

## **UNACCOMPANIED ASYLUM SEEKING CHILDREN**

(Also referred to as UASC, unaccompanied minors or separated children)

### **Who is an unaccompanied asylum seeking child?**

1. Home Office definition:<sup>1</sup>

‘An unaccompanied asylum seeking child is defined by Immigration Rules as a person who is:

- under 18 years of age when the claim is submitted
- claiming in their own right
- separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so’

2. Statistics nationally for the year to 30 June 2018 were as follows:

- 2,424 asylum applications from UASC (-20% on previous year)
- The top nationalities were Sudanese and Eritrean nationals (together accounting for over 30% of all UASC applications) followed by Vietnamese (11%) and Albanians (10%).
- The refugee status grant rate is 52%
- 89% of all new UASC were boys, a similar level to previous years
- 71% aged 16–17; 20% 14–15; 3% under-14; age unknown 6% (not age disputed)

### **Reasons for leaving**

3. Many children and young people who claim asylum have experienced significant trauma which forced them to flee from their home, including living through war; imprisonment and in some cases torture; being the victims of physical and/or sexual violence; witnessing violence to others and traumatic bereavement/s. Children and young people will often be very frightened for the people they left behind.

### **Journey to the UK**

4. Many young people will have experienced further trauma as they undertook long, difficult, dangerous journeys where they may have been in confined spaces for long periods of time (e.g. in a shipping container). They may have taken perilous voyages across the sea, and spent many hours fearing for their lives. They may have had limited access to essentials such as food, drink and sanitary facilities for prolonged periods and may have developed physical and mental ill-health during the journey. Many young people will have witnessed other people falling ill, being arrested or even dying. It is not uncommon for young people to become unintentionally separated from family or friends. Once in Europe many children and young people will have spent long weeks or months living in squalid, dangerous conditions in camps or squats; vulnerable to sexual and physical abuse or exploitation.

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<sup>1</sup> Home Office [Immigration Rules part 11: asylum](#) paragraph 352ZD

## Unaccompanied children's routes into the region

5. Children and young people can arrive in Yorkshire and Humber through a variety of routes.

<p><b>Spontaneous arrivals</b></p>	<p>Some young people will emerge from the back of a lorry, arrive at the docks with a ship, be dropped off by a people smuggler or taken to a contact or community member who lives in the region. These cases are known as 'spontaneous arrivals'. These young people will not be known to the authorities on arrival and need to be referred to the local Children's Services and supported to make contact with the Home Office to lodge an asylum claim.</p>
<p><b>National Transfer Scheme (NTS)</b></p>	<p>The Immigration Act 2016 introduced the National Transfer Scheme. The legislation's aim is to 'even out' the number of UASC looked after by each local authority across the country by transferring children and young people from areas with a high number of arrivals (e.g. Kent) to areas with fewer UASC. Within the legislation the 'ceiling' on the proportion of the local authority area's child population who are UASC is 0.07%. Once the area exceeds that proportion, they can transfer new cases to other areas through the scheme, coordinated by the Home Office and the Regional Strategic Migration Partnership (Migration Yorkshire). The National Transfer Scheme came in to force on 1st July 2016 and Yorkshire and Humber has been participating throughout. The NTS mechanism is used to arrange all unaccompanied asylum seeking and refugee child transfers into the region</p>
<p><b>Dubs amendment</b></p>	<p>In autumn 2016, the 'Dubs amendment' to the Immigration Act 2016 (Section 67) was implemented, allowing transfer of eligible unaccompanied children from Europe to the UK. Approximately 200 children were transferred from France under this scheme as part of the Calais camps clearance. The government has announced a total of 480 unaccompanied children will come to the UK and be 'looked after' by local authorities as a result of the amendment. These children are arriving through a managed process from Greece, Italy and France. The scheme targets the most vulnerable young people and a decision is made that it is in their best interest to come to the UK. Some of the children and young people referred through the scheme have complex needs.</p>
<p><b>Vulnerable Children Resettlement Scheme (VCRS)</b></p>	<p>In spring 2016, the government announced 3000 people would be allowed to come to the UK through the Vulnerable Children's Resettlement Scheme from camps in the Middle East and North Africa. Most of these will arrive as family units, but there are a small number of unaccompanied children whose cases are assessed by UNHCR and who arrive in the UK with refugee status, but are looked after by local authorities in the same way as other UASC.</p>
<p><b>Dublin III Regulation family reunion</b></p>	<p>The Dublin III Regulation enables unaccompanied children who arrive in Europe to apply for reunification with their family already in the UK, through a managed transfer process and for their asylum case to be considered in the UK. When an application is received, the Home Office will refer the case to the relevant local authority Children's Services who should carry out a viability assessment on receiving family to ensure they can provide a safe place for the child before the transfer is agreed and completed.</p> <p>A family may be supported by Children's Services under S17 (Children Act 1989) if they cannot fully meet the needs of the child until appropriate housing, benefits and other services are secured, however the carer remains legally responsible for the child.</p>

## Immigration status in the UK

6. Unaccompanied asylum seeking children will have their claims dealt with in the same way as other asylum seekers although they will be interviewed and have their cases considered by specially trained Home Office case workers. Their asylum claim may result in:
  - **Refugee status** - 5 years
  - **Humanitarian protection (HP)** - usually 2, 3 or 5 years
  - **UASC leave** - a form of discretionary leave for young people whose asylum claim is refused.

UASC leave lasts for a maximum of 30 months, or until the young person is 17.5 years old (whichever is sooner) when they can appeal, make a fresh claim, or begin making arrangements to leave the UK.
  - **Section 67 leave** – 5 years  
In June 2018, the government announced a new form of leave to remain which guarantees all young people transferred to the UK through the S67 process will be granted permission to remain in the UK even if they do not receive refugee status as a result of the asylum process.
  - **Calais leave** – 5 years  
In September 2018, the government announced an exceptional type of leave to remain for young people who were transferred to the UK to be reunited with relatives during the Calais camp clearance between October 2016 and July 2017. Those who are not granted refugee status will be granted 'Calais leave' and will have the right to access education, work and access to public funds.
7. Children resettled through VCRS are granted 5 years refugee status prior to arrival in the UK
8. Children who have been granted refugee status, S67 leave to remain or humanitarian protection can usually apply for permanent settlement (also known as indefinite leave to remain or ILR) at the end of the period of protection. Those granted Calais leave will normally have to have their leave extended for another 5 years before they can apply for permanent settlement (ILR).
9. Young people who have had their asylum claim fully refused, known as appeal rights exhausted (ARE) are expected to leave the UK once they reach the age of 18. The Immigration Act 2016 introduced a provision that ARE former-UASC are not entitled to leaving care services. This provision has not yet been implemented and the regulations have not been published. At present local authorities carry out a human rights assessment to decide whether to continue to support the young person. Home Office funding ceases 3 months after the ARE date.

## Age assessment

10. Age assessment can be used to assess whether a young person is a child or an adult, or to calculate their age if there is contradictory or no information available. Conducting a thorough, accurate age assessment is essential in order to best meet the needs of the child as the conclusion will be used by all relevant organisations including the Home Office, education and health.
11. Access to services in the UK requires a formal, recorded date of birth, but in many countries births are not routinely recorded, birthdays are not celebrated and

chronological age is not considered important. An asylum seeker who claims to be less than 18 years old (without documentary evidence) is entitled to a 'Merton compliant'<sup>2</sup> age assessment unless the Home Office have issued the document IS97M which states they are 'significantly' older – 25 years old or above.

12. If there is no reason to doubt the child's claimed age, the local authority should accept the age without undertaking an age assessment, and should record the decision and the reason. It is important to recognise there is no definitive way of finding out someone's age – children mature at different rates physically and psychologically. A social work-led age assessment should include<sup>3</sup> consideration of appearance, demeanour, family history, experience, culture and other factors which offer insight into a young person's likely age. The assessment should be carried out by two qualified social workers and the young person supported by an appropriate adult, who ensures they are treated fairly and are able to fully understand and engage with the process.
13. The conclusion of an age assessment can be challenged through the courts and in such cases the judge's decision is final.

### **Sources of support and information**

14. Local authorities have a responsibility to provide services and support to unaccompanied asylum seeking and refugee children in their area under Section 20 (Children Act 1989) both during the age assessment period (up to 28 days) and once it has been concluded they are a child, until their 18<sup>th</sup> birthday - regardless of their route of entry or immigration status. In most cases children should receive all support associated be 'looked after' including a suitable accommodation placement, a care plan, a personal education plan, access to health assessment and health care, support accessing legal advice and an Independent Reviewing Officer (IRO) who will review the child's progress and ongoing support requirements.
15. The Refugee Council provides an advice and advocacy service for UASC. It has a national remit and provides one- to-one advocacy, individual support services and group briefings. See: [www.refugeecouncil.org.uk/what we do/childrens services](http://www.refugeecouncil.org.uk/what_we_do/childrens_services) for more information about the service and how to make a referral.
16. Migration Yorkshire coordinates UASC referrals into Yorkshire and Humber through the NTS, the mechanism used for all transfers, and supports local authorities to meet the needs of children by identifying appropriate referrals for each area, providing support and guidance on casework and procedural issues, and offering training.

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For an explanation of terms used in this report, see our website:  
[www.migrationyorkshire.org.uk](http://www.migrationyorkshire.org.uk)

<sup>2</sup> 'Merton Compliant', *trix Glossary Index*

[http://trixresources.proceduresonline.com/nat\\_key/keywords/merton\\_compliant.html](http://trixresources.proceduresonline.com/nat_key/keywords/merton_compliant.html)

<sup>3</sup> ADCS (2015) *Age Assessment Guidance*

[http://adcs.org.uk/assets/documentation/Age\\_Assessment\\_Guidance\\_2015\\_Final.pdf](http://adcs.org.uk/assets/documentation/Age_Assessment_Guidance_2015_Final.pdf)