

# Safe Haven



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

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Children's Legal Centre

**UNISON**  
the public service union



# Foreword

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At UNISON, we know that public service workers are often on the front line, caring for the most vulnerable people in our society. You do this work under enormous financial constraints and workload pressures.

When it comes to caring for refugee and asylum-seeking children, this can include extra pressures, whether it's navigating the legal issues 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 take an extraordinary step into the breach to provide sanctuary and support. UNISON is determined to give our members all the help they need in their work.

**Christina McAnea**  
General Secretary  
UNISON

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.

**Kerie Anne**  
Chair  
UNISON Social Care Forum

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# Introduction

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## Context

The laws around children and immigration are complex and constantly changing. The first edition of this guide for UNISON social workers in England was written in July 2019. In over 4 years, the law has changed significantly, no more so than the passing of the Illegal Migration Act 2023. Professionals have also had to navigate and understand the EU Settlement Scheme, the Nationality & Borders Act 2022 and significant delays in the asylum system.

It can be difficult to navigate complex systems and this guide is intended to help professionals working with children in care. 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 a child in care who has no immigration status.

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 services. 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 six 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.

## 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. This has become a particular problem in recent years, with large advice 'deserts' in areas of England. Even where there are legal providers, they may not have capacity to take on cases and often the child or young person may have to wait a significant amount of time before they can access a representative.

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, 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 a 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.

Children who are under 18 and not in the care of a parent, a person with parental responsibility, or those who are looked after are again eligible for legal aid for immigration matters following a legal challenge. This change came into effect on 25th October 2019. This includes children in kinship care, in private fostering arrangements, and other informal arrangements. If you are working with a child in care, they will be able to access legal aid for immigration matters, including nationality applications, immigration applications, and family reunion applications.

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 unlawful 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.

# Care system in England

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## Support under Children Act 1989

Migrant children may be supported in a variety of situations by social services in England. For example, the child may have arrived in the UK as an unaccompanied asylum seeking child; an undocumented family may have approached social services for support; or a child with limited leave to remain may be subject to a care order.

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 needs 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 and 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 child asylum seekers 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.

## Children placed in hotels

One significant concern in the last couple of years has been the temporary placement of unaccompanied children who have just arrived in the UK in hotels. With most arrivals of unaccompanied children in the last couple of years being on small boats, it meant that the majority of newly arrived children were coming through

Kent County Council (KCC). KCC announced in June 2021 that they were unable to take any more children into their care and eventually a protocol was agreed between the Home Office and KCC. KCC would accept children into their care pending transfer under the National Transfer Scheme (see below). As part of this, the Home Office commissioned hotels to accommodate unaccompanied children outside of the care system – more than 5,400 have since been accommodated in hotels (32% under 16). The children were not looked after during their time in hotels and could be staying in hotels for a month or more. Around 447 children went missing from hotels and in July 2023, 154 were still missing.

The High Court recently found that this practice was unlawful, both in terms of KCC and its breach of duties under the Children Act 1989 and the Home Office's routine and systematic accommodation of unaccompanied children. Children who were affected by this policy may need advice from a community care lawyer (if there was an issue with their care) or further advice on damages as a result of the harm caused by the policy. With the passing of the Illegal Migration Act 2023, the judgment is also a good reminder of the primacy of the Children Act 1989 in terms of unaccompanied children and their care, but there are concerns around the proposals made under the 2023 Act (see below).

There have also been significant issues with young people, deemed to be adults by the Home Office, being placed in adult accommodation around the UK. Social services in the area where the young person is placed may then be contacted about concerns for the young person. This is discussed in more detail in the age assessment section below.

## Illegal Migration Act 2023

The Illegal Migration Act 2023 has the potential to make significant changes to the children's rights framework in the UK. The Act passed in July 2023 and the provisions around care have not yet come into force at time of writing. The Act intends to make the following changes:

- It allows the Home Office to provide, or arrange provision of, the accommodation of unaccompanied children.
- It allows the Home Office to direct a local authority to take a child into care.
- It allows the Home Office to direct a local authority to return a child to Home Office accommodation.
- A duty on local authorities to provide information to the Home Office regarding a child.



- Potential enforcement by the Home Office if a local authority fails to transfer (either way) or provide information without a reasonable excuse.

It is not yet clear how this will work in practice, or when the Home Office will start accommodating unaccompanied children. However, with fundamental changes being made for those children covered by the Illegal Migration Act 2023 and their ability to claim asylum in the UK (covered below), it is likely to create confusion and uncertainty both for those children and professionals supporting them.

## 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. It is not clear if he, or any of his family, have applied under the EU Settlement Scheme.

## 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.

# Unaccompanied asylum seeking children (UASC)

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## 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 system 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.

Since the last edition, there have been further complications in the asylum process in the UK.

These include:

- Worsening delays in asylum decision making and the introduction of the child streamlining process
- Changes under the Nationality and Borders Act 2022, including the creation of a two-tier system of granting refugee status (though the two-tier system is no longer operating)
- The passing of the Illegal Migration Act 2023, which fundamentally challenges established refugee protection principles
- The successful legal challenge against the Rwanda policy and the Safety of Rwanda (Asylum & Immigration) Bill – this is currently going through parliament at the time of writing.

## 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 previously depended on whether your local authority is signed up to the scheme (it was voluntary) and whether they were a transferring or receiving authority.

However, as noted above when discussing children in hotels, there has been a fundamental change in the process when an unaccompanied child arrives in the UK. The National Transfer Scheme is now mandatory for all local authorities and is run through a regional rota. Whichever local authority you work for, you are much more likely to have unaccompanied children

come into your care. They may have already spent time in the UK in hotels before arriving into the care of the local authority you work for. The Illegal Migration Act 2023 may also make further changes to this process, particularly with potential new powers for the Home Office to transfer children in and out of local authority accommodation.

## 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. It is best practice for the child to have a legal adviser prior to the welfare interview, but if this is not possible, they should definitely have a legal adviser to help them prepare their statement of evidence form (SEF) and attend the substantive interview.

## 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.

The Home Office had carried out some interviews remotely, but following the Covid-19 pandemic they piloted then rolled out remote interviewing to the wider system. Many local authorities have signed up to remote interviewing and you should check with your local authority as to whether they have. You therefore may be supporting a child who is interviewed in person or remotely.

## Child streamlining process

The Home Office has long had issues with delays and backlogs both within the child asylum system and the wider system. This has been dealt with in a number of ways over the years, including through a legacy programme and attempts to increase the number of caseworkers. The backlog and delay was significant, even prior to the pandemic, and remains high today. In March 2023, the Home Office announced it would streamline the asylum process for children. There is a separate process for adults.

The streamlined asylum process applies to children from five countries initially – Afghanistan, Eritrea, Sudan, Syria and Vietnam. These are countries that have high grant rates of refugee status. Although this was initially only for children from those countries who had claimed asylum before 28th June 2022, child asylum seekers from these countries who claimed asylum on or after 28th June 2022 are now also covered by the process. There is a lack of clarity about those who arrived on or after 7th March – as they fall into some of the provisions of the Illegal Migration Act 2023.

It is important to note that this is a new process, and applies to former unaccompanied children as well as current unaccompanied children (as long as they claimed asylum as a child, they will be included, even if they have reached 18).

Children (and former children) who are eligible will be invited to a preliminary information meeting (PIM). Like a substantive interview, they can take place in person or remotely. The child should have a responsible adult with them for the interview. Legal representatives can also attend the meeting – this should be discussed with the child's legal representative prior to the meeting.

The PIM is different to a substantive interview – the purpose is to clear backlogs of cases by determining whether a grant of status can be made without the need for full substantive interview. A positive decision can be made from the PIM. If it is not positive, the Home Office should ask the child to follow the normal asylum procedure for children. The streamlining process is likely to continue and develop as long as the backlog remains.

## Decisions

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

The outcome will likely be one of the following:

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

Some children from previous schemes may also receive or have 'Section 67' leave or 'Calais' leave. 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.

The Nationality & Borders Act 2022 introduced a differentiation policy whereby an asylum seeker (child or adult) may receive a more limited form of refugee status depending on certain circumstances. However, this has now been ended as of July 2023. If you are working with a child or young person who was granted 'group 2' status – the lesser form of refugee status – before 17 July 2023, the Home Office should move individuals back to normal refugee status. If this has not occurred, they should speak to a legal representative.

## Illegal Migration Act 2023

The Illegal Migration Act 2023 seeks to make fundamental changes to the asylum system in the UK, including unaccompanied asylum seeking children. The Act passed on 20th July 2023 but different parts of the law come into force at different times.

The Act places a duty on the Home Office to remove an individual (adult or child) if they meet the following conditions:

- They entered the UK illegally
- They entered or arrived in the UK on or after 20th July 2023
- They did not come directly from a country in which their life and liberty were threatened
- They require leave to enter or remain in the UK, but do not have it

The new duty does not apply to unaccompanied asylum seeking children but there is a power to remove such a child in certain circumstances. When the child turns 18 the duty to remove does apply. There may be other exceptions made for certain people or groups in the future. The duty to remove may be changed from those arriving on or after 20th July 2023 in the future – the Act allows the Home Office to change the date as to when the duty to remove starts to apply.

Confusingly, the Act prohibits a grant of leave to enter or remain (including for example refugee leave) to anyone who meets the conditions to fall under the duty to remove, if they have arrived on or after 7th March 2023. The Act was originally meant to apply from 7th March 2023 but the enforcement date for the majority of the Act has changed to the date on which the Act was actually passed, or later. The prohibition on leave does apply from 7th March 2023, although there are exceptions – including some form of limited leave provided to unaccompanied children and to survivors of trafficking/modern slavery. Limited leave to remain can also be granted where failure to do so would breach the individual's human rights. There has been no clarity on what is happening with asylum claims that are made on or after 7th March 2023 but before 20th July 2023.

## 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.

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).

Rwanda policy - The Rwanda policy involves the Home Office seeking to remove asylum seekers from the UK to have their claim considered in Rwanda. They will not be allowed to return to the UK as a refugee

following any decision made. This was first introduced in 2022, under existing laws rather than the Nationality & Borders Act 2022 – although it is relevant to a lot of the proposals in both the 2022 and 2023 Acts. The policy was successfully challenged and the policy was found to be unlawful by the Supreme Court in the UK at the end of 2023. However, the Safety of Rwanda Bill is currently going through parliament and there are likely to be further changes and challenges in this area in the near future.

## Examples

### Pre June 2022 case

*Hamid is a 15 year old Eritrean national. He fled Eritrea because he had been forced to join the army. After leaving Eritrea he was trafficked to the UK for the purposes of exploitation. He has no contact with his family. He arrived in the UK in June 2021 and claimed asylum after being taken into care by the local authority in November 2021. He has had his welfare interview but has been waiting a long time for his substantive interview.*

*Hamid will need a legal representative if he doesn't already have one. The Illegal Migration Act 2023 will not apply in terms of the duty to remove or prohibition of leave. Hamid does meet the conditions for the child streamlined process so should be invited to a PIM and may not need to have his substantive interview. He will need to be supported throughout his asylum claim and beyond. Plans will need to be made for different outcomes in his asylum claim.*

### Post June 2022 case

*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 in January 2023 and became looked after by the local authority.*

*Afran is going to need a legal representative for his asylum claim. The Illegal Migration Act 2023 will not apply in terms of the duty to remove or prohibition of leave. He will not fall into the child streamlining process – it does now apply to claims started after 22 June 2022 but he is not from a country that applies. This may change in the future. He will need to be supported throughout his claim and beyond. Plans will need to be made for different outcomes in his asylum claim.*

### **Asylum claim post-7th March 2023 but pre-20th July 2023**

**Seydou** is a 16 year old from Mali. He fled following threats against him and members of his family being killed. He arrived in the UK in May 2023 and was taken into local authority care in June 2023, claiming asylum.

*Seydou is going to need a legal representative for his asylum claim. The Illegal Migration Act 2023 will not apply in terms of the duty to remove. He will need to be supported through the process, however that will look. Plans will need to be made for different outcomes in his asylum claim.*

### **Asylum claim post-20th July 2023/TBC new date**

**Abdul** is a 17 year old from Afghanistan. He fled Afghanistan following the Taliban taking over the government – his father had worked for the Afghan authorities and had been killed. They threatened Abdul so his mother arranged for him to leave. He eventually arrived in the UK on 1st August 2023.

*Abdul falls under the Illegal Migration Act 2023. He is prohibited from being granted leave to remain as he arrived on or after 7th March 2023 – he may be able to get leave as an unaccompanied child or if not granting him leave would breach his human rights. If the date for duty to remove remains 20th July 2023, he will not fall into the Home Office's duty to remove, although the Home Office would have the power to remove in certain circumstances. When Abdul turns 18, he will fall into the Home Office's duty to remove. He will need legal representation and support throughout his time in the UK.*

## **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.
- Understand the differences in various processes depending on when the child arrived in the UK.

# Immigration and Nationality – children

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## 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 may be accommodated under a care order or under section 20 of the Children Act 1989. The child may be British but does not have the correct evidence. They may have indefinite leave to remain. They may have limited leave to remain or be a dependent on their parent's visa. They may be living with other family members or in a private fostering arrangement.

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. It is crucial for the child that they obtain legal advice about their immigration or nationality issue – good, timely advice and representation will lead to better outcomes and are crucial for the child's long term future.

## 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, ILR and longer periods of leave to remain. Different routes to regularisation may be available and rules change a lot. For example, recently there has been a new concession policy reducing the number of years to settlement for young people who have lived in the UK for a long time and a new application for ILR where a child was born in the UK and has lived their first 7 years of their life in the UK. It is important that the social worker ensures that the child receives legal advice about their options.

Historically the local authority would have to pay for legal advice for a child in care if it was not covered by legal aid. As noted earlier, since 25th October 2019 separated children, including children in care, are eligible for legal aid for immigration matters. This will mean that a child in care can receive advice on immigration, nationality and other routes. Asylum and protection claims are already covered by legal aid. Looked after children are also exempt from having

to pay fees for most immigration and nationality applications, including applications for settlement. However, as noted earlier, it can be extremely difficult to find a legal representative, and the local authority may have to look at other options, including paying for advice if it is a matter of urgency.

Care leavers are in a different position. They will still be eligible for legal aid for asylum and protection claims. They won't be eligible for legal aid for immigration matters – instead they will have to make an application for exceptional case funding. The local authority should also consider paying for advice for a care leaver in light of their ongoing duties to the young person, the current difficulties in accessing legally aided advice and the importance of advice in relation to the young person's future.

## Nationality

A child in care, child supported with their family under section 17, or care leaver 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.

A child born in the UK may automatically be a British citizen in a number of situations, including if either the mother or father was British or settled at the time of the child's birth, or was born to a serving member of the armed forces after January 2010. There can sometimes be complications in proving paternity and other evidence, so it is best to ensure legal advice is sought in these circumstances.

A child born in the UK can also become eligible to register as a British citizen, including where the child was born stateless and lived in the UK for the last 5 years (this was made harder under the Nationality & Borders Act 2022 - the Home Office must also now be satisfied that the child or their parents is unable to acquire another nationality). They may become eligible where their parents have become settled or British citizens, or where they have lived in the UK for the first 10 years of their life. They may make a discretionary application for citizenship, and the guidance refers to children in care as an example of this. There is now also an ability for an adult to make a discretionary citizenship application, including for example where they were a child in care and would have been entitled to register before they turned 18, but were not supported to do so.

Nationality rules are complex and there are many different scenarios and a legal representative should be able to identify nationality issues as well as immigration routes. There are rules for children born outside of the UK, as well as children who are adopted. These can be more complex in circumstances for children in care. Unlike immigration, the local authority will need to engage with the parents if possible, particularly where there is a possibility of loss of another nationality or in face of parental opposition. If faced with such a scenario, it is best to obtain legal advice as soon as possible. Local authorities/child in care no longer have to pay a fee for registration and there are also now fee waivers available for children applying.

## **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 any ongoing EU rights/late EUSS applications or potential nationality applications.

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.

## **EU rights and the EU Settlement Scheme**

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

EU rights can be complicated and have historically applied automatically. An EU national may have lived in the UK for 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 permanent residents (settled) at the time of birth. There are also historical rules on children being born to EU national parents in the UK – legislation has recently been passed to retrospectively confirm the British nationality of children born in the UK between 1983-2000. There are complex, difficult situations, and children in care and care leavers will have further complications. Now, they will need advice on citizenship, 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.

There were historically 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).

The EUSS could result in a grant of indefinite leave to remain (settled status) or limited leave to remain under the EUSS (pre-settled status). The deadline for the process was 30th June 2021 but there are still ongoing issues in cases and many people either made late applications or have still not applied. 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. Advice on nationality options and rights is a specialist legal area and an EU child should get advice from a legal adviser.

## **Illegal Migration Act 2023**

The Illegal Migration Act 2023 does make changes outside of asylum and care issues discussed in the asylum chapter above. Not only does the Act lock people out of seeking asylum, it prevents them ever getting leave or citizenship, except in very limited circumstances. There remains uncertainty as to how the Act will apply.

The duty to remove and issues related to grants of leave is discussed in earlier chapters. As already noted, the provisions around granting leave to enter, remain, settlement, and citizenship apply to those who arrive on or after 7th March 2023. Their claim can still be considered – as the separate Home Office duty to disregard claims doesn’t apply for new arrivals from 20th July 2023 (or a future date if changed). This leaves new arrivals in a state of limbo – they could be granted leave in limited circumstances:

- Limited leave given under the immigration rules to an unaccompanied child.
- Limited leave to remain for victims of slavery or human trafficking in specific circumstances.
- If a failure to grant would contravene the United Kingdom’s obligations under the Human Rights Convention.
- There are other exceptional circumstances which apply in relation to the person which mean that it is appropriate to grant.

This leaves a difficult situation for people who arrive in the UK now – they cannot be granted status in most circumstances, but can still have their claims considered until other provisions in the Act come into force. We will need to wait for guidance on the leave granted in the circumstances listed above. Although adults are already subject to an inadmissibility process – where the Home Office places an asylum claim on hold while they try to remove an individual to another country for consideration of their asylum claim – children are not subject to this process. What the limited leave for unaccompanied children for new arrivals will look like is not yet clear.

In terms of citizenship, those arriving on or after 7th March 2023 will be ineligible for British Citizenship. The wording of the Act on discretionary applications for citizenship suggests that there may be some flexibility for children applying to register this way, but further clarity will be needed.

Originally, the restriction on granting leave also applied to family members of the individual. This has changed now, so the provisions around leave and citizenship do not apply to family members of individuals caught under the new Act.



## Examples

**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.

**Christina** 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, Christine 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 Christine.

Christine 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 along with another request for the NRPF condition to remain off any future leave.

**Clara** is a Colombian national who was born in the UK. Her parents, both from Colombia, arrived in the UK 10 years ago but did not have leave when Clara was born. Clara is now 9 years old and the family is undocumented. The local authority has been providing section 17 support but are going to carry out a human rights assessment to consider ending the support.

Clara could now apply for Indefinite Leave to Remain under the Immigration Rules (born in the UK + lived first 7 years of life in UK). When she is 10 years old she could register as a British citizen under the 10 year rule. Her parents will also need advice on their immigration status.

**Piotr** is a 17 year old from Poland. He has lived in the UK for 6 years with his mother and younger brother. Following a family breakdown, Piotr had to move out of the house. He has nowhere to stay and approached social services through a support worker. It is not clear whether Piotr has made an application to the EUSS or has status. Piotr does not remember his mother ever making an application for him.

Piotr will need support to work out his immigration status. If he has not made an application or does not have status, he will need to make a late EUSS application. His mother and younger brother may also need advice if they have not made applications.

**Riyad** is 3 years old. He was born in the UK and his parents are Algerian nationals. He was taken into care for child protection reasons. He is subject to a care order and the parents do have some limited supervised contact. His parents have overstayed on their visa for 2 years and are undocumented.

Riyad will need to resolve his immigration status, as will his parents. This should be dealt with even while proceedings are ongoing. His immigration status will need to be resolved whether or not he returns to the care of his parents. If he is to remain in care, it is crucial his immigration status is resolved. He would need a legal adviser and there should also be consideration of a nationality application – as noted above, issues such as parental consent, etc will need to be considered as part of this.

## 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, EUSS or immigration application.
- Be aware of legal aid rights for children in care and separated children but also consider paying for legal advice and representation in cases where legal aid is not automatically available.

# Age assessments

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## General

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.

There have been a number of changes to age assessments since the publication of the first edition. There has also been a significant rise in 'age disputes' recorded - although it is important to note that Home Office figures on age are inaccurate. The statistics have not always covered children age disputed as adults by the Home Office and in terms of resolution.

There have also been growing issues around scientific methods in age assessments. Scientific methods in age assessments have been around for a long time and have been used to some degree in the UK (particularly dental age assessments) and other countries. There are no scientific methods that can accurately assess age, and the courts have cast doubt on the usefulness of such methods given the lack of data and accuracy, but the Home Office has continued to push for scientific methods to be introduced, particularly in the 2022 Act. An interim independent scientific panel was set up and reported on assessments at the start of 2023. The Illegal Migration Act 2023 also seeks to make some changes around scientific assessments and consent that will be relevant if such

assessments are ever brought in. The Home Office have made further steps towards age assessments including scientific assessments – through the 2022 Act and regulations they have allowed for the use of scientific assessments as part of the age assessment process (such as x-rays and MRI scans). However, guidance and procedures have yet to be determined or introduced at the time of writing.

With the significant increase in age disputes, there has been a worsening problem around children being wrongly treated as adults after being age disputed as an adult by the Home Office. This has always been an issue. However, with adult asylum seekers now being dispersed anywhere in the UK, and the increased use in temporary hotels, local authorities are now being referred children from adult hotels throughout the country. A recent report by Helen Bamber Foundation found that at least 850 children were treated as adults by the Home Office in this way in 2022, only to later be found to be children by the local authority where the hotel they were placed in was. They also found that at least 450 were treated the same in the first half of 2023. This is an ongoing serious issue and social workers will need to be aware of children coming into their area in this way.

There are also issues with the increase in short assessments, procedure around short assessments, the appropriateness of use of social media in assessments, and delays in the process. This guide can only provide an overview of the issues and it is important that those carrying out or engaging with age assessments are aware of the full context surrounding age assessments.

## Nationality and Borders Act 2022

The Nationality & Borders Act 2022 sought to bring in a number of changes to the process. There was the creation of the Nationality Age Assessment Board (NAAB). Initially run as a pilot, it launched in April 2023, and is intended to set standards for age assessments, provide advice and training, as well as carrying out age assessments. It has initially started in a few local authorities and there are issues in terms of its independence (it sits within the Home Office) as well as the potential for the NAAB to overrule local authority decisions and duties (for example, where the local authority believes that an age assessment is unnecessary but the NAAB carries one out following a request from the Home Office). The NAAB is still rolling out its work so you will likely see further changes in the future.

The 2022 Act also set out the intention to ‘codify’ the age assessment process. This will presumably look like the independent non-statutory age assessment guidance, but written by the Home Office/NAAB and using different language, as well as possibly being statutory guidance. It will likely add new guidance around consent, scientific procedures and other areas. There is no indication of when this ‘codification’ will take place and there has been no movement as of the publication of this guide.

Currently, the only way you can challenge an age assessment is by judicial review. The 2022 Act proposed bringing in appeal rights against age assessment decisions. The proposal was for those who received an age assessment decision to have an appeal right to the First Tier Tribunal (where asylum appeals currently go). However, in March 2023, it was announced that the UK government would delay rolling out appeals for age assessments. It is unclear when appeal rights will be available, but may happen sometime in the future.

## Illegal Migration Act 2023

The Illegal Migration Act 2023 also brought in some new rules in relation to challenging age assessments and consent to scientific procedures. Although the consent/scientific procedures are problematic, the procedures are not in place and therefore the consent section of the 2023 Act is some way from applying. The more concerning issue is the impact on challenging age assessments.

The 2023 Act states that where a young person meets the duty for removal provisions (from 20th July 2023, or a later date to be confirmed), and where an age decision is made by a local authority, the NAAB, or the Home Office, they will no longer have a right of appeal. There still will be the opportunity to bring a judicial review, but a court may ‘grant relief’ only on the basis that it was wrong in law, not wrong as a matter of fact. Furthermore, such a challenge does not prevent the Home Office from attempting to remove the young person.

## Examples

### Older scenarios – age assessments

**Ahmed** is a 16 year old from Egypt. He arrived in the UK in 2015 and claimed asylum. His age was disputed by the Home Office but was taken into care while further assessment was made by the local authority. The local authority will carry out an assessment while the young person remains in care. If the decision is a different age to the young person’s stated age, he can challenge this decision by judicial review. The local authority should provide him with information on challenging the negative decision and be supported to get advice from a community care solicitor.

**Davide** is 17 years old from Guinea. He arrived in the UK on a back of a lorry in 2016 and claimed asylum. Immigration officials believed he was significantly older and treated him as an adult. He was processed as an adult and dispersed to adult accommodation in Glasgow. A local charity raised concerns around Davide’s age and referred him to the local authority for an age assessment, as well as to a legal representative. He is taken into care while an assessment is carried out.

### Recent scenarios – age assessments

**Mariam** is 16 years old and from Eritrea. She arrived in the UK on a small boat and claimed asylum. Immigration officials at port thought that she might be older than she stated but treated her as a child. She was sent to a hotel for 3 weeks before being taken into care by a local authority in the south-west of England. The Home Office noted they had disputed her age and the local authority decided to carry out an age assessment. She is assessed as slightly older than she has stated but still a child. There are no community care solicitors in the area and she had to wait 5 months to receive some advice on challenging the assessment.

**Sahil** is 17 years old and from Bangladesh. He arrived in the UK on a small boat in January 2022 and tried to claim asylum. Immigration officials determined that he is significantly over the age of 18 on the basis of his appearance and treat him as an adult. His asylum claim was not considered and he was placed under the inadmissibility process. He was sent to a hotel in the Midlands and does not fully understand why he is there and what is happening to him.

*He is sharing with adults and is scared to leave his room. Concerns were raised about his age but no referral was initially made to social services until 3 weeks later. Social workers agreed to attend – if he is taken into care he may have an assessment carried out and could challenge that decision if it is negative. If social services refuse to assess he could challenge that decision but would need to get advice from a community care solicitor, which can be extremely difficult.*

### **Illegal Migration Act 2023 – age assessments**

*Tuan is 15 years old and from Vietnam. He arrives in the UK on a small boat on 30th November 2023. He tried to claim asylum. He is age disputed by immigration officials and they determine him to be 22 years old. His asylum claim is not considered and the duty to remove provisions apply to him. He disputes his age decision but cannot find anyone to help him. He is detained by the Home Office. He manages to get some advice from a community care solicitor and they help him to challenge the decision. However, any decision can only be challenged in law, and not just on the facts. Additionally, the Home Office may try to remove him even while a challenge is ongoing.*

## **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.
- Be ready to receive referrals from anywhere at anytime – young people may be placed in your area in hotels.
- Be aware of the risks of a young person being placed with other adults in hotels and accommodation.
- Ensure you know of community care solicitors in your area or referral routes for those outside of the area.

# Trafficking & Modern Slavery

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## General

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. The number is likely to be higher, and the number of victims actually identified is significantly lower. 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 now under a duty under the Modern Slavery Act 2015 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 nationals, non-EU nationals or asylum seeking children in your care.

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 Guardian. For a full list of areas the guardian service operates in, please see the Barnardos website (link at the end of the guide). There are also areas where trafficking and modern slavery decisions for children are being devolved to local authority areas – this is currently being piloted in 20 local authority areas in the UK.

## Nationality and Borders Act 2022

A number of changes to modern slavery and trafficking laws were made in the 2022 Act. In terms of children, the changes made had a detrimental impact on young people. The definition of trafficking and modern slavery victims was narrowed, and the difference between adult and child victims was removed (rather a victim's age is taken into account). This is a significant step back from the previous definitions, where it was made clear that there was a difference between child and adult victims, particularly in terms of how they were trafficked (the 'means'). The Act also changed the rules in relation to who could receive leave to remain after being identified as a victim of trafficking – often incredibly important for recovery. This was narrowed from an overall assessment of the circumstances, to recovery from physical or psychological harm, as well as cooperation in proceedings or seeking compensation (same as before).

## Illegal Migration Act 2023

Again, there are significant changes to trafficking and modern slavery in the Illegal Migration Act 2023. These are largely not in force at the time of publication of this guide. The intention of the Act is to prevent those who fall under the duty to remove from being protected by modern slavery protections under the National Referral Mechanism (NRM). Unaccompanied children, despite being identified as victims, will be denied the full protection they should receive. When leave to remain as a victim of trafficking can be granted is also more complicated.

## 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.

# Conclusion

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This guide is intended to provide you with an overview of some of the issues affecting refugee and migrant children in 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. With increasingly harsh and complicated rules being introduced on a regular basis, it is more important than ever that children receive the right support and protection.

## Author

This guide was written by Stewart MacLachlan, Legal & Policy Manager at 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.

## Further information and organisations

There are many organisations, big and small, working for the rights of children, young people and families with immigration issues. Those listed here have a national remit, but there will be many others, both in your area and further afield, who offer services and information that will be of use.

**The Refugee and Migrant Children's Consortium –** <https://refugeechildrensconsortium.org.uk/about-the-rmcc/> - has a list of all its members (over 90) on its website, all of whom work for the rights of children.

## General and Author

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

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

**Coram –** [www.coram.org.uk](http://www.coram.org.uk)

## Statutory & Government

**Home Office –** <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

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

**Department of Education –** <https://www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children>

## Legal & regulation

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

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

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

**Law Centres Network –** <https://www.lawcentres.org.uk/>

## Care and Support

**Child Law Advice Service –** <https://childlawadvice.org.uk>

**Coram Voice –** <https://coramvoice.org.uk/>

**Coram BAAF –** [www.corambaaf.org.uk](http://www.corambaaf.org.uk) **Project 17 –** <https://www.project17.org.uk/>

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

**BASW –** <https://www.basw.co.uk/>

**CFAB –** <https://www.cfab.org.uk/>

## Immigration & Asylum

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

**Refugee and Migrant Children's Consortium –** <https://refugeechildrensconsortium.org.uk/>

**KIND UK - <https://www.kidsinneedofdefense.org.uk/>**

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

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

**Right to Remain - <https://righttoremain.org.uk/>**

**Asylum Aid - <https://www.asylumaid.org.uk/>**

**Freedom from Torture – [freedomfromtorture.org](http://freedomfromtorture.org)**

## **Nationality**

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

**PRCBC - <https://prcbc.org/>**

## **Trafficking and Modern Slavery**

**Barnardo’s ICTG – <http://www.barnardos.org.uk/cta.htm>**

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

**Helen Bamber Foundation - <https://www.helenbamber.org/>**

# Safe Haven



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