone else involved in the case.

**Guardian – usage**

The term guardian was a legal term that was widely used in the past in various legal contexts but now only relates to testamentary guardians.

**Guardian *ad litem* – usage**

The guardian *ad litem* has now been largely replaced by the 'children's guardian' (see above).

**Court welfare officer – usage**

In family law cases the court sometimes appointed Court Welfare Officers. Court Welfare Officers have now been replaced by Children and Family Reporters (see below) who are part of CAFCASS.

**Children's guardian – role****Children and Family Court Advisory and Support Service (CAFCASS)**

- to appoint a solicitor for the child who specialises in working with children and families
- to advise the court about what work needs to be done before the court makes its decisions
- to write a report for the family court saying what they think is in the best interests of the child. The report must tell the court about the wishes and feelings of the child

Further information on the role of the children's guardian is provided in Annex 3

**Guardian – role**

not applicable

**Guardian *ad litem* – role**

A guardian *ad litem* may have responsibility for a child on the rare occasions that wardship proceedings are taken.

**Court welfare officer – role**

not applicable

**FIGURE 1** continued**Children and Family Reporter – usage**

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When an application is made to a court for a contact, residence, specific issues or prohibited steps order, and the parents are not able to reach agreement, the court will usually ask a Children and Family Reporter from CAFCASS to help families try to agree arrangements for their children. Children and Family Reporters are qualified in social work and are experienced in working with children and families. The Reporter is independent of the courts and social services. Children and Family Reporters were previously called Court Welfare Officers (see above).

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**Child welfare officer – usage**

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This is often used as a generic term within a wide range of organisations to describe someone who acts as a point of contact in all issues relating to the welfare of children and young people. The term may also be used inaccurately in relation to the post which was previously a Court Welfare Officer but is now a Children and Family Reporter (see above).

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**Sponsor – usage**

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A sponsor is a friend, relative or other person, whose immigration status is secure, who confirms financial support for an applicant.

The term is often used loosely and incorrectly to describe someone who is meeting a child travelling to the UK and putting himself or herself forward as a 'responsible adult' often as part of a private fostering arrangement (see glossary).

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**Children and Family Reporter – role**

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The Children and Family Reporter will often visit the family involved in the proceedings and discuss arrangements for their children. Part of the role of the Reporter is also to talk to the children to find out what they want to happen. If no agreement is reached the Children and Family Reporter will usually write a report for the court. The report explains the enquiries the Children and Family Reporter has made and says what he or she thinks should happen.

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**Child welfare officer – role**

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not applicable

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**Sponsor – role**

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There is no formal role for a sponsor in relation to a child who is subject to immigration control in the UK. The sponsor may assume care for the child through a private fostering arrangement but does not have parental responsibility unless an order of the court is obtained.

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## SECTION 3

# Child first, migrant second

- 3.1 The experiences of children and young people who are subject to immigration control are different from those of adults. These children have often had little or no choice in the decisions that have led to their current situation. Children and young people are particularly vulnerable and require procedures appropriate to their age, level of maturity and individual needs. They are children first and migrants second.

## International legal framework and best practice principles

- 3.2 Children and young people who are subject to immigration control in the UK are entitled to international protection under a broad range of international, regional, and national instruments, most notably the Universal Declaration of Human Rights (UDHR), European Convention on Human Rights (ECHR) and the Refugee Convention (►see Figure 2).
- 3.3 In addition, the human rights of children and young people are fully articulated in one treaty: the United Nations Convention on the Rights of the Child (CRC) which came into effect in November 1989 and offers the highest standard of protection and assistance for children under any international instrument. The CRC is the most universally accepted human rights instrument.<sup>1</sup> It provides the most comprehensive framework for the responsibilities of states to all children within their borders.
- 3.4 The approach of the Convention is holistic, which means that the rights are indivisible and interrelated, and that all articles are equally important.

<sup>1</sup> The CRC is ratified by every country in the world with the exception of the US and Somalia.

## FIGURE 2 International and regional standards

The Universal Declaration of Human Rights (UDHR) (1948)

The 1926 Slavery Convention and Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956

The 1949 Geneva Conventions on the Laws of War and the two Additional Protocols of 1977

The Convention for the Suppression of the Traffic in Persons and the Exploitation of Prostitution of Others (1949)<sup>2</sup>

The European Convention on Human Rights (ECHR) (1950)

The Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)

The Convention on the Elimination of All Forms of Racial Discrimination (1965)

The International Covenant on Civil and Political Rights (ICCPR) (1966)

The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979)

The Hague Convention on the Civil Aspects of Child Abduction (1980)

The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) (1984)

The UN Convention on the Rights of the Child (CRC) (1989)

The UN Declaration on the Elimination of Violence against Women (1993)

The Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoption (1993)

The UN Convention against Transnational Organised Crime (Palermo Convention) (2000)

<sup>2</sup> This Convention only relates to trafficking for sexual purposes, but there are currently efforts at the European level to broaden and update this Convention and its focus

All aspects of the CRC are relevant in dealing with children and young people subject to immigration control in the UK. The most significant ones are listed in Figure 3 overleaf and more detail is provided in Annex 2.

- 3.5 The CRC emphasises that the family is the natural environment for nurturing the child and recognises that all children should be able to grow up in a happy and loving family environment.
- In addition it places a primary obligation on the state to protect children from all forms of abuse, neglect and exploitation, even where these are not carried out directly by state agents. This is intended to ensure that children are protected from abuses committed within the family or the community, including domestic violence and child abuse, bonded child labour or child prostitution.
- 3.6 The UK ratified the Convention on the Rights of the Child in December 1991, which obliged it, under international law, to full implementation. However a Reservation was placed on applying the principles of the CRC to children and young people who are subject to immigration control.<sup>3</sup> The UK government believes that the Reservation remains necessary in order to maintain effective immigration control. In 1999 the Committee on the Rights of the Child – the international monitoring body for the CRC – issued a report which was critical of this position, and concluded that the Reservation is incompatible with the object and purposes of the CRC.<sup>4</sup>

<sup>3</sup> The Reservation states that: 'The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time'. Of the 192 signatories to the CRC, only three have entered declarations relating to the treatment of children who are non-nationals and only one has entered a reservation.

<sup>4</sup> Committee on the Rights of the Child (2002) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland* Paragraph 47 and 48(g). In relation to the rights of asylum-seeking and refugee children, the Committee criticised the Government stating that: 'The Committee is further concerned that... the ongoing reform of the asylum and immigration system fails to address the particular needs and rights of asylum-seeking children.' and recommended that the government: 'address thoroughly the particular situation of children in the ongoing reform of the immigration and asylum system to bring it into line with the principles and provisions of the Convention'.

- 3.7 Although the UK continues to maintain its Reservation to the Convention on the Rights of the Child, the limitation only applies to the provisions of immigration and nationality law.
- It should not limit the application of the other rights set out in the CRC but it is frequently misinterpreted to limit the application of the provisions in the CRC to other aspects of a child's life if he or she is subject to immigration control.
- 3.8 These guidelines proceed on the basis that, although the Reservation remains in place, best practice requires children and young people subject to immigration control to be treated as children first and as migrants second. Their immigration status should be treated as secondary to their status as children.
- 3.9 All those working with children and young people subject to immigration control should ensure adherence to the essential principles enshrined in the CRC. These are the principles of best interests, right to participation, non-discrimination, and dignity.

## Principles in the CRC

### Best interests

- 3.10 Article 3 of the CRC is one of its core articles and provides that 'in all actions concerning children and young people, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration'. Article 3 only requires that the best interests of the child be 'a', not 'the', primary consideration. It does, however, require that the child's interests be considered in *all* actions taken by the state.
- 3.11 This principle is of broad application and applies even where children's interests are only indirectly in play, such as in the formulation of government policies. It requires that where a decision concerns the child's interests, the assessment of the best interests of that child are a necessary part of the decision-making process.
- 3.12 Determining best interests must be central to establishing appropriate action for resolving the situation for any child. This may mean balancing conflicting rights. For example, seeking to realise the right to family reunification can give rise to conflicts with the child's own expressed wishes. ► See section 13.

### FIGURE 3 Convention on the Rights of the Child (CRC)

The detail of these articles is set out in Annex 2.  
A full copy of the Convention on the Rights of the Child can be obtained at [www.unhcr.ch/html/menu3/b/k2crc.htm](http://www.unhcr.ch/html/menu3/b/k2crc.htm)

#### Article 1

defines a child as 'every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'.

#### Article 2

outlines the principle of non-discrimination and requires states to take appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

#### Article 3

specifies that, in all actions concerning children, the best interests of the child shall be a primary consideration.

#### Article 5

calls on states to respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child.

#### Article 7

requires that a child should be registered immediately after birth and should have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

#### Article 8

urges states to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference.

#### Article 9

provides that states should ensure that a child is not separated from his or her parents against their will, except when such separation is necessary for the best interests of the child.

#### Article 10

deals with family reunification and obliges states to deal with applications for family reunification by a child or his or her parents in a positive, humane and expeditious manner.

#### Article 11

requires states to take measures to combat the illicit transfer and non-return of children abroad.

#### Article 12

provides a child who is capable of forming his or her own views with the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

#### Article 18

states that children have the right to be brought up by both parents.

#### Article 19

provides that states shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

#### Article 21

calls on states to recognise and/or permit the system of adoption to ensure that the best interests of the child are the paramount consideration.

#### Article 22

specifically deals with asylum and refugee status and requires states to take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance.

#### Article 35

sets out the need for preventative measures to prevent the abduction, sale of or traffic in children for any purpose or form.

#### Article 37

states that no child should be deprived of his or her liberty and that where detention is used, a child should be detained only as a measure of last resort and for the shortest appropriate period of time.

- 3.13 The best interests principle is already part of domestic law through the Children Act, the ECHR and the express recognition of the principle in the European Charter of Fundamental Rights. ►See para 3.7.
- The application of the best interests principle does not necessarily conflict with the operation of UK immigration control although the Reservation to the CRC can *incorrectly* give rise to the conclusion that the best interests principle may be excluded wholesale from all areas and issues affecting children who are subject to immigration control.
- 3.14 The best interests of the child take on an even greater importance in the case of separated children and young people, who are, by definition, unable to look to their family for support and are directly reliant on the state.
- 3.15 The principle of best interests means that children and young people who are subject to immigration control need a timely resolution to their case and certainty about the future. Children and young people need a durable solution to the issues that affect their lives and their long-term immigration status should not be left undecided until they are approaching or turned 18.
- Nor should 18 be treated as a watershed in the way a child's case is handled or resolved. ►See sections 10 and 13.

### Right to participation

- 3.16 Alongside the principle of the child's best interests, it is also important to recognise the principle of the child's right to participate in decisions affecting him or her. The best interests principle should be properly understood to accommodate an opportunity for the child to determine what those interests are – on the condition that it is compatible with the law and interests of others and that it is not contrary to his or her self-interest in terms of physical or mental wellbeing and integrity.

- 3.17 Article 12 of the CRC states that every child has the right to express his or her views, opinions or beliefs freely in all matters, in his or her own words, and to contribute to the decisions affecting his or her life, including those taken in any judicial process *and* to have those views taken into consideration.

Reflecting this, children and young people should be kept informed, in an age-appropriate manner, about the procedures, the decisions made about them, and the possible consequences.

### Non-discrimination

- 3.18 Every child has the right to be treated fairly and equally regardless of his or her parent's or guardian's, or his or her own, race, ethnicity, colour, gender, language, religion, political or other opinion, social origin, property, disability, birth or other status.
- Article 2 of the CRC specifically states that children who are subject to immigration control are entitled to the same treatment and rights as national or resident children. They must be treated as children first and foremost. All considerations of their immigration status must be secondary.

### Dignity

- 3.19 The CRC acknowledges that every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected.

## Domestic framework

- 3.20 In addition to this international framework for addressing the needs of children and young people who are subject to immigration control, there is a very important domestic context provided in the form of the Children Act<sup>5</sup> (►see Figure 4).
- 3.21 Section 1 of the Children Act provides that when a court determines any question with respect to the upbringing of a child, the child's welfare shall be the court's paramount consideration.
- 3.22 Ensuring that the child's welfare is the paramount consideration as required under the Children Act involves not only an assertion to that effect but full and proper training of all the professionals involved in the child's life, proper monitoring and the taking into account of the child's wishes and desires for his or her future.  
►See section 14 for guidance on training, implementation and monitoring of best practice.

## FIGURE 4 Important principles in the Children Act

- When a court determines any question with respect to the upbringing of a child, the welfare of the child is the paramount consideration.
- In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.
- In any proceedings in which any question with respect to the upbringing of a child arises, a court should take into account: the ascertainable wishes and feelings of the child concerned (considered in the light of his or her age and understanding); his or her physical, emotional and educational needs; the likely effect on him or her of any change in his or her circumstances; his or her age, sex, background and any characteristics which the court considers relevant; and any harm which he or she has suffered or is at risk of suffering.
- Wherever possible, children should be brought up and cared for within their own families.
- Parents with children in need should be helped to bring up their children themselves. This help should: be provided in partnership with the parents; meet each child's identified needs; be appropriate to the child's race, culture, religion and language; be open to effective independent representations and complaints procedures; and draw upon effective partnership between the local authority and other agencies, including voluntary agencies.
- Children should be safe and be protected by effective intervention if they are in danger.
- A local authority can only arrange for, or assist in arranging for, any child 'in their care' to be removed from the UK with the approval of the court. The court can only consent for a separated child to be removed from the UK if it is satisfied that living outside the UK would be in the child's best interests and that suitable arrangements have been, or will be, made for his or her reception and welfare in the country in which he or she will live.
- It is the duty of every local authority to satisfy itself that the welfare of children who are privately fostered within its area is being satisfactorily safeguarded and promoted and to secure that such advice is given to those caring for them as appears to the authority to be needed.
- Children should be kept informed about what happens to them, and should participate when decisions are made about their future.
- Parents will continue to have parental responsibility for their children, even when their children are no longer living with them. They should be kept informed about their children and participate when decisions are made about their children's future.

<sup>5</sup> A full copy of the Children Act can be obtained at [www.hmso.gov.uk/acts/acts1989/Ukpga\\_19890041\\_en\\_1.htm](http://www.hmso.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm)  
Many of the matters dealt with by the Children Act are dealt with in Scotland by the Children (Scotland) Act 1995.

## SECTION 4

## Initial contact with children

- 4.1 This section outlines basic principles for dealing with children to ensure that their best interests are met when they first come into contact with the immigration authorities or other professionals. These principles are equally applicable to initial contact with children and young people who have just arrived in the UK and those who come to the attention of the immigration authorities when they are already living here.
- 4.2 At the point of initial contact with immigration authorities, children should only be asked a limited number of questions to establish their identity, age and whether or not there is someone caring for them in the UK.
- No additional questions should be asked. If it is considered necessary to ask additional questions, either as part of a screening process or at a substantive interview, the best practice on interviewing children and young people provided in section 5 of these guidelines should be followed.

## Understanding the child

- 4.3 Children and young people with immigration problems may be frightened or unsure of what is going to happen to them. It is important that the first professional they meet ensures that they feel safe and supported and continue to do so. Some children, particularly older teenagers, may not admit to being scared or upset.
- 4.4 To allay children and young people's fears and anxieties about the immigration process and what will happen to them, immigration officers and other professionals should use appropriate body language and be as informal as possible. All IND staff must act professionally, impartially and courteously at all times. They must be open and honest in their dealings with applicants and their representatives.

- 4.5 Children and young people should not be required to wait before a meeting with a professional starts. If for any reason a child has to wait, he or she should be asked regularly whether he or she would like a drink, something to eat, whether they are comfortable or if they need to go to the toilet.
- 4.6 If the child appears unwell or distressed or the immigration officer or other professional has any concerns at all about the child's welfare then immediate medical assistance should be sought. If this is unavailable it may be necessary to involve social services or contact the emergency services.
- 4.7 If it is suspected that a child has been abused, or is at risk of abuse, professionals should follow the appropriate procedures within the organisation or department in which they are based.
- 4.8 Some children and young people may say that they do not want an interpreter because they are wary of coming into contact with people from their own country.
- If there are any doubts whatsoever about the ability of the child to communicate fluently in English then an interpreter who is professional and neutral should be used. Children and young people should be informed of this. ► See also paras 5.16–5.20 of these guidelines for further information on the use and role of interpreters.

## Establishing basic details

- 4.9 Whether or not a child is separated should be established as soon as possible after coming into contact with immigration or other authorities. While an immigration officer is screening a separated child, IND has a *de facto* duty of care to that child.
- 4.10 If a child's first contact with professionals is at the port of entry, the immigration officer should contact the person meeting the child where there is one, and ask him or her to come to meet the child, if he or she has not already done so.<sup>1</sup>

<sup>1</sup> The term 'sponsor' is often used loosely and incorrectly to describe someone who is meeting a child travelling to the UK and putting himself or herself forward as a 'responsible adult.' See Figure 1 for further information and definitions.

In all cases the person meeting the child should be told that they require photo proof of identity, e.g. a passport, a photo ID driving licence, an ARC or a national identity card. These details should be copied, recorded and kept on the child's file.

- 4.11 Immigration officers play a key role in ensuring that a separated child is collected by an adult who is known to them and who is able to take responsibility for his or her welfare. If the child is not being met by a parent or carer with parental responsibility, and the application for leave to enter is for more than 28 days, IND should inform social services in the area where the child is staying because this constitutes a private fostering arrangement.
- 4.12 Traffickers sometimes present themselves as responsible adults.  
 ► See section 12 for best practice for identifying and working with children who may have been trafficked. Social services should be informed in any case where there is concern about the child's safety or relationship to the adult(s) meeting the child or any private fostering arrangement.
- In cases of suspected trafficking, the police should also be informed.
- 4.13 Unless there are welfare concerns a child should not be separated from an adult, particularly a parent, during this investigation. After questioning the adults of the party and conducting database checks, the officer can usually be satisfied that the situation is *bona fide*.
- Where an officer is not satisfied, the officer may wish to question the child separately. This must only be done in the presence of a responsible adult, as defined by the Home Office and set out in Figure 1 (above).
- 4.14 If the immigration officer is not satisfied regarding the accompanying adult's *bona fides*, or has other concerns regarding the child's welfare, or if there is a private fostering arrangement in place, or he or she is satisfied that the child is unaccompanied or separated, then social services should be advised of the child's presence.

- 4.15 There may be circumstances where the immigration officer is unwilling to release the child into the care of a person meeting him or her but where social services have declined to intervene. Consideration should be given to contacting child protection officers within the police service<sup>2</sup> who have further legal powers concerning children and young people who may be at risk.
- 4.16 Wherever a child is photographed or fingerprinted, a responsible adult should be present. Every separated child should be photographed by social services for identification purposes.<sup>3</sup>

## Entry clearance

- 4.17 Applications for entry clearance from children in any capacity should be prioritised. Applications for citizenship and passports from children and young people based abroad should similarly be prioritised.
- 4.18 When a child applies for entry clearance with someone who is *not* the parent or guardian, decision-makers should be aware that a child may be being trafficked and evidence of the relationship to the person travelling with the child to the UK should be established.

## Access to the territory and/or to protection

- 4.19 Children should not be subjected to fast track or accelerated procedures. Where the age of an individual is disputed, he or she should not be subjected to any fast track or 'safe-third country' procedures. ► See section 9 for best practice guidance in cases where the age of the applicant is disputed.

<sup>2</sup> Child protection officers located with the police service are specially trained to deal with any situation where children or young people are being treated badly or are potentially at risk. Child protection officers work closely with people outside the police, such as social services, health and education services.

<sup>3</sup> This is important so that if the child goes missing he or she can be identified. See section 12 of these guidelines for further information on trafficking issues.

- 4.20 Whether or not a child is able to produce documentation to confirm his or her identity will be dependent on the child's circumstances and on how he or she arrived in the UK. A child should not be prosecuted for the inability to produce documents or for other immigration offences.<sup>4</sup>

## SECTION 5

# Interviewing children and young people

5

- 5.1 Children may be interviewed about immigration matters in a variety of different contexts including at overseas posts, at ports on their arrival, by the police, by caseworkers and decision-makers in the Home Office, by legal representatives, social services representatives, local authority staff and other professionals. ► See section 4 for additional guidance on best practice when initial contact is made with a child or young person who is subject to immigration control.
- 5.2 In relation to children who are not subject to immigration control, it is recognised across government that it is important to minimise the number of interviews and assessments to which children and young people are subjected. This is acknowledged to be in the best interests of the child. The same principle applies to children who are subject to immigration control.

## The decision to interview

- 5.3 A child or young person should not be interviewed by the Home Office about immigration issues if it is possible to obtain sufficient information from other sources to resolve properly the immigration issue. These alternative sources of evidence may include, for example, a written statement of the child prepared by the child's legal representative, information from family members or a responsible adult rather than the child, information on the situation of children in the country of origin, expert evidence from a physician, a child psychologist or a social worker. ► See section 6 for further guidance on expert evidence and supporting information.
- 5.4 In deciding whether or not to interview a child or young person who is subject to immigration control in connection with his or her application, it is necessary to determine first whether this is in the best interests of the child. Interviews by a figure of authority, for example, an immigration officer, can be distressing for a child.

<sup>4</sup> Although the power to prosecute children over 10 now exists, to do so is not in children's best interests and fails to reflect their particular experiences. Children often have no control over the circumstances that have led to them to come to the UK. They may not be able to produce identity documents because these are not available to them in the country or origin. For further information on identity documents see paragraphs 6.6–6.8 of these guidelines.

In other areas, it is accepted childcare practice to draw from other sources of information as much as possible in order to avoid interviews with children.

- 5.5 Where an interview by an immigration officer is considered essential, a child or young person should be treated in a manner that does not undermine the best interests principle. The conduct of the interview should take into account a child's personal situation and immediate needs, age, gender, level of maturity and any disability and fully respect his or her physical, mental and moral integrity
- 5.6 An invitation to be interviewed by the Home Office should be issued at least 28 days before the interview date. If a child or young person fails to attend an interview, the application should not be refused on the basis of non-compliance grounds because of the particular vulnerabilities of children and young people and the fact that they may not fully understand the procedures. A further interview date should be sent.
- 5.7 The number of interviews undertaken overall and by different professionals should be kept to an absolute minimum. If interviews or assessments have been undertaken by professionals working with the child or young person, that information should be disclosed to the legal representative in order to minimise the number of times the child has to repeat his or her account. With the child's consent, the legal representative should disclose information obtained from the child to other professionals to reduce the need to re-interview. If follow-up interviews are to be undertaken, the same person should carry them out.

## Issues in interviewing children

- 5.8 Interviewing children and young people is difficult. Most children, especially younger children, do not have a clear idea of the purpose of the interview, nor do they have the ability to recognise the relative importance of facts known to them. In addition, an interviewer is faced with the limited cognitive skills of children, such as short attention spans, limited vocabulary and linguistic abilities, limited space and time concepts, and an inability to relate events in chronological order.

- 5.9 Some children may have mental health problems or learning difficulties and/or have suffered trauma which can impact on their ability to give information in chronological order, or at all.
- 5.10 Many children and young people have a desire to please adults by saying things which they feel are expected of them. Where children or young people are interviewed in the context of a family's immigration status or asylum application, undue emphasis should not be placed on inconsistencies in the child's account in assessing credibility. ▶ See also section 6 for further guidance on assessing credibility.

## Role of the responsible adult

- 5.11 Ensuring best practice is followed when working with children and young people who are subject to immigration control means that they should not be interviewed without a responsible adult present. The role of the responsible adult more generally is set out in section 2 of these guidelines.
- Any interview in relation to a child's immigration status should not take place until at least 14 days after a responsible adult has been appointed.
- 5.12 The main roles of the responsible adult at an immigration interview are:
- to ensure that the child or young person understands the interview process and the purpose of each interview
  - to be present at interview to ensure that the child or young person is not unduly inhibited or alarmed by the interview process
  - to give moral support and reassurance as necessary
  - to facilitate communication between the child or young person and the interviewer where necessary
  - to ensure that the child's or young person's welfare needs are sufficiently provided for, for example, through the provision of adequate breaks, refreshments etc
  - to offer any additional information to the interviewer which may have a bearing on the child or young person's application, emotional wellbeing, mental health and fitness for interview
  - to ensure that the interviewer is made aware if the child or young person is becoming distressed or tired and a break is required or the interview should be curtailed.

## Role of the legal representative

- 5.13 The legal representative should be present at all immigration interviews, should be skilled in advising and representing children and young people and, in asylum cases, should be aware of child-specific forms of persecution. Legal representatives working with children and young people should be vigilant in detecting where a child or young person, whether separated or with an adult, may be a victim of trafficking or other abuse. ►See section 12 for further information on identifying and working with children and young people who may have been trafficked.
- 5.14 A legal representative who accompanies a separated child or young person cannot also take on the role of the responsible adult as defined by the Home Office. ►See Figure 1 for the Home Office definition of a responsible adult. The responsible adult accompanying the child or young person to the interview must be able to attend the interview alongside the legal representative.
- 5.15 The role of the legal representative in relation to the immigration interview is:
- with the responsible adult, to ensure that that the child or young person understands the interview process
  - to attend the interview and ensure that the child is able to give a full account of his or her application
  - to facilitate communication between the child and the interviewing officer where necessary
  - with the responsible adult, to provide support and reassurance to the child or young person as appropriate
  - to ensure that any welfare needs relating to the child are sufficiently provided for e.g. adequate breaks, refreshments etc
  - to provide an independent interpreter at the interview who is able to confirm that the child and the official interpreter understand one another, and to check that the interviewing officer ensures the interpreter fulfils his or her role in relation to the official interpreter properly

- to keep an independent record of the proceedings as a whole, including times, breaks, interventions, demeanour of the child or young person and manner and demeanour of the interviewing officer
- to assist the child in presenting all the information relevant to his or her application
- to intervene where there has been unresolved confusion or misunderstanding which cannot wait until the end of the interview
- to intervene if the interview is being conducted in an inappropriate manner
- to bring to the attention of the interviewing officer any areas of the application or issues which need to be investigated
- At the conclusion of the interviewing officer's questions to make any appropriate observations or representations regarding either the conduct of the interview or any further questions or clarifications which need to be put
- to make any necessary post-interview representations, including submitting additional evidence as appropriate.

## Use of interpreters

- 5.16 Interviews should take place in a language that the child uses and understands. Some children and young people may say that they do not want an interpreter because they are wary of coming into contact with people from their own country. If there are any doubts about the ability of the child to communicate fluently in English then an interpreter should be used. ►See para 4.8.
- 5.17 The role of the interpreter is to interpret truly, accurately, fully, distinctly and audibly using appropriate language and emphasis. Although it can be distressing, embarrassing or difficult it is vital that all of the information provided by a child is relayed to the interviewing officer. The interpreter should be impartial and his or her role is to bridge the linguistic gap between the child and the interviewing officer, no more. It is the duty of the interviewing officer to ensure that the interpreter properly fulfils his or her role in a professional and neutral manner. An interpreter cannot fulfil the role of a responsible adult.

- 5.18 Because the unique aspects of language, both verbal and nonverbal, vary from culture to culture and from country to country, it is important that the interpreter has cultural expertise as well as linguistic expertise and is able to convert the meaning of all information provided by the child without unnecessary additions, deletions or changes in meaning and without including their own opinions.
- 5.19 Interviewers should be aware that linguistic limitations may mean that certain concepts and experiences can only be expressed in one language, and that a child or young person may not be aware of this.
- 5.20 Insofar as possible, interpreters should be skilled and trained in interpreting for children. Children should be asked whether they want a male or a female interpreter.

## Purpose of the interview

- 5.21 There are many different kinds of interview, each of which has a different purpose and objective. For example, a child may be interviewed about the basis of his or her asylum claim, or in relation to mental health issues, or about joining a parent or other family member in the UK.
- A child or young person will need to understand the purpose of the interview for it to be effective and for his or her best interests to be taken into account. The purpose of the interview must be identified and explained to the child.
- 5.22 The purpose of a substantive immigration or asylum interview is to enable the basis of a child's application to be made or clarified to the Home Office in order that an appropriate, permanent and sustainable decision is made. Interviews should be conducted objectively and impartially and the purpose is to obtain facts relevant to the application. The interview is essentially a fact-finding exercise, an opportunity for the child to elaborate on the background to his or her application and introduce any additional information. The interviewer may ask questions to assess the credibility of the child's account if required.
- 5.23 Whilst the interview is essentially a fact-finding exercise, the child should be made aware that an interviewing officer may probe any answers given and investigate unsupported statements.

## Before the immigration interview

- 5.24 It is important that appropriate preparations are made before any interview with a child or young person subject to immigration control, including consideration of using a same-sex interviewer.
- 5.25 Children and young people should not be required to wait before an interview starts. If a child has to wait for any reason, he or she should regularly be asked whether they would like a drink, something to eat, whether they are comfortable or if they need to go to the toilet. ► See para 4.5.
- 5.26 The immigration interview should take place in a non-threatening environment. The interview room should be a comfortable temperature. Pens and paper should be available but toys should be avoided as these can be distracting. Seating should be appropriate to the size of the child or young person and the interviewer should sit at the same level as the child.
- 5.27 Specially trained staff should carry out all interviews with children and young people. The interviewer should be well-prepared and have as much background information about the child and the case as possible before the interview. The interviewer should:
- be familiar with relevant sources of information concerning children and young people including guidelines on best practice for interviewing children and young people subject to immigration control (see Annex 1)
  - be familiar with information about the child's migration history and current application
  - have appropriate knowledge of the psychological, emotional and physical development and behaviour of children generally, and of the specific child or young person that is to be interviewed
  - be aware that it can be difficult to listen to the experiences of children and young people who have been abused, neglected or subjected to violence
  - have objective and current information on the legal and cultural situation of children in the country of origin, on the incidence of exploitation, victimisation, and other human rights violations against children and young people, and on the adequacy of state protection afforded to them.

## Introduction to the interview

- 5.28 Before the interview begins, the interviewer should explain the process to the child or young person, making the purpose and ground rules of the interview clear (►see Figure 5). The interviewers should explain how long the interview will take and what it will consist of.

## Confidentiality

- 5.29 Legal representatives and other professionals should be aware that information given to the Home Office is not treated as confidential because the Home Office reserves the right to disclose information to other government departments or agencies, local authorities, international organisations and other bodies, although not to the government in the county of origin, to enable them to carry out their functions.
- 5.30 Children and young people need to know that the information that they provide in their application may be shared with others. Interviewers and decision-makers should be aware that any indication that a child's application may not be treated as confidential is likely seriously to hinder his or her willingness to provide full details of his or her experiences.
- 5.31 The welfare of a child or young person has to be taken into account when dealing with information that is disclosed. In certain circumstances it may be appropriate to breach confidentiality, for example, if the child discloses that a crime involving serious harm has been committed or is about to be committed or there are child protection issues.

## FIGURE 5 Introduction to the interview

In order to ensure that the child or young person feels comfortable and able to discuss his or her experiences, interviewers should:

- introduce themselves and others present at the interview by name
- explain that the purpose of the interview is to find out information about the basis of the application and that any answers given may be probed
- advise the child that the interview should take no longer than 30 minutes (for younger children) or an hour and a half (for older children), and that if the interview takes longer than this, he or she will be offered a break whenever appropriate and at least every 30 minutes
- explain to the child or young person that the interviewer will be asking questions, and that it is acceptable for the child to say 'I don't know' if he or she does not know the answer, and that it is acceptable to say 'I don't remember' if he or she does not
- explain that if the child or young person does not understand the question, he or she should say so and the interviewer will repeat it, or ask it in a different way to help the child to understand
- emphasise that although there is no 'right' or 'wrong' answer to the questions being asked, it is important to give truthful information and to be as accurate as possible
- ensure that the interview starts promptly and that any necessary delay is explained
- inform the child or young person that the information he or she provides will be kept confidential, with limitations (see section on confidentiality above, paras 5.29–5.31)
- confirm that the child or young person is fit and well enough to be interviewed. If the child or young person is feeling unwell, the interview may be postponed
- tell the child or young person that he or she can ask for a break at any time during the interview
- explain that the child or young person can ask to speak to their legal representative and/or responsible adult in private at any time
- confirm that, if an interpreter has been requested in advance of the interview, one is present that is fluent in the language and dialect specified and that the child and interpreter understand one another. If the child and the interpreter do not understand each other the interview should be postponed.

## During the interview

- 5.32 In interviews involving children and young people, the duty to ensure full adherence with procedural safeguards rests upon all of the parties involved in the process, including the interviewing officer, the responsible adult, the interpreter, and the legal representative. All parties have a responsibility to ensure that the best interests of the child or young person are taken into consideration at all times and that the manner in which the interview is conducted does not cause any additional trauma.
- 5.33 There must be sufficient time available for the interview and there should be no disturbances. Interviewers and decision-makers should be aware of, and take into account, for example, distances to be travelled, issues of privacy, the need to provide refreshments and breaks, and the potentially traumatic effects of interviews.
- 5.34 It is the responsibility of the interviewing officer to ensure that the child's wellbeing and comfort are maintained during the interview. Children and young people might not take the initiative to request a break when they need one. Interviewers must look for signs of tiredness or distress and should offer regular breaks during the interview or curtail it if necessary.
- 5.35 The duration of interviews with children and young people should be as short as possible. A suggested time for young children is no longer than 30 minutes and for older children, no longer than one and a half hours. Should a child or young person need to be interviewed for longer than these suggested times, he or she should be offered a break whenever appropriate and at least every 30 minutes.

## Gathering information from children and young people

- 5.36 Children and young people are likely to express themselves best if given freedom to do so in their own way, in their own time. A child or young person should not be criticised if his or her evidence goes beyond the confines of the question to which he or she is responding.
- 5.37 Professionals should not treat any child or young person as typical of a given age. Children in some cultures are taught to listen to adults but not to speak in their presence at all. Other children may have spent time in school or other environments where providing answers to questions is expected and saying 'I don't know' is discouraged.
- 5.38 The ability of a child or young person to provide information during an interview will be dependent upon a number of factors. These include, but are not limited to:
- the age, emotional and psychological development of the child or young person, both at the time of the interview and at the time of the events about which he or she might have information
  - the capacity of the child or young person to recall and understand past events and the time that has elapsed since the events. This capacity will be affected by the child's age, gender, culture, education and any mental health problems or learning difficulties as well as what they have experienced, including any trauma
  - the extent to which a child or young person has been protected by his or her parents or family and/or may not know all the relevant details
  - the ability of the child or young person to understand that it is now safe to talk about issues and events that he or she could not previously talk about
  - the capacity of the child or young person to communicate his or her experiences.
- 5.39 Many children and young people face particular difficulties in discussing their experiences, because of their age and their lack of understanding, especially when they have had experiences that are difficult and/or painful to describe.

There are many barriers that may prevent children and young people from talking openly or at all. These include, but are not limited to:

- anxiety about being overwhelmed by emotion in the presence of strangers
- the effects of trauma
- shame and guilt at what has happened
- fear of punishment or retribution for themselves or their families
- thoughts that the interviewer may not believe or understand what has happened to them
- general issues of trust and mistrust
- wanting to protect others, particularly family members
- having been told by those who arranged their journey to tell a certain story.

5.40 Interviewers should be aware of age differences in communication, particularly non-verbal communication. Interviewers will have to build a rapport with the child or young person to enable him or her to talk about his or her experiences. The interview should be non-confrontational and exploratory. It may be necessary to use a variety of techniques to obtain information from children and young people. These will need to be adapted according to the maturity and understanding of the child.

For example, interviewers should:

- spend time establishing rapport with the child or young person
- take care to adopt a relaxed, non-threatening posture and tone of voice and to be aware of cultural implications of body language
  - ▶ see para 5.46
- use simple, non-colloquial language and sentence construction
- use different types of questioning style to gather information on different issues. Some issues are best addressed by simple, clear, closed questions. Others are best addressed by open questions which are indirect.
- evaluate the child's words from a child's point of view to ensure that the questions and the child's answers are clearly understood, for example, a child may describe something as happening 'in the middle of the night' when it may not be very late in the evening

- be aware that what seems trivial or irrelevant may actually be very important or significant for a child or young person
- be aware of non-verbal cues, such as a puzzled looks, knitted eyebrows, downcast eyes and long pauses which may signal that the child or young person is confused or distressed
- rephrase questions if no appropriate response is forthcoming
- avoid making suggestions.

- 5.41 A child may not be able to provide information that is expected of an adult in the same circumstances. For example, a child may be aware of some of the activities of his or her parents but may not be able to describe these in detail or understand their significance or relevance to his or her own status. Children and young people may also have limited knowledge of general conditions in their country of origin. The implications of this for assessing the credibility of the application are outlined in section 6.
- 5.42 Boys and girls are socialised into different roles in different cultures. Interviewers and decision-makers should be aware of the effect of gender in response to being interviewed.
- 5.43 Trauma and stress can be suffered by any individual subject to immigration control, regardless of age, and may have a significant impact on the ability to present information about their application. Some children and young people may appear numb or show emotional passivity when recounting past events of mistreatment. A child or young person's way of coping with frustration or emotion may be to shut down during the interview, to fall into silence or into a series of 'I don't know' and 'I don't remember' responses. Other children and young people may give matter-of-fact recitations of serious instances of mistreatment. Inappropriate behaviour, for example, laughter, can be a sign of trauma, embarrassment or discomfort.
- 5.44 If there are indications that the child or young person is feeling uncomfortable or embarrassed, the interviewer should offer verbal reassurances. The interviewer may also shift the focus of the questioning to a non-threatening subject until the child or young person regains his or her confidence. Reassurance, empathetic support, carefully framed questions, encouragement, and topic-shifting are important techniques in these situations.

## Demeanour

- 5.45 The difficulties associated with interviewing children and young people have implications for the way in which children and young people will behave in the interview context. Issues of credibility are discussed in section 6.
- 5.46 Demeanour refers to how a person handles himself or herself physically; for example, maintaining eye contact, shifts in posture, and hesitations in speech. Cross-cultural sensitivity is required of all interviewers and decision-makers irrespective of whether the applicant is a child or an adult. Demeanour should not be used to assess the credibility of the account provided by a child or young person.
- 5.47 Some children can appear unco-operative for reasons having nothing to do with the credibility of their testimony. The credibility of children and young people should not be assessed on the basis of Western cultural values such as the ability to maintain eye contact. In many cultures it is considered highly inappropriate for children to maintain eye contact with adults, particularly those who are in positions of authority. In addition some children and young people may have had experiences that give them good reason to distrust persons in authority.

## Ending the interview

- 5.48 At the end of the interview, the interviewer should confirm that the child or young person has understood all the questions and should give the responsible adult and legal representative an opportunity to add any comment relating to the substance of the application and the conduct of the interview process.
- 5.49 A decision on the application should be deferred until all the information relevant to the application, for example, medical reports or additional representations, has been submitted.

- 5.50 Children and young people should be informed in an age-appropriate way about the next steps in the procedure. This includes advising them of where they stand in the process and what decisions have been taken. As uncertainty can lead to unnecessary anxiety and worry, keeping a child or young person accurately informed is important to assist him or her to understand the consequences of the process and form realistic expectations.
- 5.51 The information obtained during an immigration interview should be accurately recorded. When information is requested, received, forwarded and stored, care should be exercised to ensure that it is not disclosed to any unauthorised parties. This is important in order to protect both the child or young person and members of his or her family.

## SECTION 6

# Evidence and supporting information

- 6.1 Evidence and supporting information regarding the experiences of children and young people subject to immigration control is often different from and/or less available than that which is available for adults. These differences should be taken into account when assessing the credibility of a child or young person's application.

## Credibility

- 6.2 When making a decision about the credibility of a child or young person's case, a range of factors should be taken into account. These include, but are not limited to:
- the age, maturity and stage of development of a child or young person
  - the gender, educational and social background of a child or young person
  - the possibility that children and young people may manifest their fears differently from adults
  - the likelihood that children and young people will have limited knowledge of social, political and economic conditions in the country of origin, or its geography
  - child-specific forms of human rights violations, such as recruitment of children and young people into armies, trafficking for prostitution and forced labour, female genital mutilation
  - the situation of the child's family in the country of origin and, where known, the wishes of parents who have sent a child out of the country.

- 6.3 Although the burden of proof is on the applicant, 'benefit of the doubt' should be given where there are doubts regarding the credibility of the child's story.<sup>1</sup>
- 6.4 In asylum cases and human rights cases, it is neither possible nor necessary to 'prove' every aspect of a claim.<sup>2</sup> A child or young person, like an adult, is not required to provide corroborating evidence in all cases, and may rely solely on testimony. Testimonial evidence should be assessed in the context of the child and of a child's understanding of what has happened.
- 6.5 The level of detail and internal consistency expected of a child or young person should be appropriate to his or her age, maturity, gender, education and knowledge, and any mental health problems or learning difficulties. Children and young people in many societies do not have specific information about the activities of family or community members. Trauma may also have implications for the ability of a child to provide information or a chronological account of what has happened. A lack of coherence is consistent with having experienced traumatic events. Gaps or inconsistencies in a child or young person's knowledge do not necessarily undermine the credibility of his or her account. ►See paras 5.8–5.10 and paras 5.36–5.47.

## Identity documents

- 6.6 Some children and young people have identity documents to prove who they are, others do not. There are different reasons for the lack of documentation: births are not registered in many countries and when they are, contemporaneous birth certificates may not be issued; a parent's signature may be required to obtain a passport; passports may not be issued unless the child is over a certain age or travelling with his or her family. ►See para 9.2.

<sup>1</sup> This is consistent with paragraph 219 of the UNHCR Handbook which states that '...the examiner, in co-operation with the experts assisting him, will have to come to a decision as to the well-foundedness of the minor's fear on the basis of all the known circumstances, which may call for a liberal application of the benefit of the doubt'.

<sup>2</sup> Paragraph 203 of the UNHCR Handbook states that 'it is hardly possible for a refugee to "prove" every part of his case and, indeed, if this were a requirement the majority of refugees would not be recognized. It is therefore frequently necessary to give the applicant the benefit of the doubt'.

- 6.7 Some children and young people travelling to the UK will not have documents because the situation from which they have come makes it impossible to obtain them. Separated children and young people frequently travel with agents who often instruct them to destroy documents on arrival in the UK or hand them back to them. The production of identity documents that are fake or do not belong to the child should not necessarily prejudice credibility. Children should not be prosecuted for failing to produce identity documents. ► See para 4.20.
- 6.8 When children and young people are able to provide identity documents, social service departments and legal representatives must ensure that these are copied before being sent to any authorities, and full records kept.

## Evidence provided by children

- 6.9 Interviewing children and young people poses a variety of problems and concerns.<sup>3</sup> Vagueness and inconsistencies are likely to occur during the interview of a child or young person. Decision-makers should bear in mind the possible developmental or cultural reasons for this, and not assume that it is an indicator of unreliability. Further enquiries should not be excluded if it is thought that the child or young person has given a fabricated, embellished or exaggerated account.
- 6.10 There are a number of reasons why separated children and young people may not tell the truth or may give confused information. Some children and young people may have been coached by adults to tell a particular account at the interview, which the child repeats in order not to anger or harm the adult. Children may have been told what to say on arrival by family members for a variety of reasons. Parents or carers sometimes tell their children that they are being sent away to get a better education or to visit a family member in order to allay their children's fears and protect them from the real, often very disturbing, reasons. Parents or carers may also do this to prevent them worrying about what is happening to those who are left behind.

<sup>3</sup> Issues associated with interviewing children and young people are discussed in detail in section 5 of these guidelines.

- Children may have been told by an agent what to say and do when they arrive. The agent may threaten them, or their family back home, if they divulge their journey details or other information.
- 6.11 Separated children are often scared and confused about what will happen to them. They may be frightened of people in uniform and positions of authority and not know whether or not to trust them.
- 6.12 Children and young people may be less aware than adults of the circumstances and decisions that led to their current situation. Some children and young people will have only the vaguest idea of why they have been sent to the UK. A child's knowledge of issues that may be relevant to his or her case may be limited due to age, gender, cultural background, or other circumstances. For example, a child or young person may have experienced persecution or threats of persecution because of the activities of other family members without knowing the details.
- 6.13 It may be particularly difficult to obtain information from separated children about the events that caused them to leave. Due to the trauma caused by separation from family members a child or young person may create a narrative of what happened that is easier for him or her to live with than the reality. In addition a child or young person who has no contact with family members may not have any documentary evidence about the circumstances of his or her departure.

## Expert evidence<sup>4</sup>

- 6.14 Because of the difficulties in obtaining information directly from a child or young person through interview, decision-makers will need to consider other evidence where available. This can relate specifically to the experiences and background of the child and may include, but is not limited to:
- evidence provided by the child or young person through a written statement obtained by a legal representative or other professional
  - evidence from family members or the child's guardian or another responsible adult
  - evidence from members of the child's community

<sup>4</sup> See also section 9 for guidance on best practice regarding medical evidence in age dispute cases

- evidence from medical personnel, teachers, social workers, community workers, child and educational psychologists, and others who have dealt with the child or young person.

6.15 The child's legal representative should assist the decision-maker by providing expert evidence about the experiences and background of the child where appropriate.

An assessment of whether or not expert evidence is required should be made taking into account the child's background and the circumstances of his or her application, and whether the application is for permanent or temporary residence. For example, if the application is to remain in the UK for educational purposes evidence may be required on the child or young person's schooling and achievements in order to comply with the Immigration Rules, or if the application is to remain on Article 8 ECHR grounds then evidence should be provided about the relationship between the child and his or her family members or carers in the UK. This information should be provided at the earliest opportunity.

- 6.16 In cases involving children, including where they are with their families, it is necessary during the course of the application to obtain expert evidence as to the consequences for the children of their own return or that of a parent. When a final decision has been received, any expert evidence should be reviewed and consideration given to obtaining updated reports particularly regarding the consequences to the child of return. ► See para 13.23.
- 6.17 If an interviewer or decision-maker receives medical, psychological, professional or other related expert evidence at any stage, it should be considered with care and assessed impartially. It should be noted that there is frequently no physical evidence in cases involving rape or sexual violence. In addition interviewers and decision-makers should be aware that torturers and abusers often choose methods precisely because they do not leave physical marks.
- 6.18 DNA evidence is not necessary to prove that a child is a 'child of the family', which is not necessarily a biological relationship. If DNA evidence is sought to establish a relationship, extreme care should be taken if it reveals that the child or young person is not related as claimed as that revelation may have very serious results for both the child and his or her parent.

## Country of origin information

- 6.19 Decision-makers will need to consider evidence about the circumstances for children and young people in the country of origin. Information relevant to the experiences of children and young people may relate to different issues from those associated with adults.
- 6.20 Detailed research on conditions in the country from which the child or young person has originated should be undertaken before any interview and before a decision is taken. Country of origin information should include information about educational, health and social service facilities in the countries from which children and young people originate.
- 6.21 Most children and young people assume that the adults with whom they come into contact have an understanding of their country and culture and may therefore not consider it necessary to explain the conditions or circumstances in the country from which they originate.

## SECTION 7

# Interpreting the child's experiences

- 7.1 A child may have grounds for seeking entry to or stay in the UK or protection in his or her own right and is entitled to an individual determination of his or her application. This is not only true for separated children and young people, but also for those children who, although with their families, may wish to make an application in their own right.
- 7.2 A proper interpretation of the experiences of a child or young person subject to immigration control is central in ensuring that his or her best interests are met. This interpretation must take into account the full range of circumstances affecting the child or young person and the full range of legal instruments that are available including the Nationality, Immigration and Asylum Acts, Immigration Rules and policies, European Convention on Human Rights (ECHR) and the Refugee Convention.<sup>1</sup>
- 7.3 It is in the best interests of children and young people that a decision is made regarding their immigration status as soon as is possible. Keeping children in limbo regarding their status – and hence their security and their future – is not in their best interests.
- 7.4 This section deals mainly with best practice regarding asylum-seeking children and young people. The interpretation of children's experiences under the Refugee Convention is an area of considerable uncertainty where there is more scope than in other areas of immigration law to interpret children's experiences in a way that does not take into account their best interests.

<sup>1</sup> The full range of human rights instruments that should be considered when interpreting the experiences of children and young people is provided in section 3 and Figure 2. As the ECHR and the Refugee Convention have direct effect in courts in the UK, they will be the starting point in most cases.

## Applications under the Rules

- 7.5 Applications made within the rules need to comply with the requirements of the Immigration Rules. Evidence and supporting documentation should be provided for each and every paragraph relied upon.
- 7.6 A child or young person may be allowed to remain in the UK for a number of reasons. He or she may be recognised as a refugee and granted asylum or may be granted humanitarian or discretionary leave to remain because it is not safe to return to the country of origin due, for example, to armed conflict or because no suitable carer can be identified. ►See section 13.
- 7.7 If a child or young person is not found to need protection under the ECHR or Refugee Convention, he or she may still need to be granted leave to remain outside the rules where this is in his or her best interests. A decision whether this is in the best interests of the child should take into account his or her age, length of residence in the United Kingdom, strength of connections with the UK, family, domestic and compassionate circumstances.

## Framework for refugee determination

- 7.8 In order to be granted refugee status, a child or young person must establish that he or she meets the definition of a refugee in the Refugee Convention. The 'best interests of the child' principle does not replace or change the refugee definition in determining substantive eligibility.<sup>2</sup>

However in examining the factual elements of the claim made by a child or young person, particular attention should always be given to the way in which the child or young person's age and status will have affected his or her experiences of persecution.

The gender of the child or young person may also have particular consequences, for example, in some countries young girls may be expected to undergo female genital mutilation or forced marriage, whilst in others young boys may be more likely to be forcibly conscripted.

<sup>2</sup> The 'best interests' principle is outlined in detail in paragraphs 3.10–3.15 of these guidelines.

- 7.9 The guidance provided in this section analyses asylum claims made by children and young people in relation to the essential elements of the refugee definition in Article 1(A) of the Refugee Convention.<sup>3</sup>
- 7.10 Within this framework, persecution is defined as ‘the sustained or systematic violation of basic human rights demonstrative of a failure of state protection in relation to one of the core entitlements which have been recognised by the international community’.<sup>4</sup>

The concept of persecution within the Refugee Convention raises two questions:

- **Is there a violation of human rights that amounts to ‘serious harm’?**
- **Is the state unable or unwilling to offer effective protection?**

### **‘Persecution’ = serious harm + the failure of state protection**

- 7.11 Having established whether persecution or a fear of being persecuted exists, the next step is to establish whether the persecution or fear of being persecuted is ‘for reason of’ one of the grounds enumerated in the Refugee Convention.
- 7.12 Particular procedural and evidential issues arise in the asylum claims of children and young people.

### **Fear of persecution**

- 7.13 A person of any age may qualify for refugee status under the Refugee Convention. An asylum application made by a child or young person should not be refused solely because the child or young person is too young to understand his or her situation or to be able to articulate a well-founded fear of persecution.

<sup>3</sup> According to Article 1(A) of the 1951 UN Convention Relating to the Status of Refugees, the term ‘refugee’ shall apply to 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 his [or her] country of origin and is unable, or, owing to such fear is unwilling to avail himself [or herself] of the protection of that country; or who, not having a nationality and being outside the country of his [or her] former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it’.

<sup>4</sup> James Hathaway (1991) *The Law of Refugee Status*, Butterworth, 112

- 7.14 A child or young person’s fear of persecution may not be the same as that of an adult. The child’s maturity should be taken into account when considering that fear. For example, a child or young person may not realise the extent to which he or she is at risk because he or she is not sufficiently aware of the overall situation in the country of origin or the circumstances affecting family or community members.
- 7.15 Where the child or young person has not reached a sufficient degree of maturity to make it possible to establish a subjective fear in the same way as for an adult, it is necessary to examine in more detail objective factors, such as the characteristics of the group the child belongs to with the situation prevailing in the country of origin and the circumstances of family members, inside or outside the country. ► See section 6 for additional guidance on evidence and supporting information.

### **‘Serious harm’**

- 7.16 It is important to consider child-specific forms of human rights violations when interpreting the experiences of children and young people. There is considerable evidence of children and young people being recruited into the armed forces and militia from as young as ten years, of girls experiencing female genital mutilation, and of children being forced into prostitution or child labour. These violations of human rights amount to ‘serious harm’.
- 7.17 Policies and practices which constitute violations of the specific rights of the child may lead to situations that fall within the scope of the Refugee Convention. In addition violations of human rights may be subjectively worse when experienced by children and young people than when experienced by adults. For example, the forced conscription of children into military service is very likely to constitute serious harm in circumstances where it may not for an adult. Similarly, the treatment experienced by a child or young person could constitute a violation of Article 3 where it would not for an adult.
- 7.18 ‘Serious harm’ may be inflicted in the mistaken belief that a child or young person is being assisted, for example, female genital mutilation or the use of psychiatric treatments to ‘treat’ homosexuality.

- 7.19 Children and young people who have escaped from their traffickers may be at risk of being re-trafficked if returned to their country of origin or of being subject to other punishments from traffickers. The harm that they may consequently suffer may amount to persecution if there is not sufficient state protection and they may qualify for refugee status or other forms of long-term protection in the UK.

#### Failure of state protection

- 7.20 In addition to establishing a well-founded fear of 'serious harm', a child or young person must also show that the state has failed to protect him or her in order to be recognised as a Convention refugee.

A failure of state protection exists in the following situations:

- if 'serious harm' has been inflicted by the authorities or by associated organisations or groups
  - or if 'serious harm' has been committed by others and the authorities are *unwilling* to give effective protection
  - or if 'serious harm' has been committed by others, and the authorities are *unable* to give effective protection.
- 7.21 Although international law recognises the importance of the family in a child's development and upbringing, it also places a primary obligation on the state to protect children from all forms of abuse, neglect and exploitation, even where these are not carried out directly by state agents. This is intended to ensure that children are protected from abuses committed within the family or the community, including domestic violence and child abuse.
- 7.22 The asylum claims of children and young people often involve forms of harm that have not traditionally been associated with government actors. Bonded child labour or child prostitution, for instance, are usually perpetrated by non-state agents, and governments fail in their responsibility to protect children from such abuses.

- 7.23 Where a child alleges that he or she has been persecuted by a non-state agent, it will be necessary to demonstrate that the state concerned is unwilling or unable to provide a reasonable level of protection through its legal and judicial system. The effectiveness of the system of protection can be judged by its ability to deter or prevent the persecution feared.
- 7.24 State protection must be meaningful, accessible, effective and available to a child or young person regardless of his or her race, ethnicity, sexual orientation, disability, religion, class, age, occupation or any other aspect of his or her identity. In some cases there may be protection in theory, but actual practice must be examined. Corroborative evidence will not always be available.
- 7.25 The fact that a child or young person did not specifically seek protection in his or her country of habitual residence does not undermine his or her case, but instead the decision-maker must explore what, if any, means the child had of seeking protection. Depending on the age and maturity of the child, he or she may be able to contribute some personal knowledge of the government's ability to offer protection, but it is far more likely that the decision-maker will have to rely on objective evidence of government laws and enforcement. Special attention should be paid to government efforts to address criminal activities relating to children.
- 7.26 When assessing whether internal relocation is unduly harsh, decision-makers must consider the best interests of the child or young person. What is considered appropriate for an adult may not be so for a child or young person.
- 7.27 A claim should not be rejected simply because a child or young person comes from a situation where the state is unable to provide protection.

## Convention grounds

- 7.28 In order to decide whether a child or young person is in need of protection under the Refugee Convention, it will be necessary to determine whether the persecution or fear of persecution is 'for reason of' one of the enumerated grounds.
- Although age is not specifically enumerated as one of the grounds for establishing status within the Refugee Convention, decision-makers should allow age to inform their assessment under race, religion, nationality, political opinion or membership of a particular social group.
- 7.29 Establishing the actual or exact reason for persecution or feared persecution may be impossible in many cases. Establishing the reasons for the persecution feared by a child or young person may be particularly difficult to determine because he or she may express fear or have experienced harm without understanding the persecutor's intent. It is not necessary for any individual to identify the precise reason for his or her persecution. He or she may not know or understand the reason. The relationship between the persecution feared and the Convention ground can be established from objective evidence and/or the testimony of adults. ►See paras 6.3 and 6.4.
- 7.30 Decision-makers do not have to explore the purpose or intentions of those who have committed or may commit acts of persecution.
- 7.31 The level of children's political activity varies widely. A child or young person's claim of persecution based on political opinion should not be rejected on the basis of age alone. It should not be assumed that age alone prevents a child or young person from holding political opinions for which he or she may be persecuted.
- 7.32 It may be possible for a child or young person's claim to be based on imputed political opinion. The decision-maker should carefully review the family, political and other history of the child or young person to determine whether he or she may face persecution based on the beliefs of family members or some other group with which he or she is identified.

- 7.33 Children and young people may face persecution as members of particular social groups who are vulnerable for example to trafficking for prostitution or domestic slavery, female genital mutilation or recruitment as child soldiers. In these circumstances the form of the persecution is not part of the definition of the particular social group. The persecution arises from the socially constructed situation in which a child is placed, i.e. the social group, within a particular country or society.
- 7.34 The circumstances of a child or young person's family or community members may be central to understanding the experiences of a child or young person who has claimed asylum. A child or young person may fear or have been affected by discriminatory or persecutory measures affecting the entire family or community.
- 7.35 The final decision should be based on a case-by-case examination of the unique combination of factors presented by each child, including the child's personal, family and cultural background. It is important that all those involved in the asylum determination process have an understanding of the history, culture and background of the child.
- 7.36 When a decision has been made about a claim for refugee status, the child should be notified of the decision, along with his or her legal representative if they have one and the responsible adult.
- 7.37 Where a child makes an asylum or human rights application or an application outside the rules, and a decision to grant leave is made, this should be for an indefinite period. ►See para 13.8.
- 7.38 Significant unfairness can result when a child becomes an adult during the asylum determination process, particularly where this 'ageing out' occurs as a result of delays. Steps should be taken to eliminate unnecessary delays that can result in a child gaining maturity during the process. Where a child becomes an adult during the decision-making process, he or she should continue to be treated in accordance with these guidelines.  
►See also section 10 for best practice where the child turns 18.

## SECTION 8

# Hearings and court appearances<sup>1</sup>

- 8.1 The principle of best interests means that there is a need for careful case management when dealing with hearings and court appearances by children and young people who are subject to immigration control in the UK because of their potential vulnerability.
- 8.2 Some children and young people will want to participate and should be facilitated to do so.
- 8.3 A hearing or court appearance is likely to be stressful, intimidating and sometimes distressing for a child or young person. No amount of 'child-friendly' procedures can change this fact although the presence of a responsible adult can help alleviate some of these problems. ►See section 2 for an outline of the definition, role and responsibilities of the responsible adult.
- 8.4 A child or young person should always be accompanied at any hearing or court appearance by a parent or responsible adult. If a local authority has accommodated the child or young person, he or she should be escorted to the hearing centre by a social worker.
- 8.5 A child or young person should be legally represented free of charge in all immigration cases as in all other areas of child law. Whenever the child has to go to court the legal representative should attend. For preliminary hearings both the legal representative and the Home Office representative should attend. It may not be necessary for the child to attend. If a child or young person is not represented, the case should be adjourned for legal representation to be arranged.

## Before the hearing

- 8.6 Cases involving separated children should be given priority listing at appeals and heard first. It is undesirable that a hearing involving a child be adjourned part-heard.
- 8.7 If expert opinion indicates that the child or young person should not be asked to give evidence (either because the evidence would be unreliable or because the child would be too traumatised by the hearing) then consideration should be given to calling the expert *instead* of the child, or establishing a video link with the child being questioned outside the court room. ►See section 6 for additional guidance on the use of expert evidence and on the assessment of children's evidence.
- 8.8 The court and legal representative should give consideration as to whether an all-female court would enable a child or young person to give evidence more easily.
- 8.9 Directions should be given that both parties provide a joint statement of the issues between them, together with skeleton arguments.
- 8.10 The child's legal representative should ensure that an independent interpreter attends the hearing to enable communication with his or her client.
- 8.11 The child's legal representative or responsible adult should ensure that he or she is shown the courtroom and familiarised with the layout and who sits where before the hearing begins.
- 8.12 The adjudicator/immigration judge should make the child aware of the role of other participants, including court staff, and should explain to the child how the hearing will proceed, in a language and manner that he or she can understand. The adjudicator or immigration judge should make the child aware that he or she should tell the court, through the official interpreter, if he or she does not understand what is said, or what is happening in the proceedings.

<sup>1</sup> The IAA has published its own guidance for adjudicators on hearings involving unaccompanied children seeking asylum in the UK. This guidance is available at [www.iaa.gov.uk/note\\_8.pdf](http://www.iaa.gov.uk/note_8.pdf)

## During the hearing

- 8.13 It is important that best practice for working with children subject to immigration control is complied with in all processes for information-gathering and decision-making prior to the hearing. Consideration should be given to adjourning proceedings if the guidance provided in sections 1–7 and sections 9, 11 and 12 of these guidelines has not been followed.
- 8.14 Cases involving children and young people should be held in private and determinations should be anonymised.
- 8.15 Adjudicators/immigration judges should consider using chambers wherever possible rather than an intimidating courtroom. If this is not an option for whatever reason a child-friendly courtroom should be found and should be as informal as possible. The bench should not be used and the parties should sit around a table so that all the participants are on the same or almost the same level.
- 8.16 Throughout the hearing the adjudicator/immigration judge should be alert to child protection and welfare issues and sensitive to the possibility that a separated child or young person may have been trafficked into the UK. ►See section 12 for further information and best practice for working with children who have been trafficked.
- 8.17 If the child does give evidence he or she should not be required to give it under oath. A sensitive enquiry as to whether the child appreciates the concept of truthfulness may be appropriate.
- 8.18 All questions should be formulated in such a manner that the child will understand and be able to answer them. Children and young people should be invited to concentrate on the questions asked and to do their best to answer, with the proviso that, if they do not know the answer, they should simply say so.
- 8.19 Cross-examination should never be aggressive. A style of questioning that might be acceptable to an adult might well be threatening to a child or young person. Anyone cross examining a child or young person should be made aware of the obligations on interviewing officers when interviewing children and young people ►see section 5, and should apply the same standards. Plenty of time should be allowed for answers. The child or young person should be offered an opportunity to add anything else at the end of his or her evidence.

- 8.20 Account should be taken of a child or young person's difficulty in concentrating for long periods. Frequent and regular breaks are necessary. Every effort should be made to keep the hearing strictly to the issues and as short as possible.
- 8.21 When assessing the evidence and deciding what weight should be placed on it, the adjudicator/immigration judge should take into account the child's age, his or her maturity and capacity to give evidence, any relevant expert evidence on the child or young person, and relevant cultural differences.
- 8.22 The evidence provided by children and young people during hearings and court appearances should always be approached with caution. Depending on his or her age, a child or young person is less likely than an adult to recall dates, the order in which events occurred, or why those events occurred. Children and young people may also struggle to understand the significance of certain events, and so fail to mention them when first interviewed. If such details emerge under further questioning at the hearing, the credibility of the child's account should not be undermined.

## After the hearing

- 8.23 Any appeal by a child or young person should be determined as expeditiously as possible. Those representing the child or young person should ensure that he or she is aware of any further steps that will need to be taken in order to resolve his or her immigration status.

## SECTION 9

# Disputes over the age of the child

- 9.1 If a child or young person is incorrectly identified as an adult, he or she will not be entitled to the full protection of international law or of procedures for child protection and the principle of best interests will be undermined.

## Difficulties in assessing age

- 9.2 It can prove difficult to ascertain the age of some children and young people because they may arrive with false identity documents or no documents at all. A third of all births worldwide are not registered and many countries do not issue contemporaneous birth certificates. Birth dates are not important in some countries and cultures so that children and young people may not know their date of birth and be vague about when they were born. This does not necessarily mean that they are trying to misrepresent or conceal their age.
- 9.3 There may be confusion over age because different calendars are used in some countries, for example, Iran and Sri Lanka. Converting from one calendar to another can be difficult. Mistakes are sometimes made and children or their interpreters can give the wrong date of birth.
- 9.4 Children and young people may look and act older than they are because of their experience in their country of origin. Reasons for this include, but are not limited to, the fact that children and young people have worked and taken on 'adult' responsibilities from an early age, the experiences and traumas associated with migration, or differences in cultural norms, for example, the fact that boys in some parts of the world, notably the Indian sub-continent, grow facial hair earlier than most boys in Europe.

- 9.5 A child may fabricate, embellish or exaggerate his or her account, including by providing false information about his or her age, for reasons that are unconnected to the basis of the application.
- 9.6 Some children and young people may claim to be adults when they are not because they have been told to do so by an agent or because they are the victims of trafficking. If this is the case then the individual concerned should be treated as a child and referred to social services. The police should also be contacted if there is reason to believe that the child may be a victim of trafficking or prostitution.
- ▶ See section 4 for further guidance on identifying a child who may have been trafficked. Information about best practice in working with children and young people who have been trafficked is provided in section 12.
- 9.7 Where a child claims to be a different age from that stated on a travel or other identity document that suggests he or she is an adult, other evidence must be taken into account. Obtaining a false passport or travel documentation may have been the only way to leave the country of origin. ▶ See also section 6 for best practice guidance on evidence and supporting information.
- 9.8 If the decision-maker forms the provisional view that the applicant is lying about his or her age, he or she should be given an opportunity to address the matters that have led to that view and have an opportunity to explain him or herself if he or she can.

## The process of age assessment

- 9.9 Where the evidence supports or corroborates the child's stated age then that age should be taken in preference to an age band as the basis for all future decisions regarding the child.
- 9.10 There should be no presumption that the applicant is either an adult or a child prior to an assessment of age. In borderline cases it is IND policy to give the applicant the benefit of the doubt and treat him or her as a child.

- 9.11 Age assessment is extremely difficult to do with certainty, particularly for children who are aged between 15 and 18 years, and no single approach can be relied upon. Age assessment is a process, not a single event. It is an inexact science and the margin of error can sometimes be as much as five years on either side.<sup>1</sup>
- 9.12 No professional can determine age solely on the basis of the appearance of the applicant. In general, a professional must seek to elicit the general background of the applicant, including his or her family circumstances and history, educational background and activities during the previous few years. Ethnic and cultural information may also be important.
- 9.13 The complex issue of age assessment should not be left to immigration officers. Where there is a dispute about a person's age, he or she should be referred to social services so that childcare professionals can undertake an assessment of age.
- The immigration officer must ensure that a referral is made rather than simply giving a letter to the applicant. If there is continuing doubt, consideration should be given to the appointment of an independent paediatrician.
- 9.14 Whilst medical reports can be a helpful indicator of the age *range* in which a child or young person falls, they are not necessarily conclusive. If a medical examination is deemed necessary, a physician with appropriate expertise and familiarity with the child's background and cultural origins should carry it out. Medical examinations should never be forced and may need to be gender-appropriate.
- 9.15 Deduction of the age of an individual from medical techniques that compare human body measurements and properties, for example, teeth or bone shape and size is difficult. The poor sensitivity and specificity of such measurements often leads to inaccurate results. The use of radiographs (x-rays, or bone density testing etc) to attempt to determine the age of a child or young person would therefore be inappropriate.

## Outcome of the assessment

- 9.16 If an individual's age is disputed but social services or other childcare professionals decide that he or she is a child, the Home Office should accept that decision.
- 9.17 The applicant is entitled to know the basis of the decision regarding his or her age and to consider, with legal assistance if available, whether the decision is a lawful one.

<sup>1</sup> Guidance provided by the Royal College of Paediatrics and Child Health in 1999 and confirmed by the College in May 2004. See Annex 4 for further information.

## SECTION 10

# Consequences of turning 18

- 10.1 Although the legal definition of a child is someone under 18, the consequences of an application made before the age of 18 may continue when the person is beyond this age. Children and young people do not automatically become more mature and coherent on the day that they turn 18. There are particular consequences for these young people when they turn 18 if they have an outstanding or unresolved immigration or asylum issue.

## Welfare and social issues

- 10.2 Policy and practice should be geared towards ensuring that there are no major changes in a young person's life when he or she turns 18. Although these guidelines do not provide best practice for welfare or educational provision and support, any changes in this area of a young person's life also have the potential to impact significantly on his or her immigration or asylum application.<sup>1</sup>
- 10.3 For separated children who are leaving care, the Children (Leaving Care) Act 2000 places a duty on local authorities to assess and meet the needs of young people who were looked after or subject to a care order and are moving to live independently.<sup>2</sup>

<sup>1</sup> Further information about welfare and support available to young people who have turned 18 can be found in *Macdonald's Immigration Law & Practice* (6th edition) (December 2004) and in the Legal Action Group Handbook (2004) *Support for Asylum-Seekers: A guideline to legal and welfare rights* (2nd edition) which is available at [www.lag.org.uk](http://www.lag.org.uk). The Children's Legal Centre website at [www2.essex.ac.uk/clc/](http://www2.essex.ac.uk/clc/) provides information on children and young people's rights and entitlements to services such as education, social services, benefits, housing, healthcare and legal advice. See also Annex 6 of these guidelines for sources of further information

<sup>2</sup> The Children (Leaving Care) Act 2000 is available at [www.hmso.gov.uk/acts/acts2000/20000035.htm](http://www.hmso.gov.uk/acts/acts2000/20000035.htm)

The local authority is required to carry out an assessment of each child's needs with a view to determining what advice, assistance and support is required when he or she is no longer being looked after.

It is also required to keep in touch with a former looked after child whether he or she is within its area or not, to continue the appointment of the personal adviser, and to continue to keep his or her Pathway Plan under regular review.

## Delay in making the application

- 10.4 Legal representatives should ensure that they do not delay making an application for a child because of the risk that a child will turn 18 before a decision is made. Additional information and evidence should be collated and submitted urgently and regular effort should be made to ensure that the application is dealt with expeditiously.

## Delay in making the decision

- 10.5 It is in the best interests of children and young people that a decision is made regarding their immigration status as soon as is possible. It is the duty of IND to make a permanent and final decision without delay. Keeping children in limbo regarding their status until they are 18 is not in their best interests. There are long-term negative consequences for children and young people in not having a permanent solution to their situation including in terms of pathway planning for their future. ►See paras 7.3 and 13.2.
- 10.6 If an application for leave to remain in the UK is lodged before a child is 18 years old, the application should be treated as if the young person were still under 18. This also applies to children and young people who have been granted entry clearance for settlement and who reach 18 before arrival. Refusal of leave to enter or remain should not be solely because of the fact of reaching 18 years old. ►See para 13.5.
- 10.7 Significant unfairness can result when a child becomes an adult during the asylum determination process, particularly where this 'ageing out' occurs as a result of delays. Steps should be taken to eliminate unnecessary delays that can result in a child gaining maturity during the process.

Where a child becomes an adult during the decision-making process, he or she should continue to be treated in accordance with these guidelines. ►See para 7.38.

## Citizenship

- 10.8 When a child is granted indefinite leave to enter or remain, consideration should be given before the child reaches the age of 18 to applying for citizenship. A child should be given advice on the consequences of becoming British on his or her nationality of origin, right to return, inheritance or property rights, and whether dual nationality is permitted by the country of origin.

## Detention

- 10.9 A young person who is subject to immigration control should never be detained simply because he or she has turned 18 and there is detention accommodation available. ►See also section 11 for further information on the detention of children and age-disputed individuals.

## Return and removal

- 10.10 Young people who have recently turned 18 and who have been in the UK for several years will be reasonably settled here and may, therefore, find it difficult to adjust to life abroad. The ties established by these young people in the UK will in some cases outweigh other considerations to the extent that it is considered right and fair that the young people should be allowed to stay, and if appropriate their family members. ►See section 13.

## SECTION 11

# Detention

- 11.1 Detaining children and young people is a highly damaging, potentially traumatic, practice for those involved. Any child who is detained, either as part of a family or as an age-disputed individual, also runs the risk of coming into contact with unsuitable adults.
- 11.2 The detention or imprisonment of children and young people should be avoided. Detention should be used only as a measure of last resort and for the shortest possible period of time.<sup>1</sup> The best interests of children and young people should be the paramount consideration.
- 11.3 Access to free legal representation should be provided to all those who are detained. Legal representatives should advise immediately on temporary release, admission, and bail. Any application should be listed immediately.<sup>2</sup>

## Separated children

- 11.4 Separated children should never be detained.
- 11.5 If a separated child is identified and is in need of accommodation then social services should be contacted.

<sup>1</sup> See UNHCR (1997) *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum* and Article 37 of the Convention on the Rights of the Child (Annex 2). See also the report by HM Inspector of Prisons (HMIP) (2002) *An Inspection of Dungavel Immigration Removal Centre*, available at [www.homeoffice.gov.uk/docs2/ircdungavel03.pdf](http://www.homeoffice.gov.uk/docs2/ircdungavel03.pdf) and HM Inspector of Education (2002) *Update on Education Provision*, available at [www.homeoffice.gov.uk/docs2/dungavelupdate.pdf](http://www.homeoffice.gov.uk/docs2/dungavelupdate.pdf)

<sup>2</sup> For further information see ILPA, BID and Law Society (October 2003) *Challenging Immigration Detention: A Best Practice Guide* available at [www.biduk.org/pdf/Bes/20Practice/20Guide/bpg\\_challenging\\_detention.pdf](http://www.biduk.org/pdf/Bes/20Practice/20Guide/bpg_challenging_detention.pdf) and the BID (January 2004) *Notebook on Bail*, available at [www.biduk.org/pdf/bail\\_notebook/notebook\\_part\\_1\\_jan\\_2004.pdf](http://www.biduk.org/pdf/bail_notebook/notebook_part_1_jan_2004.pdf)

If social services do not intend to provide accommodation then IND should contact the police who will require them to do so.

## Detention of families

- 11.6 The detention of children and young people with their families should be avoided. Contact with the family can be maintained through reporting requirements or other alternative mechanisms where necessary.
- 11.7 The detention of a family must be fully justified in all circumstances. There is a presumption in favour of granting temporary release. A family should never be detained simply because suitable detention accommodation is available.
- 11.8 If a decision is made to detain a child or young person with his or her family, such detention should be used only as a measure of last resort and for the shortest possible period of time.
- 11.9 Where children and young people in families are detained, families must be accommodated in individual units.
- 11.10 Families should be provided with specific and individual reasons for their detention and details of any reviews that are undertaken. This information should also be provided to the legal representative.
- 11.11 Any staff coming into contact with children and young people, as well as individuals whose age is disputed, and who could potentially be children, must have undergone appropriate checks by the Criminal Records Bureau (CRB).<sup>3</sup>

## Age disputed cases<sup>4</sup>

- 11.12 Where there is no strong evidence that an individual is an adult, he or she should not be detained in immigration detention facilities, a prison or a police cell.
- 11.13 Social services have a statutory duty to assess the age and needs of individuals residing or living in their local authority area who claim to be under the age of 18. Any individual who is detained, even for a short period of time, and claims to be a child must be referred to social services for a full age assessment. IND should ensure that a full age assessment is undertaken at the earliest possible opportunity.
- 11.14 If it is possible that an individual may be under 18, he or she must be released from detention and alternative arrangements made for his or her care.

## Children who turn 18<sup>5</sup>

- 11.15 A young person should never be detained simply because he or she has turned 18 and there is detention accommodation available.

<sup>4</sup> See also section 9 of these guidelines for best practice in cases where age is disputed

<sup>5</sup> See also section 10 of these guidelines for best practice when children who are subject to immigration control turn 18

<sup>3</sup> For further information see [www.crb.gov.uk](http://www.crb.gov.uk)

## SECTION 12

# Trafficked children and young people

- 12.1 Slavery and servitude are absolutely prohibited by Article 4 of the ECHR, and trafficking is specifically prohibited by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (2000). ► See section 3 and figure 2.

## Definition of 'trafficking'

- 12.2 'Trafficking' means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, or abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments of benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.

Trafficking and smuggling is not the same thing and the two should not be confused although the distinction between them is not always clear. Smuggling refers to the facilitation of illegal entry for a fee paid to an agent. Trafficking refers to the movement of people for exploitation. Some of the consequences for children and young people may be similar (► see Annex 5).

## Forms of trafficking

- 12.3 There is limited specific information on the trafficking of children and young people into, and through, the UK. The exploitation of victims through trafficking is, by its nature, not readily visible. The main documented evidence of exploitation of children and young people is in domestic service and prostitution.<sup>1</sup>

Other reported forms of exploitation (but with limited documented evidence of their occurrence or extent in the UK) include benefit fraud, restaurant work, child begging and drug trafficking. Those trafficked to the UK for sexual exploitation and domestic labour may include boys as well as girls and young people with disabilities or learning difficulties.

- 12.4 Children and young people can be trafficked in the same ways as adults but there may be specific reasons that apply in the case of children and young people, sometimes relating to the contributing role played by their family. Children may be 'sold' by a family member (either for profit or to remove an uneconomic family burden, or both). The child may be coerced into co-operating but may not know the true purpose. Parents may part with their children believing that they will be offered a better life or opportunities in the place they are being taken to.
- 12.5 Children and young people are trafficked into the UK through a variety of means. These include, but are not limited to:
- separated children and young people who are told to ask for asylum on arrival in the country. They are placed in care and at a later date are removed or abducted by their traffickers. Often the children make contact with the traffickers as they have been instructed.

<sup>1</sup> ECPAT UK's recent research published as *Cause for Concern? London social services and child trafficking* (2004) documents the details of 35 cases of child trafficking in 17 London boroughs. Most of these children were trafficked for domestic work or for prostitution, but there were cases of trafficking for benefit fraud, restaurant work and involvement in illegal activities. More information is available at [www.ecpat.net](http://www.ecpat.net)

- children and young people who enter as students, as language students or as visitors
- children and young people who enter the country with adults who are, or purport to be, parents or family members, or are smuggled in and therefore do not come into contact with social services or any other agencies
- children and young people who are unaccompanied when they arrive in the UK and are collected by an adult (sometimes loosely referred to as a 'sponsor') who claims responsibility for them.<sup>2</sup>

## Implications for children and young people

- 12.6 Trafficked children are extremely vulnerable and it is the responsibility of the professionals who come into contact with them to provide support and protection. Immigration officers and other officials have a key role to play in anti-trafficking activities.  
▶See section 4 for further information.
- 12.7 There may be difficulties in determining the age of some trafficked children. ▶See section 9 guidelines for best practice in relation to age disputes. Often they have been told to lie about their age by the traffickers (claiming to be either older or younger than they are, sometimes for reasons unrelated to the trafficking). Many trafficked children and young people will be without documentation that can confirm their identity.
- 12.8 Trafficked children and young people are highly unlikely to reveal what has happened to them when they initially come into contact with the authorities or other professionals. In addition to the factors outlined in section 5 of these guidelines, a number of additional factors may particularly affect the willingness of trafficked children and young people to discuss their experiences. These include, but are not limited to:
- fear of retaliation from traffickers against themselves or their families
  - concern about the reaction of their families when it is discovered that the child or young person has not earned the anticipated income or that he or she fled from the trafficker without repaying a debt

<sup>2</sup> The definition of a 'sponsor' is provided in Figure 1. For further information on best practice during initial contact, see section 4 of these guidelines

- an unwillingness to discuss what has happened to them because of trauma or shame
  - concern about how their family, friends and the community will react if they find out they have been working as prostitutes or were sexually abused
  - a distrust of authorities in the UK and abroad and a fear that they will be prosecuted or deported.
- 12.9 In cases of separated children and young people, a responsible adult should be appointed. ▶See section 2 for the definition and role of a responsible adult. Every separated child should be photographed by social services for identification purposes.

## Procedures for protecting children

- 12.10 Best practice requires that there are procedures for children who have been trafficked or are suspected of being trafficked,<sup>3</sup> that there is better information provided to children and young people on the risks and that children and young people 'at risk' are monitored.
- 12.11 Children who have been trafficked and who come to the attention of the authorities should be given a period of leave to remain in order to reflect on their experiences. The only practical way to prosecute traffickers is to use the testimony of victims. If children and young people fear that they will be arrested and removed when they make a complaint there is little prospect of convicting the traffickers. Leave to remain should not be dependent on whether or not a child is prepared to give evidence.
- 12.12 Trafficked children and young people need access to additional specialist support services. Children and young people who continue to be at risk will need to be protected to secure their safety. Action to ensure a child's safety should not result in the child or young person being detained against their will, nor should it infringe their rights to privacy. Protocols should be established between social services departments and the Home Office to ensure best practice in working with children and young people thought to be at risk of being trafficked.

<sup>3</sup> See section 4 of these guidelines for best practice on identifying a child who may have been trafficked to the UK

## SECTION 13

# The decision and its consequences

- 13.1 In view of their potential vulnerability, particular priority should be given to the handling of applications from children. The decision-making process should reflect, and be sensitive to, this vulnerability. Applications from children should be handled expertly and carefully at all stages.
- 13.2 It is in the best interests of children and young people that a decision is made regarding their immigration status as soon as is possible. Keeping children in limbo regarding their status – and hence their security and their future – is not in their best interests.  
▶ See paras 7.3 and 10.5.
- 13.3 Every decision should be communicated properly to the child and responsible adult and acted on promptly.

## Making a decision

- 13.4 A decision about a child or young person's immigration status should always be in the best interests of the child and should take into account the fact that a child or young person may have his or her own view about the future. ▶ See paras 3.10–3.16.
- 13.5 If an application for leave to remain in the UK is lodged before a child is 18 years old, the application should be treated as if the young person were still under 18. This also applies to children and young people who have been granted entry clearance for settlement and who reach 18 before arrival. Refusal of leave to enter or remain should not be solely because of the fact of reaching 18 years old. ▶ See also section 10 for further discussion of the issues arising when a child turns 18

## Communicating the decision

- 13.6 Any substantive decision should be provided in writing and should also be communicated and explained to a child or young person orally in a language that he or she understands. A responsible adult should communicate the decision in the presence of a legal representative. In the absence of a responsible adult, the child's legal representative should communicate the decision.

## Granting of leave

- 13.7 A child or young person may be allowed to remain in the UK for a number of reasons. He or she may be recognised as a refugee and granted indefinite leave to remain or may be granted humanitarian leave, discretionary leave, or leave to remain outside the Immigration Rules, because it is not safe to return to the country of origin due, for example, to armed conflict or because no suitable carer can be identified. A child may also be allowed to remain under some other immigration category or on compassionate grounds. There are numerous concessions and policies outside the rules relating to children and young people.<sup>1</sup> ▶ See also para 7.6.
- 13.8 Where an asylum or human rights application is made, and a decision to grant leave is made, this should be for an indefinite period. ▶ See para 7.37.
- 13.9 Children and young people (including those who have recently turned 18) who have been in the UK for several years will be reasonably settled here and may, therefore, find it difficult to adjust to life abroad. The ties established by children and young people in the UK will in some cases outweigh other considerations to the extent that it is considered right and fair that the child or young person should be allowed to stay, and if appropriate their family members. ▶ See para 10.10.

<sup>1</sup> Many of these concessions and policies are set out in the Immigration Directorate's Instructions (IDIs) (available at [www.homeoffice.gov.uk/ind/idi](http://www.homeoffice.gov.uk/ind/idi)). It should be noted the information available on the IND website is not complete and can be contradictory, illustrating the tension between immigration policy and more child-oriented social policy.

- 13.10 When a child or young person is granted indefinite leave to enter or remain, consideration should be given before the child reaches the age of 18 to applying for citizenship.
- A child should be given advice on the consequences of becoming British on his or her nationality of origin, right to return, inheritance or property rights, and whether dual nationality is permitted by the country of origin.

## Family reunion

- 13.11 The emotional and psychological importance to the child or young person of maintaining and developing contact with family and relatives, and of preserving cultural links with the country of origin, is undeniable. A separated child's parents may still live in the country of origin, or may be missing but not officially reported dead.
- As a guiding concept, reunification with parents or other carers will generally be in the best interests of a child or young person.
- 13.12 Before pursuing family reunion, a child's protection needs must be fully and properly addressed. All professionals should be aware of the protection needs of the child and whether these are best met in the UK, the country of origin or a third country.
- 13.13 Circumstances may exist which call into question the appropriateness of a child reuniting with his or her parents or other primary caregiver. Examples of this include where there are substantiated allegations of abuse, trafficking, or similarly serious considerations.
- 13.14 The responsible adult, in conjunction with the child's legal representative, should consider whether and when it is appropriate to trace the members of the family of a separated child, bearing in mind his or her best interests. Professionals should be aware of the potential dangers of tracing to both the child and his or her family, for example, it may endanger a family if it becomes known that a child is abroad or that an application for asylum has been made.
- 13.15 Separated children may be encouraged and assisted in contacting the International Committee of the Red Cross, national Red Cross organisations, or other organisations for the purpose of tracing their family members.

Whenever contacts are made in the context of tracing family members, confidentiality should be duly respected in order to protect both the child or young person and the members of his or her family.

- 13.16 Separated children and young people seeking asylum or otherwise present in the UK sometimes have family member(s) who have settled elsewhere, for example, in Europe, the US or Canada. Family reunion, either in the UK or elsewhere, should be facilitated quickly where this is in the child or young person's best interests. A responsible adult should initiate this process.
- 13.17 Where a separated child has applied for asylum in the UK and has a member of his or her family legally present in another EU state who is willing to take charge of him or her, then the child's application for asylum should be transferred to that country unless this is not in the best interests of the child.<sup>2</sup>

## Return and removal

- 13.18 Return is a complex issue and a decision whether a child or young person should be returned to his or her country of origin or another country will require a broad and detailed assessment of whether this is in his or her best interests. The child or young person's legal representative, his or her responsible adult and other professionals working with the child or young person have an important role to play in ensuring that the circumstances and experiences of the individual are understood.
- 13.19 A child or young person will need to feel secure about the future in order for return to be in his or her best interests. Return should always be carried out in a manner that is sensitive to the needs, concerns and particular vulnerabilities of children. Children should be fully consulted at all stages of the process.
- 13.20 Children and young people's opinions about whether return is in their best interests will be strongly affected by the conditions and expectations that surrounded their departure; the expectation of their family and the home community, and the quality of the information available to them.

<sup>2</sup> Articles 6 and 12 of Commission Regulation No.1560/2003 (known as Dublin II) available at [www.ecre.org/eu\\_developments/responsibility/dublinreg.pdf](http://www.ecre.org/eu_developments/responsibility/dublinreg.pdf)

- 13.21 Determining whether the best interests of the child or young person are served by allowing him or her to stay in the UK, or by returning him or her to the country of origin or a third country can mean balancing potentially conflicting rights.
- 13.22 Before pursuing return, a child's protection needs must be fully and properly addressed. All professionals should be aware of the protection needs of the child and whether these are best met in the UK, the country of origin or a third country. A child or young person should not be returned to a country where there is evidence of a general risk of inhuman or degrading treatment. What is considered safe for an adult may not be considered safe for a child or young person. ►See paras 6.19–6.21 on evidence in relation to conditions in the country of origin.
- 13.23 In cases involving children, including where they are with their families, it will have been necessary during the course of the application to obtain expert evidence as to the consequences for the children of their own return or that of a parent. ►See paras 6.14–6.18. When a final decision has been received, any expert evidence should be reviewed and consideration given to obtaining updated reports particularly regarding the consequences to the child of return.
- 13.24 Before a child or young person can be returned to a country of origin, a careful assessment must be made of the family situation in the home country and whether it is safe to return a child to that country.
- Professional and independent individuals or organisations should carry out this investigation. Their full report must be available to the legal representative and a responsible adult in the UK.
- 13.25 The independent assessment must include an investigation of the child's family (parents or other family members) to establish whether they are able to provide appropriate care. In the absence of parents or other family members, the suitability of child-care agencies in the country of origin should be investigated. The legal representative and responsible adult should be advised of the outcome of this process.

- 13.26 A local authority can only arrange for, or assist in arranging for, any child 'in their care' to be removed from the UK with the approval of the court.<sup>3</sup>
- The court can only consent for a separated child to be removed from the UK if it is satisfied that:
- living outside the UK would be in the child's best interests
  - suitable arrangements have been, or will be, made for his or her reception and welfare in the country in which he or she will live
  - the child has consented to living in that country
  - every person who has parental responsibility for the child has consented to him or her living in that country.
- 13.27 A child or young person should be fully informed orally by a responsible adult or legal representative at all stages regarding progress in relation to return, and should be fully informed of any decisions regarding his or her future return.
- 13.28 If return or removal is not possible or appropriate, the child or young person should be given indefinite leave to remain in the UK.

<sup>3</sup> This probably means looked after, assisted or subject to a care order. See Schedule 2, paragraph 19 of the Children Act, available at [www.hmso.gov.uk/acts/acts1989/Ukpga\\_19890041\\_en\\_15.htm#sdiv2](http://www.hmso.gov.uk/acts/acts1989/Ukpga_19890041_en_15.htm#sdiv2)

## SECTION 14

# Training, implementation and monitoring

- 14.1 Guidelines on best practice are only a first step towards ensuring that the needs of children and young people who are subject to immigration control in the UK are addressed. Processes and procedures are not ends in themselves, but simply a means of bringing about better outcomes for children.

## Training

- 14.2 The importance of appropriate and regular training for professionals working with children and young people cannot be over-emphasised. In implementing these guidelines, adequate training and procedures will need to be put in place to meet the needs of children and young people, particularly where the experiences of migration affect different categories of children differently, such as the sexual assault of girl children. Particular training is needed to help professionals identify children and young people who may possibly or potentially be the victims of trafficking.
- 14.3 The format and style of these guidelines is such that they can be easily adapted to, and developed for, training purposes. Free hard copies of the guidelines are available to all relevant government departments and organisations working with children and young people who are subject to immigration control. Additional copies can be downloaded free of charge at [www.ilpa.org.uk](http://www.ilpa.org.uk)
- 14.4 Given that the roles of immigration officials, legal representatives, responsible adults, interpreters and professionals working with children and young people subject to immigration control differ, training programmes will need to be tailored to the specific needs of the groups involved.

The following topics should be core elements:

- relevant human rights norms, standards and principles, including the rights of the child
- impact, consequences and trauma associated with migration, including forced migration, smuggling and trafficking
- how to deal with issues of child abuse, and suspected child abuse
- cross-cultural and age-related linguistic, religious, social and gender issues
- appropriate adult-child communication
- interviewing and assessment techniques that minimise any trauma to the child whilst maximising the quality of the information received from the child
- skills to deal with children in a sympathetic, understanding, constructive and reassuring manner
- roles of, and methods used by, professionals working with child victims and witnesses
- knowledge of countries of origin
- creating child-friendly environments.

## Inter-agency co-operation

- 14.5 It is well established that effective inter-agency arrangements are crucial to protecting children and promoting their welfare. In addition to training those who are involved in the decision-making process, policy making in this area should involve child welfare experts and others who are responsible for interim care and long-term solutions.
- 14.6 Good practice calls for effective co-operation between different agencies and professionals; sensitive work with parents and carers in the best interests of the child; and the careful exercise of professional judgment, based on thorough assessment and critical analysis of the available information. The setting up of networks and continuing education programmes should reinforce initial training. Good practice should be shared between all those who may come into contact with children and young people who are subject to immigration control.

## Statistical and other information

- 14.7 The task of compiling statistical and other information about children and young people who are subject to immigration control is difficult. Existing information is patchy and different agencies who are in contact with children and young people collect different information depending on their organisational needs. In addition it may be difficult to collate information because comparable definitions are not used.
- 14.8 The availability of such information is an important precondition for developing and implementing best practice in this area. Accurate data on children and young people subject to immigration control should be kept and updated periodically. This information collected should be disseminated among relevant agencies and authorities in the interest of information sharing and network building.

At a minimum the information collected should include:

- total number of children subject to different immigration processes, including separated children and basic demographic data about them (age, sex, nationality, ethnic group)
- total number of refusals of entry to the UK
- information on status determination, time taken and any delays (including refugee status, humanitarian protection, temporary protection, discretionary leave and other forms of leave to remain)
- number of responsible adults and legal representatives appointed
- type of accommodation used (detention, reception centres, group homes, foster homes, independent living)
- participation in education and training
- information on returns and family reunification.

## Monitoring

- 14.9 Professionals should utilise these guidelines as a basis for developing laws and written policies, standards and protocols. Professionals should periodically review and evaluate their role in ensuring protection of the rights of the child and the effective implementation of these guidelines. The implementation of these guidelines should be monitored.

## Glossary

### 'Assisted' child

It is the general duty of every local authority to safeguard and promote the welfare of children within their area who are in need and, provided it is consistent with that duty, to promote the upbringing of such children by their families. An 'assisted child' is a child who is given assistance under Section 17 of the Children Act because without such assistance he or she is unlikely to achieve or maintain a reasonable standard of health or development, his or her health or development is likely to be significantly impaired, or further impaired, or he or she is disabled. This assistance may be provided in kind or, in exceptional circumstances, in cash, or through facilitating the provision of services by others (including in particular voluntary organisations).

### Child protection

The purpose of child protection is to ensure that appropriate protective action is taken when a child is suspected of being abused, or of being at risk from parents, guardians, carers, adult visitors to the home or others. Every organisation working with children should have a child protection officer who is responsible for operating the procedures if it is suspected that a child is being abused.

### Learning difficulties

A 'learning difficulty' is understood as arising from cognitive, physical and/or sensory impairments, a medical or health issue, emotional and/or behavioural difficulties, social and economic disadvantage etc. A specific learning difficulty is used to describe a child with, for example, dyslexia. Children and young people with learning difficulties are very diverse: many attend mainstream schools and are able to live independently as adults; others require high levels of support. Learning difficulties are usually evident from early childhood, but can be acquired through illness or accident later in life. Learning difficulties must not be confused with mental health problems.

**'Looked after' child**

A child is said to be 'looked after' when he or she has been provided with somewhere to live by a local authority whether or not he or she is subject to a care order. A 'looked after' child might be staying with foster carers, or in a children's home or boarding school, or in bed and breakfast accommodation or with another responsible adult who is known to the child, or the child's parents or guardians.

**Parental responsibility**

Having parental responsibility means assuming all the rights, duties, powers, responsibilities and authority that a parent of a child has by law. In general terms, this means the power to make important decisions in relation to a child – for example, decisions about where a child is to live, whether a child can receive medical treatment, what religion they follow and which school they attend.

Mothers and married fathers – who are married to the mother of their children – automatically have parental responsibility and this continues even if they divorce. Unmarried fathers can obtain parental responsibility by going to court for a parental responsibility order or by entering into a formal parental responsibility agreement with the mother.

Where parental responsibility does not exist through operation of law it can be obtained by order of the court, for example, residence order, care order, appointment of a guardian. A local authority does not have parental responsibility for a child where that child is being 'looked after' by the authority (see definition of 'looked after' child above) but may do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

**Pathway Plan**

The Children (Leaving Care) Act 2000 requires a Pathway Plan for all eligible young people who have been 'looked after' by a local authority. The responsible authority must complete a Needs Assessment and a Pathway Plan that maps out a clear route to independence. It should be reviewed every six months until the young person reaches 21 (or beyond if they are in education or training).

**Private fostering**

Private fostering is a private arrangement between a child's parents and foster parents. Children are privately fostered if they live with someone for 28 days or more or are placed with the intention that they will stay for 28 days or more. This applies to children under 16 years old (or 18 years old if they are disabled). It does not apply to children living with a birth parent or a person with parental responsibility or a relative.

Social services departments and other local authority agencies and the NHS are under a duty to work with private foster parents and the child's natural parents to safeguard the child's welfare. A person who is fostering a child privately should inform social services before the child arrives. In the case of an emergency or unplanned placement, social services must be informed with 48 hours of the child arriving.

**Trauma**

Although the word 'trauma' is used in everyday language to mean a highly stressful event, the key to understanding traumatic events is that it refers to extreme stress that overwhelms a person's ability to cope. It is an individual's *subjective experience* that determines whether an event is or is not traumatic. Thus, a traumatic event or situation creates psychological trauma when it overwhelms the individual's perceived ability to cope, and leaves that person fearing death, annihilation, mutilation, or psychosis. The individual feels emotionally, cognitively, and physically overwhelmed. The circumstances of the event commonly include abuse of power, betrayal of trust, entrapment, helplessness, pain, confusion, and/or loss.

## ANNEX 1

### Existing guidelines and guidance

CAFCASS (March 2002) *Service Principles and Standards*

[www.cafcass.gov.uk/English/Publications/policies/ServicePrinciplesStandardsApr03v2.pdf](http://www.cafcass.gov.uk/English/Publications/policies/ServicePrinciplesStandardsApr03v2.pdf)

CAFCASS (April 2004)

*Representation of Children in Private Law Proceedings*

[www.lawsociety.org.uk/secure/file/122488/d:/teamsite-deployed/documents/templatedata/Policy/Issued%20guidance/Documents/cafcass\\_guidance\\_representationofchildren220404.pdf](http://www.lawsociety.org.uk/secure/file/122488/d:/teamsite-deployed/documents/templatedata/Policy/Issued%20guidance/Documents/cafcass_guidance_representationofchildren220404.pdf)

CAFCASS (April 2004)

*Representation of Children: CAFCASS practice note*

[www.courtservice.gov.uk/cms/11045.htm](http://www.courtservice.gov.uk/cms/11045.htm)

Children and Young People's Unit (November 2002)

*Learning to Listen: Core principles for the involvement of children and young people*

[www.cypu.gov.uk/youth/publications/uploads/ACFA56.pdf](http://www.cypu.gov.uk/youth/publications/uploads/ACFA56.pdf)

Connexions and Save the Children (2003)

*Making a Difference, Emerging Practice – Working Together: Connexions supporting young asylum-seekers and refugees*

[www.connexions.gov.uk/partnerships/publications/uploads/cp/Asylum%20Seekers%20\(For%20Web\).pdf](http://www.connexions.gov.uk/partnerships/publications/uploads/cp/Asylum%20Seekers%20(For%20Web).pdf)

Court Service (April 2004)

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## ANNEX 2

### Convention on the Rights of the Child

This Annex contains only the relevant articles of the CRC.

A full version of the Convention can be obtained at [www.unhcr.ch/html/menu3/b/k2crc.htm](http://www.unhcr.ch/html/menu3/b/k2crc.htm)

#### Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

#### Article 2

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

#### Article 3

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

*Article 3 continued*

States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

**Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

**Article 7**

The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

**Article 8**

States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

**Article 9**

States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the wellbeing of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

**Article 10**

In accordance with the obligation of States Parties under Article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

**Article 10 continued**

A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under Article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

**Article 11**

States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

**Article 12**

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

**Article 18**

States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

**Article 19**

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- b) Recognize that inter-country adoption may be considered as an alternative means of the child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

*Article 21 continued*

- e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

**Article 22**

States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

**Article 35**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 37**

- b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.
- In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

## ANNEX 3

### The role of CAFCASS

The Children and Family Court Advisory and Support Service (CAFCASS) was set up on 1 April 2001. It is a national Non-Departmental Public Body for England and Wales. It brings together the services previously provided by the Family Court Welfare Service, the Guardian ad Litem Services and the Children's Division of the Official Solicitor.

CAFCASS is independent of the courts, social services, education and health authorities and all similar agencies.

The functions of CAFCASS are set out in the Criminal Justice and Court Services Act 2000. They relate to family proceedings where the welfare of children is or may be in question.

CAFCASS functions are to:

- provide a Children's Guardian where required
- safeguard and promote the welfare of the child
- give advice to the court about any application made to it in such proceedings
- make provision for children to be represented in such proceedings
- provide information, advice and support for children and their families.

To do this, Children's Guardians spend time getting to know the children and members of their family. They talk to other people who know the family, such as relatives, teachers, social workers and health visitors. They attend meetings on behalf of the child, check records and read reports and statements. They may also recommend to the court that other professionals are asked to help, such as a paediatrician or a psychologist.

The main types of cases in which the courts ask CAFCASS to help are when:

- parents are separating or divorcing and have not reached agreement about arrangements for their children
- social services have become involved and children may be removed from their parents' care for their safety
- children could be adopted.

For further information, visit [www.cafcass.gov.uk/](http://www.cafcass.gov.uk/)

## ANNEX 4

### Royal College of Paediatrics and Child Health (RCPCH) guidance on age assessment

Paediatricians are sometimes asked to give their opinion on whether a child is under or over 18. The request may come from the child's legal representative or from a government agency. In either case the College would urge caution when making such an assessment:

- The determination of age is a complex and often inexact set of skills, where various types of physical, social and cultural factors all play their part, though none provide a wholly exact or reliable indication of age, especially for older children.
- Assessments of age should only be made in the context of the overall assessment of the child.
- As there can be a wide margin of error in assessing age it may be best to word a clinical judgment in terms of whether a child is probably, likely, possibly or unlikely to be under the age of 18.
- It is inappropriate for x-rays to be used merely to assist in age determination for immigration purposes.

This information was provided by the Royal College of Paediatrics and Child Health in May 2004. The issues are covered in greater detail in *The Health of Refugee Children: Guidelines for Paediatricians*, which is available on the College website at [www.rcpch.ac.uk/publications/past\\_publications.html](http://www.rcpch.ac.uk/publications/past_publications.html)

## ANNEX 5

### Definition of trafficking<sup>1</sup>

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (2000) to which the UK is a signatory, includes the following comprehensive and widely accepted definition of trafficking.

- a) 'Trafficking in persons' means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, or abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments of benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation includes, at a minimum, the exploitation or 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 the victim of trafficking is irrelevant.
- b) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered 'trafficking in persons'.
- c) 'Child' means any person under eighteen years of age.

For practical purposes it is important to understand the difference between trafficking and smuggling, to appreciate the extent of coercion and deception to which the victim may be subjected, and to understand the different types of exploitation the victims may suffer.

<sup>1</sup> Extracted from the *Crime Reduction Toolkit on Trafficking of People*. Available at [www.crimereduction.gov.uk/toolkits/tp00.htm](http://www.crimereduction.gov.uk/toolkits/tp00.htm)

By far the vast majority of people entering the UK illegally are smuggled rather than trafficked. People smuggling is the facilitation of illegal entry, in breach of immigration law, either clandestinely or through deception or the use of false documentation. In this sense 'smuggling' refers to the illegal transport of a person or persons across state borders, which results in a benefit for the smuggler. 'Trafficking', on the other hand, specifically targets the trafficked person as an object of exploitation. The purpose from the beginning of the process is to exploit this person and to gain a profit. It follows that 'deception' and 'coercion' both play a major role in trafficking. For example, in some cases women trafficked for sexual exploitation may have known that they were going to work in the sex industry, and have agreed to this on the basis that they would earn a decent wage and be able to help support their family at home. What they did not realise was that all or most of their income would be taken by their traffickers, that they may be severely limited in their personal freedom and in many cases that they would be subjected to physical and sexual violence.

In practice, it may be quite difficult to make an initial distinction between smuggling and trafficking. In some cases people may think they are being smuggled, but are in fact being trafficked, as they are unaware of their fate. Equally, trafficking often does include an element of smuggling, namely the illicit crossing of a border. However, there are also elements of trafficking *within* a country as the traffickers move victims between locations and sometimes sell them to another organisation.

Children and young people are recruited into trafficking in the same ways as adults. Often they will be seeking to escape poverty, without appreciating the risks to which they are exposed. There may also, however, be specific elements that apply in the case of children relating to the contributing role played by their parents. Thus the child victim may have been deliberately 'sold' to the trafficker by a family member, either as a matter of simple profit or removal of an uneconomic family burden, or both. The child or young person may or may not know the planned outcome, but the family member conducting the sale will be aware or simply reckless as to the planned exploitation. In many situations, parents part with their children believing that they will be offered a better life or opportunities in the places to which they are being taken.

## ANNEX 6

### Sources of further information

#### Asylum and immigration

##### Asylumsupport.Info

[www.asylumsupport.info](http://www.asylumsupport.info)

Asylumsupport.Info has a directory of hundreds of online resources relating to: asylum and refugees, conflict, country data, court cases, deportation, detention, discrimination, funding, gender, government, human rights, human trafficking, law, media, migration, policy and studies.

##### Refugee Council

[www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)

The Refugee Council is a registered charity that gives practical help to asylum-seekers and refugees, advancing their rights both in the UK and abroad. The children's section of the Refugee Council comprises the Panel of Advisers for unaccompanied refugee children and the Cedars which is a semi-independent hostel for young asylum-seekers. The panel is funded by the Home Office to help the children through the complexities of the asylum process and in accessing appropriate statutory and non-statutory services. Central to the work is the belief that the refugee children are children first with an absolute right to care, protection and respect. Apart from casework for the most vulnerable children it has developed a drop-in service in Brixton to help the children contact statutory service providers such as social services as well as offering them a number of other facilities including food, health advice and the Red Cross family tracing facility. The panel of advisers currently provides a service to children across the UK. The Refugee Council offers support to those responsible for providing services that are accessed by refugee children. They are happy to take telephone queries and to signpost to other refugee organisations and sources of information.

**Separated Children in Europe Programme**

[www.separated-children-europe-programme.org/](http://www.separated-children-europe-programme.org/)

The Separated Children in Europe Programme was established in 1997 as a response to the numbers of such children and seeks to improve the situation of separated children through research, policy analysis and advocacy at the national and regional levels. It is a joint initiative of UNHCR and Save the Children and is based on the complementary mandates and areas of expertise of the two organisations.

**International organisations****UNHCR**

[www.unhcr.ch](http://www.unhcr.ch)

UNHCR is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and wellbeing of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another state, with the option to return home voluntarily, integrate locally or to resettle in a third country. UNHCR's website provides access to key information and statistics on refugee issues including UNHCR's guidance on refugee and asylum-seeking children.

**UNICEF**

[www.unicef.org](http://www.unicef.org)

UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

**Children's organisations****Barnardo's**

[www.barnardos.org](http://www.barnardos.org)

Barnardo's is a large children's charity that provides services for 53,000 children, young people and their families.

**The Children's Society**

[www.childrenssociety.org.uk](http://www.childrenssociety.org.uk)

The Children's Society is a Christian social justice organisation that works with children and young people in England and Wales in over 100 projects. The work covers issues such as children's participation, health, safer communities, young runaways, education, youth justice, poverty and housing.

**Save the Children**

[www.savethechildren.org.uk](http://www.savethechildren.org.uk)

Save the Children's England programme (part of SCFUK) has prioritised the general promotion of the rights of children and young people and, in particular, their involvement in decisions that affect them over the planning, design and delivery of services. There is a particular focus upon the most marginalised groups and on the issues of child poverty, refuge and asylum, education and violence.

**Who Cares? Trust**

[www.thewhocarestrust.org.uk](http://www.thewhocarestrust.org.uk)

The Who Cares? Trust is a national charity in the childcare field. Its aim is to improve public care for young people in the UK living in foster and residential care, working along with central and local government as well as the voluntary sector and young people themselves.

**Voice for the Child in Care (VCC)**

[www.vcc-uk.org](http://www.vcc-uk.org)

VCC is committed to achieving change for children and young people in the care system by empowering children and young people in care to speak out for changes in their lives and campaigning for improvements to the lives of children and young people in care. VCC provides independent confidential advocacy services to children in need, in care or leaving care, as well as independent complaints and reviews services to local authorities in order to assist them in meeting their statutory responsibilities under the Children Act complaints procedure and in reviews held for young people in secure accommodation.

**Children's rights****Children's Rights Alliance for England (CRAE)**

[www.crights.org.uk](http://www.crights.org.uk)

CRAE is an alliance of over 180 organisations committed to children's human rights. The organisation exists to improve the lives and status of all children in England through the fullest implementation of the UN Convention on the Rights of the Child.

**Child Rights Information Network (CRIN)**

[www.crin.org/](http://www.crin.org/)

The Child Rights Information Network (CRIN) is a global network that disseminates information about the Convention on the Rights of the Child and child rights amongst non-governmental organisations (NGOs), United Nations agencies, inter-governmental organisation (IGOs), educational institutions, and other child rights experts.

**Children's Rights Officers and Advocates (CROA)**

[www.croa.org.uk/](http://www.croa.org.uk/)

CROA seeks to: promote and assist local authorities in establishing locally based children's rights, advocacy and participation services; support children's rights, advocates and participation officers throughout England and Wales; promote and disseminate good practice; train and support young people looked after to actively participate within the authorities, as trainers, evaluators, consultants etc.

**European Network of Ombudsmen for Children (ENOC)**

[www.ombudsnet.org/](http://www.ombudsnet.org/)

The European Network of Ombudsmen for Children (ENOC) links independent offices for children from twelve countries in Europe. Its aims are to encourage the fullest possible implementation of the Convention on the Rights of the Child, to support collective lobbying for children's rights, to share information, approaches and strategies, and to promote the development of effective independent offices for children.

**Four Nations Child Policy Network**

[www.childpolicy.org.uk/enhhome/index.cfm](http://www.childpolicy.org.uk/enhhome/index.cfm)

This website contains information on the latest policy developments relating to children and young people in each of the four nations and across the UK. By facilitating greater access to policy information and consultation with policy-makers, the network hopes to empower its users to contribute to and influence policy decisions affecting the lives of children, their families and those who work with them

**International Bureau for Children's Rights**

[www.ibcr.org](http://www.ibcr.org)

The International Bureau for Children's Rights (IBCR) is an international non-governmental organisation based in Canada. IBCR's mission is to contribute to the promotion and protection of the rights of the child as laid out in the Convention on the Rights of the Child.

**Children's social policy****Child Poverty Action Group (CPAG)**

[www.cpag.org.uk/](http://www.cpag.org.uk/)

CPAG promotes action for the relief, directly or indirectly, of poverty among children and families with children. It works to ensure that those on low incomes get their full entitlement to welfare benefits. Its campaigning and information work seeks to improve benefits and policies for low-income families, in order to eradicate the injustice of poverty.

**Children and Young People's Unit (CYPU)**

[www.cypu.gov.uk/](http://www.cypu.gov.uk/)

The Children and Young People's Unit (CYPU) is tasked with supporting ministers, including the Minister for Young People, as they develop, refine and communicate the government's overarching strategy for children and young people. The Unit is tasked with joining up policy-making across departments and removing barriers to effective working. As part of this work CYPU is promoting active dialogue and partnership with children and young people, and with the voluntary sector.

**Child protection****National Society for the Prevention of Cruelty to Children (NSPCC)**

[www.nspcc.org.uk](http://www.nspcc.org.uk)

The NSPCC is a charity specialising in child protection and the prevention of cruelty to children. It operates over 180 projects in England, Wales and Northern Ireland in co-operation with other agencies and organisations including children's charities, social services and the police. Projects include support for abused children, support for children in court, work with schools, and a free confidential 24-hour child protection helpline. The NSPCC has set up Young People's Advisory Groups (YPAGs) to involve young people in the policy and practice development of the NSPCC's work and in the design of community and local authority services.

**Children and the law****Children Law UK**

[www.childrenlawuk.org](http://www.childrenlawuk.org)

Children Law UK was formed in 1974 and is affiliated to the International Association of Youth and Family Judges and Magistrates, which holds consultative status to the United Nations. Children Law UK exists to foster a judicial process that works in the interests of children, young people, families and the wider community.

**Children's Law Centre**

[www.childrenslawcentre.org/](http://www.childrenslawcentre.org/)

The Belfast-based Children's Law Centre opened in September 1997 and is founded on the principles laid down in the United Nations Convention on the Rights of the Child, in particular, Articles 2, 3 and 12. The Children's Law Centre: complements existing services provided by the voluntary, community, statutory and legal sector; works in partnership with children and other agencies committed to releasing children's rights; and is developing a comprehensive and accessible advice service on children's rights and the law as it relates to children and young people.

**Children's Legal Centre**

[www2.essex.ac.uk/clc/](http://www2.essex.ac.uk/clc/)

The Children's Legal Centre is an independent national charity concerned with law and policy affecting children and young people. The Centre operates a free and confidential legal advice and information service covering all aspects of law and policy affecting children and young people, as well as an Education Law and Advocacy Unit, which provides free legal advice and representation to children and/or parents with concerns relating to schools or Local Education Authorities (LEAs). The Centre also runs the Refugee and Asylum-Seeking Children's Project which is designed primarily for non-immigration specialist professionals in statutory organisations and the voluntary sector who are working with asylum-seeking and refugee children and who need to find out about this group of children's rights and entitlements to services such as education, social services benefits, housing, healthcare and legal advice.

**Detention****Bail for Immigration Detainees (BID)**

[www.biduk.org](http://www.biduk.org)

Bail for Immigration Detainees (BID) works with asylum-seekers and migrants detained under UK Immigration Act powers, in removal centres and prisons. BID prepares and presents applications for bail to the immigration court and provides advice and information to detainees about how they can challenge their detention and obtain release. BID undertakes campaigning, policy and research work based on their casework experience.

## **Trafficking**

### **Anti-Slavery International**

[www.antislavery.org](http://www.antislavery.org)

Anti-Slavery International, founded in 1839, is the world's oldest international human rights organisation and the only charity in the United Kingdom to work exclusively against slavery and related abuses.

### **ECPAT**

[www.ecpat.net](http://www.ecpat.net)

ECPAT is a network of organisations and individuals working together to eliminate the commercial sexual exploitation of children. It seeks to encourage the world community to ensure that children everywhere enjoy their fundamental rights free from all forms of commercial sexual exploitation. The ECPAT acronym stands for 'End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes'.