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**Stoke-on-Trent
Safeguarding Children Board**

**GUIDANCE FOR CHILDREN WHO
MAY BE PARTICULARLY
VULNERABLE**

**SAFEGUARDING CHILDREN
FROM ABROAD
(reference also F03 Child
Trafficking)**

Section F 04

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F 04 Safeguarding Children from Abroad (reference also F03 Child Trafficking)



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01 Introduction

In recent years the number of migrant children in the UK has increased for a variety of reasons. Many of these children enter legally in the care of their parents. Recent evidence indicates that many children are arriving into the UK in the care of adults who, whilst they may be their carers, have no Parental Responsibility or documents to demonstrate a relationship with the child alone. This policy is in relation to all children, both unaccompanied and those accompanied by a parent or carer with or without Parental Responsibility.

Unaccompanied children or those accompanied by someone who is not their parent are particularly vulnerable. The children and their carers may need assistance to ensure that the child receives adequate care and accesses health and education services.

A small number of these children may be exposed to the additional risk of commercial, sexual or domestic exploitation.

Duties and entitlements under The Children Act 1989 and 2004 are affected by immigration legislation and may be affected by immigration status. Duties are given within the Children Acts 1989 and 2004 to safeguard and promote the welfare of children. This guidance refers to the current legal framework but it is important to note that regulations and legislation in this area of work are complex and subject to constant change through legal challenge. Legal advice on individual cases may be required by the Children and Young People's Department Vulnerable Children and Corporate Parenting Division.

It is important to be aware of current immigration legislation and how it may impact on the duties towards children contained in Children Act 1989 and 2004 to safeguard and promote the welfare of children.

Children and families from the A8 and A2 countries are also arriving. Parent's rights to benefits are restricted and if parents are not in work they and their children may be at risk of homelessness and destitution. Children need to be able to access education and health services and are unlikely (along with their parents) to speak English on arrival.

A2 countries:

Bulgaria, Romania

A8 countries:

Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia

A small number of children will also be arriving as a result of family reunion / family formation. These children may also be vulnerable due to cultural / immigration issues or simply due to language and other cultural issues. Of particular concern are instances where women granted spouse visas leave their partner due to domestic violence and have no recourse to public funds. Where they have children with them, they and their children risk homelessness and destitution and will be in need to proper legal advice.

Please see Domestic Abuse policy (see Section D05).

02 Purpose

The purpose of this guidance is to assist staff in all agencies to:

- Understand the issues which can make children from abroad particularly vulnerable
- Identify children from abroad who may be In Need, including those who may be in need of protection
- Know what action to take in accordance with their responsibilities.

03 Principles

There are some key principles underpinning practice within all agencies in relation to unaccompanied children from abroad or those accompanied by someone who does not hold Parental Responsibility. These are:

- Never lose sight of the fact that children from abroad are children first – this can often be forgotten in the face of legal and cultural complexities;
- These children should be considered on Level Three or above of the Threshold Criteria for the Guide to Levels of Need for Children, Young People and Families and an assessment of the level of need should include a separate discussion with the child in a setting where, as far as possible, they feel able to talk freely;
- Assessing the needs of these children is only possible if their legal status, background experiences and culture are understood, including the culture shock of arrival in this country;
- Each agency should be prepared to actively seek out information from other sources, including their equivalent agency in the child's country of origin – see F.04.05 Identification and action and F04.09 Information from abroad. Practitioners should proceed with great caution if they access any information from abroad and should bear in mind the agencies in the originating country could be involved in trafficking. If the child is seeking asylum, revealing this fact may put the rest of their family in the home country at risk, and
- Beware of “interrogating” the child.

For advice on interviewing children in these circumstances please visit www.torturecare.org.uk

04 Status & Legal Duties

The status of children/young people who arrive from abroad and legal duties towards them.

It is important to ensure that a child or young person is safe regardless of immigration status

Where the child or young person is an asylum seeker, it is vital that their asylum claim is made within the deadline. They will need to access legal representation to assist them with this and it must be done as a matter of urgency. If the deadline for the application is missed, the child's status may not be able to be regularised and this will jeopardise their remaining in the UK and any support arrangements” .For information about legal status please follow link www.ukba.homeoffice.gov.uk

Where migrant children arrive in Stoke-on-Trent consideration should be given to their legal status and the legal duties towards them. It may be necessary to obtain legal representation for them in order to consider if a claim for asylum is appropriate.

Children and Young People Vulnerable Children and Corporate Parenting (VCCP) Division have a responsibility to children and young people, regardless of whether they are asylum seekers or migrants. Where they are a child in need VCCP will have a duty to support them up until their eighteenth birthday under S17 or S20 of the Children Act 1989.

If their asylum claim is not resolved before they reach 18 years old, support after the age of 18 years is generally provided by National Asylum Support Services (NASS), and they will need assistance to access this support. Currently a child may be granted discretionary leave up to the age of 17½.

Children who arrive in the UK with or to join carers without parental responsibility may have leave to enter the country or may be in the UK unlawfully. Children and Young People's Specialist Services may have responsibilities towards them as Privately Fostered children under the Private Fostering Regulations and need to be aware of the risks that may be inherent in these arrangements.

If the child is assessed to be in need at Level Three or above of the Threshold Criteria for the Guide to Levels of Need for Children, Young People and Families, support can be provided by Children and Young People's Vulnerable Children and Corporate Parenting Division for the child, and for the family, if this is not excluded by section 54 of the National Immigration Act 2002.

Some children arriving in the UK with their parents belong to families of European Economic Area States or European Union Nationals migrating into the UK. If such families decide to stay in the UK and seek further help, Children and Young People's Vulnerable Children and Corporate Parenting Division have responsibilities towards any child who is a Child in Need and should use the same criteria for making decisions when placing a child with a close relative as they would in all other situations, ie their immigration status is irrelevant. However, families cannot be supported by Children and Young Peoples Vulnerable Children and Corporate Parenting Division except for the provision of return travel (and associated accommodation).

05 Identification & Action

Whenever any professional comes across a child who they believe has recently moved into this country the following basic information should be sought:

- Confirmation of the child's identity and immigration status;
- Confirmation of the carer's relationship with the child and immigration status, and also to check with United Kingdom Border Agency case owner;
- Consideration of whether the child has been trafficked (see F.03a, F03b & s 14);
- Confirmation of the child's health and education arrangements in this county;
- Confirmation of the child's health and education arrangements in the country of origin and any other country that the child has travelled through. This should be done in a way that is as unthreatening to the child and carer as possible.

If this information indicates that the child has come from overseas and is being cared for by an unrelated adult or one whose relationship is uncertain, a referral should be made to Children and Young People's Vulnerable Children and Corporate Parenting Division in order that an assessment of the child's needs can be undertaken.

The immigration status of a child and their family has implications for the statutory responsibilities towards the family. It governs what help, if any, can be provided to the family and how help can be offered to the child.

Where families are subject to immigration legislation, they may be precluded from access to public funds, either for the short or the long-term. This may also exclude them from the provision of social care legislation. Many of these families will disappear into the community. The children may suffer particular hardship – e.g. living in overcrowded and unsuitable conditions and with no access to health or educational services. They are particularly vulnerable to exploitation because of their circumstances.

Children who disappear and where there are concerns about the child's welfare should be considered to be missing and agencies should notify the Police and the United Kingdom Border Agency www.ukba.homeoffice.gov.uk

06 Assessment

An unaccompanied child or child accompanied by someone who does not have Parental Responsibility should be referred to Children and Young People's Vulnerable Children and Corporate Parenting Division and receive a Child and Family Assessment in order to determine their level of need for services, including their need for protection.

Such children are extremely vulnerable and should be assessed as a matter of urgency. All agencies should enable the child to be quickly linked into universal services, which can begin to address educational and health needs.

The needs of the child have to be considered, based on an account given by the child or family about a situation, which the professional has neither witnessed nor experienced. In addition, it is often presented in a language, and about a culture and way of life with which the professional is totally unfamiliar or has only basic knowledge about.

Care should be taken to ensure that the interpreter knows the correct dialect. Interpreters with appropriate qualifications and appropriate gender, etc., must be used. Practitioners should never use family members when safeguarding issues are being considered.

The first contact with the child and carers is crucial to the engagement with the family and the promotion of trust which underpins the future support, advice and services. Particular sensitivities which may be present include:

Concerns around immigration status:

- Fear of repatriation;
- Anxiety raised by yet another professional asking similar questions to ones previously asked;
- Lack of understanding of the separate role of Children and Young People's Vulnerable Children and Corporate Parenting Division, and that it is not an extension of the Police;
- Lack of understanding of why an assessment needs to be carried out;
- Previous experience of being asked questions under threat or torture, or seeing that happen to someone else;
- Past trauma - past regime or experiences can impact upon the child's mental and physical health. This experience can make concerns from the authorities about minor injury or poor living conditions seem trivial and this mismatch may add to the fear and uncertainty;
- The journey itself as well as the previous living situation may have been the source of trauma; and
- The shock of arrival - the alien culture, system and language can cause shock and uncertainty, and can affect the mood, behaviour and presentation.

In such circumstances, reluctance to divulge information, fear, confusion or memory loss can easily be mistaken for lack of co-operation, deliberate withholding of information or untruthfulness.

For all agencies, the first task of the initial contact is, therefore, engagement. Open questions are most helpful, with a clear emphasis on reassurance and simple explanations of the role and reasons for assessment. If the engagement with the family is good, there are more likely to be opportunities to expand on the initial contact.

Within the first contact with the child and carer(s), it is however also vital not to presume that the child's views are the same as their carer's, or that the views and needs of each child are the same. Seeing each child alone is crucial, particularly to check out the stated relationships with the person accompanying them. For example, someone from the same place of origin should have a similar knowledge of the place. A child may believe that they must provide the "right answers" when they may not wholly understand the system or even the question.

07 Establishing identity & Age

This can be a very complex area and what follows provides an introduction to this process.

Age is central to the assessment and affects the child's rights to services and the response by agencies. In addition it is important to establish age so that services are age appropriate and developmentally appropriate.

Citizens of EU countries will have a passport or ID card (usually both). Unaccompanied children will rarely arrive in possession of any documents to confirm their identity or even to substantiate that they are a child. Their physical appearance may not necessarily reflect their age.

The assessment of age is a complex task, which often relies on professional judgement and discretion. The advice of a paediatrician with experience in considering age may be needed to assist in this, in the context of an holistic assessment. Issues of disability may compound such assessment. Moreover, many societies do not place a high level of importance upon age and it may also be calculated in different ways. Some young people may genuinely not know their age and this can be misread as lack of co-operation. Levels of competence in some areas or tasks may exceed or fall short of our expectations of a child of the same age in this country.

Age Assessment

An assessment of age (using **Merton** guidelines) must be completed in the case of all asylum seeking young people where their likely age is not immediately apparent or the person is claiming to be under 18 years but there are doubts about the truth of this claim. The Merton compliant Age Assessment Document should be used for this purpose. Age assessments must be completed by 2 workers, one of whom must be a qualified social worker. Age assessments are particularly required for decisions in respect of unaccompanied asylum seeking young people. Social workers need to be mindful of the time limits appropriate to this process.

"R v (A) v London Borough of Croydon (2009), R v (B) v London Borough Council (2008), R (wk) v Kent "Age Assessment" : Immigration and Nationality Directorate and Association of Directors of Social Services County Council (2009)"

A social services department of a Local Authority cannot simply adopt a decision made by the Home Office but must decide itself whether the applicant is a child in need within Part III of the Act.

Where there is a dispute between the United Kingdom Border Agency's assessment of age and that of the local authority, difficulties may arise which may require intervention by senior management.

08 Parental Responsibility

The Children Act 1989 is built around the concept of Parental Responsibility. This legal framework provides the starting point for considering who has established rights, responsibility and duties towards a child.

An adult whose own immigration status is unresolved cannot apply for a Residence Order to secure a child for whom they are caring.

Children who do not have someone with Parental Responsibility have the same rights as any other child in this same circumstance. Issues could arise around accessing school and medical services from the point of view of consent, and legal advice may be required.

Rules on benefit entitlement varied depending on immigration status. Parents should be advised to access specialist help.

You may need to bear in mind that in some cultures, child care is a shared responsibility between relatives and members of the community. Adults may bring to this country children for whom they have cared for most of their lives, but who may be unrelated or “distantly” related.

09 Information from Abroad

Seeking information from abroad should be a routine part of assessing the situation of an unaccompanied child. Practitioners should proceed with great caution if they access any information from abroad and should bear in mind that agencies in the originating country may be involved in trafficking. This may put people in danger if their whereabouts are revealed.

Please see paragraph F.04.03 Principles.

In some instances United Kingdom Border Agency may wish to remove a child to a third country (Dublin Agreement) or their country of origin. Where the child is in the care of the local authority, the local authority still has safeguarding duties in respect of that child. Specialist legal advice should be sought by the local authority and the child. It should be borne in mind that the local authority’s interests might conflict with that of the child in this situation.

10 Child's Developmental Needs

Practitioners will need to bear in mind when assessing needs the following:

- Health; behaviour and social presentation can be affected by trauma and loss. Famine and poverty can have an impact upon development. Wider health needs may need to be considered, including HIV, Hepatitis B and C, TB and female genital mutilation. (This applies to the parent/carer also);

- Education. What has school meant to this child?
- Self care skills. Not to judge competence by comparing with a child of the same age in this country. This child may have had to be very competent in looking after themselves on the journey but are unable to do other basic tasks. In some countries, some children will have been working or have been involved in armed conflict. Loss of a parent can enhance or deprive a child of certain skills. Having had to overcome extreme adversity can result in a child who is either deeply troubled or both resourceful and resilient;
- Identity. What is their sense of themselves, their family, community, tribe, race, history, physical appearance?
- Life experience and trauma can affect this. Lack of nourishment may make the child present as younger or older. Perceptions of what constitutes disability are relative and attitudes towards children with a disability may be very different. The impact of racism on the child's self image and the particular issues currently faced by asylum seeking children and their families.

11 Parenting Capacity

Parenting capacity may be compromised for both unaccompanied and those present with their families and the following needs to be borne in mind:

- Trauma
- Mental health
- Children who are the product of rape
- The parent may be the person who has sold the child to a trafficker
- Mothers whose claims have failed and who are now destitute
- War, famine and persecution can make a family mobile. The family may have moved frequently in order to keep safe. The stability of the family unit might be more important to the child than stability of place. Judgements that mobility may equate with inability to provide secure parenting may be entirely wrong. In some countries regular migration to deal with exhaustion of the land is part of the culture;
- The fact that a child seems to have been given up by a parent may not imply rejection, as the motive may have been to keep the child safe or seek better life chances for the child;
- Talking about parents or family can be stressful and painful, not being given the chance to do so can be equally stressful;

- The importance of the extended family or community and also for the fact that they may have been involved in the trafficking of this child;
- Lack of toys for a child may indicate poverty or different cultural norms rather than poor parenting capacity to provide stimulation and
- The impact on parenting capacity of racism against asylum seekers.

12 Family & Environment

Economic and social hardships are major issues that children from abroad experience, in particular:

- Serious accommodation issues
- Destitution / homeless (short or long term)
- Delays in support
- Issues around asylum seeking families whose claim fail
- Issues for unaccompanied asylum seeking children after they leave care whose claims fail.

In addition there may be issues such as:

- Family history and functioning which may include the loss of previous high status as well as periods of destitution and
- Different cultural concepts of who are important family members and what responsibility is normally assumed by the whole community, e.g. who a child should reasonably be left with.

Stoke-on-Trent Citizens Advice Bureau Service

Address: Advice House, Cheapside, Hanley, Stoke-on-Trent, ST1 1HL

Opening Times: Monday, Tuesdays, Wednesdays and Fridays opens at 0900.

Service Available: Providing advice about rights and entitlements and referrals to other services – 03444 111 444

Refugee Council

Service: Refugee Council (**Stoke-on-Trent Outreach**)

Contact number: 0777 620 3411

Drop in service address: Piccadilly Centre, 59 Piccadilly, Hanley, Stoke-on-Trent

Drop in service Opening Times: Friday's only 0900 - 1500 (only urgent priority issues after 1500)

Support services:

- Advice on asylum issues & the UKBA support system
- Assistance for clients at the end of the asylum process (regarding Section 4 support and possible charitable support)
- Voluntary Returns
- Signposting to services such as housing, legal advice, education, training and health care
- Advice & referrals on accessing Social Services Support
- 'Move on' assistance for individuals granted leave to remain in the UK
- Advice for newly arrived destitute asylum seekers to access initial accommodation
- Help for separated children under 18 years old

Refugee and Asylum Seeker Health Team

Address: Shelton Primary Care Centre, Norfolk Street, Shelton

Opening Times: Monday – Friday, 9am – 5pm : 01782 222870

Service Available: GP registration, health advice, sign posting to other services (eg CAB Refugee Council). HC2 applications (free health entitlement), help with access to health care such as dentists.

13 Child In Need of Protection

Where assessment indicates that a child may be in need of protection and the Child Protection Procedures (see Section C), additional factors need to be taken into account. These include such things as:

- Perceptions of authority, the role of the Police in particular, and the level of fear which may be generated;
- where there is a possibility of prosecuting a parent the additional implications for the family and child of the inevitability of deportation following imprisonment should be taken into account;
- assessing the risk of the impact of a second separation on a child who already has a history of separation and disruption, and
- Judgements about child care practices in the context of such different cultural backgrounds and experiences.

- The possibility of a child having been trafficked – see paragraph F04.14 Trafficking of children/YPs .

14 Trafficking of Children/Young People (see also F03a & F03b)

Trafficking is defined as: “The recruitment, transportation, transfer, harbouring or receipt of children by means of threat, force or coercion for the purpose of sexual or commercial exploitation or domestic servitude.” (AFRUCA/NSPCC)

Child protection procedures will always apply where there is suspicion that a child may be being trafficked. A trafficked child or young person is a victim of a serious crime.

A number of factors identified by the Initial Assessment may indicate that a child has been trafficked:

- The child may present as unaccompanied or accompanied by someone who does not have Parental Responsibility;
- The child may go missing;
- The multi-use of the same address may indicate that it is an “unsafe house” or that the house is being used as a sorting house;
- Parents may have been influenced by financial inducement to allow their child to be brought to the UK;
- The child may hint at threats to family in their home country for non co-operation or disclosure;
- There may be talk of financial bonds and the withholding of documents;
- There may be false hopes of improvement in their lives (escaping war, famine, poverty or discrimination); or
- Children need to be referred for proper and immigration legal representation to assist them to achieve an appropriate immigration status.

If it is identified that a child may be being trafficked for the purposes of sexual exploitation, see Children Abused through Commercial Sexual Exploitation and Prostitution Procedure (see Section D09).

Children are also trafficked for the purpose of domestic service or benefit fraud. These children may be less obvious, and their use to the family may be more likely to be picked up if they are Privately Fostered during an assessment, or because someone notices that they are living at a house, but not in school etc. Children who enter the country apparently as part of re-unification arrangements can be particularly vulnerable to domestic exploitation.

As soon as suspicions are raised that a child is being trafficked, immediate action to safeguard the child is required. This includes urgent liaison with the Police or Children and Young People's Vulnerable Children and Corporate Parenting Division. Planning of the investigations should be within a strategy discussion/meeting, in order to ensure that both the safety of this individual child and the investigation of organised criminal activity are addressed.

Children must be referred to the UK Human and Trafficking authority (the competent authority).

Link to 'End Child Prostitution and Trafficking' www.ecpat.org.uk

The offence of trafficking for prostitution, introduced in the Nationality, Immigration and Asylum Act 2002, carries a maximum penalty of 14 years.

The Sexual Offences Act 2003 introduced new wide-ranging offences covering trafficking into, out of or within the UK for any form of sexual offence, which also carries a 14 year maximum penalty. It also introduced a range of new offences covering the commercial sexual exploitation of a child up to 18. These include buying the sexual services of a child (for which the penalty ranges from 7 years to life depending on the age of the child); and causing or inciting, arranging or facilitating and controlling the commercial sexual exploitation of a child in prostitution or pornography, for which the maximum penalty is 14 years' imprisonment.

A new offence of trafficking for exploitation, which covers trafficking for forced labour and the removal of organs, was introduced in the Asylum and Immigration (Treatment of Claimants, etc) Act 2004. These measures will also take into account the UK's international obligations under the UN Trafficking Protocol and the EU Framework Decision on Trafficking for the Purposes of Sexual and Labour Exploitation.

Other Useful websites include:

NSPCC

http://www.nspcc.org.uk/Inform/resourcesforprofessionals/child_trafficking_wda83206.html

www.leavingcare.org/youngpeople/research/asylumseekingrefugeechildren

www.scie.org.uk this site lists a number of other resources and reports on work with unaccompanied asylum seeking children (UASC)

www.childrenslegalcentre this provides guidance on rights and entitlements of separated refugee and asylum seeking children