

# Safe Haven



**A guide for social workers supporting refugee and migrant children in England**



# Foreword

At UNISON we know that public service workers are often on the front line in caring for the most vulnerable people in our society. You do this work under enormous financial and workload constraints. When it comes to caring for refugee and asylum seeking children, this can include other pressures, whether it is navigating the legal context or supporting traumatised young people who might be threatened with deportation. I am therefore proud to recommend this guide, produced with the help and expertise of the Coram Children's Legal Centre, who work to protect and promote the rights of children. It follows on from important work initiated by our social worker members in Scotland.

In recent years refugees fleeing conflicts and persecution have been met with hostility and hate, rather than the safe havens they are entitled to. When governments fail in their humanitarian and moral duty, it is ordinary people who step into the breach. UNISON is determined to support our members and help them in their work.

Dave Prentis  
**General Secretary**

Social workers are in the frontline of the government's attempt to create a hostile environment for asylum seekers and refugees. They are increasingly being expected to deny social work support to people with no immigration status, despite important legal protections. Social workers are rejecting this role and standing up for ethical practice.

Social workers should do all they can to promote a child's interests, using all the legislation at our disposal and challenging any unethical decisions not in line with our codes of practice. We hope this practical guide will be of support to any social worker in promoting the interests of refugee and migrant children and their families.

It provides a clear guide to law in England, gives an overview of the issues affecting refugee and migrant children in the UK and identifies common themes related to providing support to them from a social work context.

Chris Tansley  
**Chair, UNISON Social Care Forum**

# Contents

<b>1. Introduction</b>	<b>5</b>
• Context & common terms	5
• Migrant and refugee children in the UK	5
• Legal advice and representation	6
• General principles	7
<b>2. Care system</b>	<b>8</b>
• Support under Children Act 1989	8
• Section 17	8
• Section 20	8
• Care orders	8
• Planning	9
• Leaving care support	9
• What you can do	10
<b>3. Asylum seeking children</b>	<b>11</b>
• Asylum process	11
• National transfer scheme	11
• Welfare interview	11
• Substantive interview	11
• Decisions	12
• Other issues	12
• What you can do	13
<b>4. Immigration</b>	<b>14</b>
• Non-asylum seeking children in care	14
• Immigration routes	14
• Nationality	14
• Immigration routes for families	14
• What you can do	15
<b>5. EU nationals</b>	<b>17</b>
• Context	17
• EU children in care	17
• EU children and nationality	18
• What you can do	18
<b>6. Other issues</b>	<b>19</b>
• Age assessments	19
• What you can do	19
• Trafficking and modern slavery	19
• What you can do	20
<b>7. Conclusion</b>	<b>21</b>
• Conclusions	21
• Authors	21
• Further information and contacts	22

# Introduction

## Context

There are many circumstances in which social workers can come into contact with refugee and migrant children in the UK. They may be caring for an unaccompanied asylum seeking child, supporting a family with no recourse to public funds (NRPF) or be responsible for an EU child in care.

Children and families may have arrived in the UK in a number of circumstances:

- relocation schemes
- applied to come to the UK to work or study
- live with family in the UK; visiting family members
- fled persecution from their home country;
- trafficked to the UK for the purposes of exploitation

Often these children will have complex immigration issues that are not always easy to identify, never mind resolve. Immigration, asylum and EU law is complex and this guide is not intended to be legal advice or to make you legal experts. It is intended to identify common issues related to working with migrant children and families in a social work context, increase your awareness of various issues, and understand how they affect access to services, including support from social service. It will also help you to identify when you should assist or signpost children and families to obtain legal advice.

NRPF has a specific meaning in an immigration context and what counts as public funds is set out in paragraph 6 in the Immigration Rules. It is important to keep in mind that as social workers you have a duty to safeguard the welfare of all children. This is regardless of status or whether the child, young person or family has NRPF.

Although the majority of asylum and immigration laws in the UK apply UK-wide, there are important differences in the laws in England, Wales, Scotland and Northern Ireland, particularly around child and care law. This guide focuses on the law in England.

## Migrant and refugee children in the UK

Once in the UK, migrant families and separated children face many difficulties, which often include the following interrelated problems:

- Poor, or no access, to accommodation
- emotional or mental health problems
- high risk of exploitation
- social isolation
- little or no English
- discrimination and racism
- difficulties in accessing mainstream services
- difficulties in accessing high quality legal advice
- confusing asylum, immigration and appeals procedures.

One of the most important actions is regularising status for migrant families and children. The effects of not dealing with a child's immigration status urgently can have a devastating impact on their development and future.

It is important to ensure that the right support is in place for children being supported by social services – although immigration status can affect support to services,

## **Legal advice and representation**

Immigration legal advice is highly regulated and anyone who gives immigration advice must be qualified to do so.

It is very important that children and young people are assisted to obtain legal advice and representation if this is needed. Sometimes this can be difficult, as it is not always known that the child has an immigration issue or requires advice, or there may be a lack of appropriate legal representatives in the area the child is living in.

Legal aid is funding provided by the government (through the Legal Aid Agency) to help meet the costs of some types of legal advice to people otherwise unable to afford legal representation. Since April 2013, there are a number of areas of law not covered by legal aid in England and Wales, including most immigration applications. This has had a negative impact on children's access to rights and leaving them at risk of being cut off from education, healthcare and support.

Legal aid is available for asylum and protection cases, judicial review and in some other circumstances, subject to a means (financial) and merits test. Areas of law such as community care law and criminal law are still covered by legal aid. Where legal aid is not available, an individual can apply for exceptional case funding (ECF). ECF is granted for that case on the basis of its own circumstances. An ECF application itself is not immigration/legal advice, so is not regulated - although the application can be complicated.

One piece of good news is that unaccompanied and separated children will again be eligible for legal aid for immigration matters following a legal challenge. This has been announced by the Ministry of Justice but is not yet finalised. Currently, children in care should get ECF for help from a legal aid lawyer, if they ask the Legal Aid Agency for ECF for their immigration matter.

If the child, or family, is unhappy with a legal representative, there are complaints procedures and it is possible to change advisers. There are more complications if the case is funded by legal aid because the legal aid certificate has to be transferred from one legal aid provider to another.

## **General principles**

Some principles to remember when considering this guide are as follows:

- Refugee and migrant children have many of the same rights as UK children, although accessing these rights can be difficult in practice
- Social workers and local authorities have statutory duties towards all children – they must protect the rights and welfare of all children
- You should not provide immigration advice to children – it is a criminal offence to provide advice if not regulated to do so

- Legal advice affecting refugee and migrant children should be sought whenever identified as a potential issue
- Knowing the local area and services available is important when supporting refugee and migrant children

# 1. Care system in England

## Support under Children Act 1989

Migrant children may be supported in a variety of situations by social services in England. The child may have arrived in the UK as an unaccompanied asylum seeking child; an undocumented family may have approached social services for support; there may have been a family breakdown in an EU family, leaving a child needing support.

Local authorities are under a duty to safeguard and promote the welfare of all children in need and Social services are empowered to provide a wide range of services to meet those needs.

The duties that social services have can depend on the circumstances and type of support being provided. Immigration status can create uncertainty and confusion, particularly around access to support. Always remember that the needs of the child should be at the forefront of decisions made by social workers, regardless of immigration status.

### Section 17

Section 17 of the Children Act 1989 places a general duty on local authorities to safeguard and promote the welfare of children 'in need' and to promote the upbringing of such children by their families. In meeting this duty, social services are empowered to provide a wide range of services for those children's needs. This can include accommodation, financial support and other support as required to meet the child's need such as advice, guidance and counselling.

Most families seeking help from children's social services with accommodation and/or meeting essential living expenses are doing so because they have NRPF and cannot claim welfare benefits or homelessness assistance, are not eligible to claim asylum support, and are destitute. Separating a child from their parents will not normally be in the child's best interests and/or would be a breach of their family rights.

### Section 20

Children who have no responsible adult to care for them (they may be separated or 'unaccompanied') are almost invariably 'in need'. There is a presumption for unaccompanied asylum seeking children ('UASC') to be accommodated under section 20 of the Children Act 1989 as looked-after children ('LAC'), although there may be times when a care order is more appropriate (see below). You may also be supporting older separated migrant children under section 20, for example where the parents are in prison or there has been a breakdown between the young person and parents/carers.

### Care orders

Social services may undertake child protection procedures if they have reasonable cause to believe that a child living in their area has suffered or is likely to suffer significant harm. The same procedures apply for all children, whether British nationals, EU nationals or non-EU nationals. Social services may then apply for a care order – again the nationality/immigration status of the child does not affect the child's right to social services' protection.



Social services may also consider a care order as the most appropriate arrangement for unaccompanied asylum seeking children. This will be particularly relevant for younger children, trafficked children and those with significant medical issues.

## **Care plans & pathway planning**

For migrant children cared for either under section 20 or a care order, there should be a care plan, which from the age of 16 becomes a pathway plan, focused on achieving independent adulthood. The care plan should include assessment information derived from the child in need assessment, identify the individual child's needs (for example, there may be particular concerns about trafficking, trauma, or the child's ability to give instructions to a legal representative) and incorporate the health and education plans. A good care or pathway plan will identify goals in all the crucial areas, and record an agreed strategy for achieving them.

For non-UK nationals, such as EU children, unaccompanied asylum seeking children or those with immigration/nationality issues, the immigration status of that young person will need to be central to the plans. These children may need additional support – possibly from an advocate - to fully access legal representation and there needs to be multiple planning for different outcomes. For example, if an unaccompanied asylum seeking child is waiting for an asylum decision, there should be plans set out for a grant of refugee status, UASC leave, and for refusal. The plan should be reviewed when important decisions are received or status is granted. Expiry dates and any appeal dates should also be included, along with necessary steps.

## **Leaving care support**

One of the more complicated areas around working with migrant children and young people is leaving care support. Sometimes it can be difficult to work out what support is needed and can be provided. Different local authorities support care leavers in different ways.

The most important point to remember is that migrant children and young people are eligible for leaving care support from the responsible local authority just the same as British citizen children. In practice, the offer to migrant young people whose claims are not finalised at 18 is somewhat different because they cannot, for example, be allocated social housing, and there will still be significant uncertainty for them.

The main issue will be for those young people who have not started on a path to settled status yet or whose asylum claims become appeal rights exhausted. It is sometimes difficult to tell the exact situation for every young person. When turning 18, they may still be waiting on a first asylum decision, be in the middle of appealing a decision, waiting on a citizenship application, waiting on an initial or further leave to remain application, preparing a fresh claim, making an EU settlement scheme application, or be appeal rights exhausted.

If a care leaver is undocumented/appeal rights exhausted the local authority may consider removing their leaving care support. It should be noted that irrespective of any duty to provide accommodation and subsistence (see below), the responsible LA will have a duty to advise and assist a qualifying care leaver, and this could include arranging for, and funding, legal advice on their immigration situation. This will be particularly appropriate if immigration legal advice was overlooked when the care leaver was a LAC.

If the local authority is considering whether to remove leaving care support, they must carry out a human rights assessment to determine whether such a removal would breach the young person's human rights.

There were significant changes proposed to eligibility and restrictions for leaving care support under the Immigration Act 2016. It is important to note that these changes have never come into force – the current system around leaving care support remains at least as strong as it was before the 2016 Act, and could even be said to have strengthened with the Children and Social Work Act 2017.

## Examples

*Shahzad is 11 years old and from Pakistan. He is here as a dependent, along with his mother and sister, on his father's work visa. There are immediate child protection concerns following a serious assault on his sister.*

*Thanh is 15 years old and from Vietnam. He was found in a nail bar and disclosed to police officers that he was brought to the UK and has never been paid. He has been beaten a number of times. He tells them that his parents are dead and he knows no one in the UK.*

*Patricia is 17 years old and from Nigeria. She came to the UK age 3. She is unsure about her immigration status. She has been living with her aunt and uncle, as well as two cousins. She recently had a fight with her aunt and older cousin. She was told to leave the house. She has nowhere else to live.*

*Benoit is 15 years old and from France. He was living with his mother and younger brother in the UK. His mother passed away. He has no other relatives in France other than elderly grandparents and has lived in the UK since he was 7.*

## What you can do

- Ensure that a child's immigration status is considered at all stages – from entering care to leaving care – and sufficient planning is carried out
- Assist the child to get legal advice when required as a matter of urgency – whether on nationality, immigration, asylum or EU issues
- Best practice is to resolve any issues over status early – this prevents issues later on around access to services, education and support
- Assist the child to access appropriate education and be aware of funding restrictions and barriers for further and higher education for children with uncertain immigration status
- Ensure that the health needs of children in your care are met and be aware of specific vulnerabilities of refugee and migrant children, as well as the services available to them

## **2. Unaccompanied asylum seeking children (UASC)**

### **Asylum process**

The asylum process is very complicated, particularly for children. They can find the process daunting, confusing and overwhelming. It is important that a child is supported throughout the process and has legal representation to help them navigate the system.

Social workers will be involved in the process, as well as having responsibility for the care of the child, as they go through the asylum process and beyond. A decision on a child's asylum claim is extremely important – it will have a significant impact on the child's support and future in the UK.

### **National transfer scheme**

In July 2016 the National Transfer Scheme was introduced for unaccompanied asylum-seeking children arriving in the UK. This means that some children may be transferred from, or into, a local authority you are working in. It will depend on whether your local authority is signed up to the scheme (it is voluntary) and whether they are a transferring or receiving authority.

### **Welfare interview**

When applying for asylum, a child will undergo a welfare interview. This was formerly called a screening interview. A responsible adult should be present during this interview. As the child's social worker, the responsible adult should be you, or someone you have determined is suitable to be a responsible adult, like the foster carer. A solicitor can also attend the welfare interview. The welfare interview should not be used to explore the claim for asylum in detail.

The Refugee Council's Panel of Advisers must be informed of an unaccompanied child's application within 24 hours of the application being made. The Home Office have also introduced UASC case review events whereby, ten working days after a case is allocated, the social worker should be contacted to arrange a case review meeting.

### **Substantive interview**

All children aged 12 or over will normally be interviewed about the substance of their asylum application. A child under 12 can be interviewed if they are willing and deemed to be mature enough. Interviewing children is difficult and most children will not clearly understand the purpose of the interview. If you are concerned about a child's ability to engage with an interview, for mental health or any other reasons, you should speak to the child's legal representative.

Children invited to attend an asylum interview must be interviewed by a specially trained member of staff. They also must be accompanied by a responsible adult – again either the social worker or someone the social worker deems responsible. It is important that the child feels comfortable and their views on who to accompany them should be taken into account. It is crucial that a legal representative is present to advocate on behalf of and represent the child in addition to the responsible adult. The presence of both a legal representative AND a separate responsible adult is necessary as their roles are different.

## Decisions

When a claim has been decided, the decision maker must notify the social worker and legal representative of the decision to the child.

The outcome will likely be one of the following:

- Refugee status
- Humanitarian protection
- 'UASC' leave
- 'Section 67' leave
- 'Calais' leave
- Limited leave or discretionary leave to remain
- Refusal to grant any leave to remain

Any decision that is not refugee status is a refusal of asylum – the child should get urgent advice on appealing the decision, even if they have been granted another form of leave. A child will normally receive an appeal right if he is refused asylum or humanitarian protection.

If a child, or adult, is granted refugee status, this will be for 5 years. They will then need to apply for indefinite leave to remain within a short period before their leave expires.

## Other issues

There are many issues related to asylum that cannot be covered in detail in this guide. Further information can be found at the end of the guide and may be referred to in other sections.

Dublin III Regulation – this is an EU law that sets out which EU country is responsible for processing an individual's asylum claim. There are different rules for children and adults – generally children arriving in the UK will have their asylum claim considered in the UK regardless of having travelled through other countries, as long as it is in their best interest. Family members and relatives, depending on the relationship, may be able to be transferred between EU member states for the purposes of family reunification.

Family tracing – this is where a child, or adult, may access services to try to trace their family, either in their country of origin or other country.

Appeals – for a child, there will normally be an appeal right against a refusal of refugee status. The appeal system is complex and there are a number of stages. Appeal rights at tribunal/higher courts are available to both the child/adult appealing and the Home Office if their decision is overturned.

Appeal rights exhausted – if someone is appeal rights exhausted, it means they have no leave to remain in the UK and no further appeal rights/failed to appeal the decision within the timeframe to appeal. They are sometimes referred to as refused/failed asylum seekers, overstayers, etc. The effect is the same – they will be liable to detention and removal at any time (children can only be detained in very limited circumstances).

## Example

*“Afran is a 16 year old Iranian national. He is Kurdish. He had to escape Iran after his father was imprisoned for his political activities and a threat was made against Afran. His mother arranged for him to escape. He was brought to the UK by various agents. He claimed asylum and became looked after by the local authority.*

*Afran is going to need a legal representative for his asylum claim. He will need to be supported throughout his claim and beyond. Plans will need to be made for different outcomes in his asylum claim.”*

## What you can do

- Help the child to get a legal representative as soon as possible
- Ensure that the child is supported to attend the welfare interview
- Ensure that the legal representative and a responsible adult attend the substantive interview with the child
- Make sure you are including various immigration outcomes in care planning for the child
- When any decisions are received, make sure that the care plan/pathway plan is reviewed and that the child gets advice from their legal representative

## **3. Immigration – children**

### **Non-asylum seeking migrant children in care**

A child with an immigration issue may end up in care for the same reasons as any other child, such as family breakdown or for child protection reasons. A child could also be abandoned by their parent or carer.

When a separated child is taken into care, they will normally be accommodated under section 20 of the Children Act 1989, although there may be times when a care order under section 31 is more appropriate (e.g. in the cases of very young children, victims of trafficking or children with learning or capacity issues).

Social workers should ensure that children in their care receive immigration advice as a matter of priority and that this is considered in any care plan, assessment or pathway plan. If a child is not assisted to obtain legal advice, the local authority will be in breach of its duties toward the child.

### **Immigration Routes**

A child in local authority care will need legal advice from a good quality legal representative. The child may have a number of applications and claims open to them. They may also have immigration status or be dependents on their parent(s) visas. There are different routes – including claiming asylum, discretionary ILR and longer periods of leave to remain. It is important that the social worker ensures that the child receives legal advice about their options. The local authority will have to pay for legal advice if it is not covered by legal aid – an initial appointment with a specialist lawyer will often have to be funded by the local authority, even if ECF can be applied for in order to pay for full legal aid advice. LAC are exempted from having to pay fees to make immigration applications, including applications for settlement.

### **Nationality**

A child in care may be British, be eligible to register as a British citizen, or may make a discretionary citizenship application. The child's nationality may be based on where they were born, the nationality/status of their parents and/or other factors. Nationality rules are complex and a legal representative should be able to identify nationality issues as well as immigration routes.

### **Immigration Routes - families**

You may also be providing support to families – undocumented families, families with no recourse to public funds or EU national families – under section 17. Support is dealt with in section 2 above.

Families will need immigration advice and representation to regularise their status. An undocumented parent may need advice on paternity/nationality issues relating to their child, making an immigration application or asylum claim. Families with no recourse to public funds may need assistance to make a further leave to remain application or to have their NRPF condition removed from their status. EU nationals and their family members will need advice about EU rights, the EU Settlement Scheme or potential nationality applications – see the section on EU nationals for further information.

The social worker may provide assistance to families in these situations by confirming in writing that the destitution they are experiencing is real, and that they need a fee waiver and/or access to public funds. Where a child in need assessment has happened and the local authority is providing section 17 support, that will be because the local authority is satisfied that the parent cannot meet essential living needs/ of the child.

Some routes to regularisation take a long time for someone to be granted indefinite leave to remain (settlement) in the UK. Many routes are 10 years and therefore multiple applications will need to be made. By the time renewals are made, the family may have ceased contact with social services but are still struggling and would benefit from a review of the child/family's needs. For example, where a family has been given access to public funds but is renewing, they risk having a NRPF condition put on their leave to remain if it is not made clear that they will become destitute without this welfare support. A social worker letter can be invaluable in these circumstances

As noted above, legal aid is not available for most immigration applications. An option would be to make an ECF application so that the family can approach a legal aid representative to provide them with legal advice and representation. Some charities also offer legal assistance for certain types of applications.

## **Example**

*“Joseph is a 12 year old Kenyan national. He came to the UK 5 years ago with his parents. His father is on a student visa that expires in 5 months. Joseph and his mother were dependents on that visa. Joseph was taken into care 4 months ago due to serious child protection issues – both the mother and father were arrested and are subject to criminal proceedings. There is little prospect of Joseph going back into the care of his parents.*

*Joseph is going to need advice on potential asylum, nationality and immigration issues. He needs urgent advice and generally, it will be in his best interests that the immigration issues are resolved as soon as possible.”*

## **Example 2**

*“Josephine is a single parent from Nigeria. Her child, Kara, is 4 years old and is a British citizen. Kara's father has no involvement in the child's life. After some time, Josephine was granted leave to remain on the basis of being the primary carer of Kara. She was granted 2 ½ years leave to remain with NRPF. She is still supported by the local authority under section 17 as she has not been able to work and has no access to benefits, and Kara has been assessed as a child in need, who needs to be cared for by her mother Josephine.*

*Josephine will need advice on getting her NRPF condition removed so she can access benefits. She will also need legal advice before her leave to remain expires so she can make an application for further leave*

## **What you can do**

- Help the parent/child to get a legal representative as soon as possible
- Make sure you are including various immigration outcomes in care and pathway planning for the child

- Assist the child to obtain any information they may need for any nationality or immigration application
- Be aware that the local authority may have to pay for legal advice and representation as per their duties under the Children Act 1989



## 4. EU nationals

### Context

Following the referendum on exiting the EU, there has been significant confusion and uncertainty over the rights of EU nationals and their family members in the UK. There has also been the introduction of the EU settlement scheme (EUSS) – a new scheme which aims to secure the status, and to document, everyone who is in the UK under EU rights after the UK leaves the EU.

EU rights can be complicated and have historically applied automatically. An EU national may have lived in the UK years exercising their right to reside without having any documentation. The EU national's family member (such as a child) may also not have any documentation. The child may be British – if they were born in the UK and their parents were permanently resident (settled) at the time of birth. Now, they will need advice on citizenship, possibly on immigration routes and on the EU Settlement Scheme ('EUSS').

Please note that, for ease of reference, we are using the terms EU and EU citizens, but these terms will also cover rights of citizens of EEA and Switzerland, unless specifically stated otherwise.

### EU children in care

There have always been complicated issues for EU children in care, particularly when social services and the EU child are planning for the future after they leave care. The rights that EU national children have, or may have, are often hard to evidence when they are in care. It may be difficult to evidence place of birth, nationality of parents and family history (all crucial to an EU child's options in the UK).

EU national care leavers are often advised that they have to become qualified persons themselves in order to have any rights, without any investigation into whether they might already be permanently resident, nearly so, or have rights in association with the relevant family member who brought them to UK.

The EUSS can result in a grant of indefinite leave to remain under the EUSS (settled status) or limited leave to remain under the EUSS (pre-settled status). The child will need to make an application through the scheme with a valid EU passport or alternative evidence of identity where they are unable to obtain or produce the required document due to circumstances beyond their control or due to compelling, practical or compassionate reasons.

In addition, the child should be assisted to evidence residence in the UK going back as far as possible (ideally for a 5 year period). This can mean that taking as full a history as possible from parents/carers when the child goes into care is very important – for example, where the child lived in the past, where they were registered with a GP, where they went to nursery/school, and parents' personal details so that HMRC records can be checked.

It is important that children and care leavers get legal advice on the EU settlement scheme and other options open to them. Although EUSS applications can be relatively straightforward, some may be complex, for example where the child is a 'third country national' EU extended family member. In addition, EU children may be British nationals already, or have an entitlement to register as a British citizen.

## EU children & nationality

Advice on nationality options and rights is a specialist legal area and an EU child should get advice from a legal adviser. A child may already be British or if the child was born in the UK and lives here for ten continuous years, they will have an entitlement to register as a British citizen upon application and payment of a fee. They may also be able to register by discretion. There are also complex identity and practical reasons – including documentation, identity and dual-nationality issues. Becoming a British citizen can also have an impact on education (for example being recognised as a ‘home student’ at university) and also for security and a sense of belonging. EU care leavers may have an entitlement to register (if they were born in UK and lived here for 10 continuous years) or may also be able to naturalise if they have been settled for more than a year.

### Example

*“Alise is a 16 year old child from Latvia. She came to the UK with her mother and younger brother 6 years ago. Her mother worked on and off. Due to a family breakdown, Alise was thrown out her house and is looked after and accommodated by the local authority. You do not have a lot of information about Alise’s family, it seems that they have moved back to Latvia. Alise is studying at college and wants to study engineering.*

*Alise will need advice on her EU rights, the EU settlement scheme and nationality issues. Her rights and status will impact her development, access to education and future rights in the UK.”*

### What you can do

- Identify EU children and families supported by you who will need advice
- Help the child to get a legal representative as soon as possible
- Make sure you are including EU issues in care and pathway planning for the child – particularly around support and education
- Assist the child to obtain any information they may need for any nationality or EUSS application, such as identity documentation or records/letters
- Be aware that the local authority may have to pay for legal advice and representation as per their duties under the Children Act 1989

## 5. Other issues

### Age assessments

The question of age is extremely important, as it will not only affect how an individual is supported, and their access to education, but it will also affect how their asylum application is processed.

Age determination is an inexact science, and the margin of error can sometimes be as much as five years either side, especially around the time of puberty. A number of factors make age assessments difficult, including differences in physical development, demeanour, impact of trauma/experiences and the importance/recording of age in the home country.

Age assessments should not be a routine part of social work support. Social services should only carry out an assessment where there is sufficient reason to do so.

There can be a lack of awareness as to what is required to conduct a lawful and fair assessment and what weight to give to different, sometimes conflicting, indicators of age/maturity. Many social workers have reported feeling that they do not have the specialist skills required, sometimes due to having to learn 'on the job' from fellow professionals.

A local authority's assessment must be as full and comprehensive as possible, and conducted in a clear, transparent and fair manner. There is now ADCS (non-statutory) guidance available, which outlines good practice for carrying out age assessments. Social workers will also need training to carry out assessments.

### What you can do

- Ensure that your local authority is not carrying out age assessments as routine
- If you are carrying out age assessments, ensure that you get sufficient training on age assessments
- Only share the pro-forma outcome of the age assessment with the Home Office
- Advise the young person that they have a right to advice on challenging an age assessment decision through a community care solicitor and assist them to obtain this advice

### Trafficking & Modern Slavery

Although slavery has been illegal for many years, it still continues to harm people throughout the world. There are an estimated 40 million people in slavery across the world. In the UK the Home Office estimate that there are roughly around 10,000-13,000 trafficking victims in the UK, who can often be 'hidden in plain sight' – it may not be immediately obvious that trafficking is occurring or that someone is a trafficking victim. Trafficking and modern slavery can occur from one country to another, but a victim can also be trafficked within the UK.

Social workers have a responsibility to safeguard and promote children's welfare, including protecting them from child trafficking or modern slavery. All those who work with children and young people need to be aware of trafficking as a child protection issue. Additionally, social workers are under a duty to notify the relevant authorities if they suspect that a child may be a victim of trafficking or modern slavery.

As a social worker, you may be working with a victim of trafficking (child or adult) in your care. Victims are trafficked for a variety of reasons, including sexual exploitation, forced labour, domestic servitude, criminal activities and organ harvesting. They may be British citizens, EU citizens or asylum seeking children.

The National Referral Mechanism (NRM) is the system used in the UK to identify and support victims of trafficking. Referrals into the NRM can only be made by selected agencies known as 'first responders'. Social workers are first responders.

Decisions through the NRM can have an impact on a child's immigration status, support, asylum claim and rights to compensation. NRM decisions do not attract appeal rights but a decision can be challenged by judicial review. You should make sure that the child gets legal advice on any decision made within the NRM.

Supporting child trafficking victims can be difficult and you should be aware they are at a high risk of going missing from care and being subject to re-trafficking and further exploitation. The need for safe and appropriate accommodation will be high and safeguarding will be a priority. A referral should also be made to the Independent Trafficking Advocacy Service if you are in certain areas of England and Wales.

## **What you can do**

- Know the identifiers of trafficking and modern slavery and undertake training on trafficking and modern slavery – a non-exhaustive list is available within the NRM referral forms
- Look at local support for trafficking victims – resources such as trafficking advocates, services, medical and mental health support
- Ensure that NRM referrals are made and the child is supported throughout the process
- Ensure the child is receiving legal advice on related immigration and asylum issues and how trafficking links in, and impacts, such issues
- Assist the child to obtain advice on claiming damages and making an application to the Criminal Injuries Compensation Scheme

# 6. Conclusion

## Conclusions

This guide is intended to provide you with an overview of some of the issues affecting refugee and migrant children in the England. Unfortunately some issues are beyond the scope of the guide, including access to education, healthcare, right to work and volunteer, family re-union, travel documentation, asylum support and access to bank accounts. If you would like to know more about these issues, you can find useful organisations and information below.

The importance of identifying immigration issues and the need for legal advice is so important when working with migrant children. Ensure that they get good quality advice and representation. Knowing your limits and identifying where further services or advice is needed is a crucial part of working with migrant children, young people and families. It is also essential that you support these young people effectively and understand the difficulties they face. Ensure that you keep up to date on issues affecting migrant children and young people and seek out further training where necessary.

If you are concerned, for any reason, that you are not able to provide support, adhere to social work values or there is an issue of putting service users at risk, you are entitled to raise this with Social Work England, the registration body for social workers ([socialworkengland.org.uk](http://socialworkengland.org.uk)). You can also contact your UNISON branch for support with any issue.

As a social worker you will play an integral role in the life of a young person and supporting them effectively will make a huge difference to their welfare and future development.

## Author

This guide was written by Stewart MacLachlan, Senior Legal & Policy Officer with the Migrant Children's Project (MCP), part of Coram Children's Legal Centre (CCLC). CCLC, part of the Coram group of charities, is an independent charity working in the UK and around the world to protect and promote the rights of children. The MCP has been promoting the rights of refugee and migrant children, young people and families for over 10 years. The project works towards three core goals – individual change; change to practice; and change to law and policy to protect and promote the rights of migrant children.

# Further information and organisations

**UNISON** – [www.unison.org.uk](http://www.unison.org.uk)

**Coram Children’s Legal Centre** – [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)

**Seeking Support** - [www.childrenslegalcentre.com/seeking-support/](http://www.childrenslegalcentre.com/seeking-support/)

**Child Law Advice Service** – [childlawadvice.org.uk](http://childlawadvice.org.uk)

**UNISON** has produced guidance for social workers in Scotland – <https://www.unison-scotland.org/library/refugee-and-asylum-seeker-good-practice-guide-webversion-final.pdf>

**Social Workers Without Borders** - <https://www.socialworkerswithoutborders.org/>

**Home Office** - [www.gov.uk/government/organisations/uk-visas-and-immigration](http://www.gov.uk/government/organisations/uk-visas-and-immigration)

**ADCS** – [www.adcs.org.uk](http://www.adcs.org.uk)

**Department of Education** - [www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children](http://www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children)

**Social Work England** - [socialworkengland.org.uk/](http://socialworkengland.org.uk/)

**OISC** - <https://www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner>

**Law Society** - <https://www.lawsociety.org.uk/>

**Refugee Council** – [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)

**Coram Voice** - [coramvoice.org.uk/](http://coramvoice.org.uk/)

**Project 17** - [www.project17.org.uk/](http://www.project17.org.uk/)

**ASAP** – [www.asaproject.org.uk](http://www.asaproject.org.uk)

**Barnardo’s ICTA** – [www.barnardos.org.uk/cta.htm](http://www.barnardos.org.uk/cta.htm)

**ECPAT** – [www.ecpat.org.uk](http://www.ecpat.org.uk)

**British Red Cross** – [www.redcross.org.uk](http://www.redcross.org.uk)

**Law Centres Network** - [www.lawcentres.org.uk/](http://www.lawcentres.org.uk/)

**PRCBC** - [prcbc.org/](http://prcbc.org/)

**ILPA** – [www.ilpa.org.uk](http://www.ilpa.org.uk)





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