

# East of England Unaccompanied Asylum Seeking Children (UASC) Safeguarding Protocol

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AGREED BY UK VISAS AND IMMIGRATION; FAMILIES, COMMUNITIES &  
YOUNG PEOPLE REGIONAL GROUP AND EASTERN REGION POLICE FORCES

## **1. Introduction**

1.1 This protocol has been developed to ensure that there is a unified regional approach to the safeguarding issues relating to unaccompanied asylum seeking children (UASC). It follows on from the 'Children First' conference organised by the regional Leaving Care Network and the EERA-Strategic Migration Partnership Social Services Leads sub-group in February 2009. The recommendation from the conference to develop a regional UASC safeguarding protocol was subsequently agreed by the Regional Police Asylum Forum in May 2009 and the Directors of Children and Young People's Services at the East of England Families Communities and Young People Regional Group meeting in June 2009.

1.2 The Protocol was updated in October 2015 and should be read in conjunction with the ADCS and Home Office Joint Working Guidance and 'Age Assessment Guidance: Guidance to assist social workers and their managers in undertaking age assessments in England'<sup>1</sup>

1.3 The protocol includes:

- i) Guidelines to ensure that local authorities, the Police and the Home Office liaise at the earliest opportunity to record the personal details and biometric data of newly arrived UASC.
- ii) A sub-protocol for conducting age-assessments.
- iii) Guidelines to ensure that newly arrived UASC are placed in appropriate types of regulated supported, accommodation suitable for vulnerable looked after children and young people; particularly in relation to 'out of hours' referrals and over weekends.
- iv) A sub-protocol outlining a unified response to trafficked children and a risk assessment toolkit to identify the victims of trafficking.
- v) A sub-protocol outlining a unified response to UASC that go missing from care.

## **2. Definition of an unaccompanied asylum seeking child (UASC)**

2.1 For the purposes of this protocol, and in accordance with the Home Office definition, an unaccompanied asylum seeking child is any person who, at the time of making an asylum application:

- i) Is under the age of **18**, or in the absence of any documentary evidence, appears to be under 18.

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<sup>1</sup> <http://adcs.org.uk/safeguarding/article/age-assessment-information-sharing-for-unaccompanied-asylum-seeking-childre>

- ii) Is applying for asylum in his/her own right.
- iii) Has no adult relative or guardian to turn to in the UK.

### **3. Guidelines to ensure that local authorities, the Police and the Home Office liaise at the earliest opportunity to record the personal details and biometric data of newly arrived UASC.**

#### **3.1 Arrest, detention and charge of UASC**

3.1.1 A UASC found to have entered the UK illegally will be arrested and detained on suspicion of breach of immigration law.

3.1.2 The charge of an individual - within the PACE holding time frame (24 hours) - allows the Police to take and record personal details i.e. photographs and finger prints. Police can also take DNA samples if consent is given by social services acting as appropriate adult. The DNA samples of the UASC will be stored by police unless the UASC goes missing then it can be submitted for entry onto the DNA database.

3.1.3 Section 141 of the Immigration and Asylum Act 1999 allows a constable to take fingerprints on behalf of the Home Office. The act allows a constable to take fingerprints but does not stipulate an age, the Home Office policy is only to take fingerprints of those who are aged 5 years and over.

#### **3.2 Detention and recording of personal details and biometric data of a newly arrived UASC**

3.2.1 The primary opportunity for recording biometric data (fingerprints and photographs) of new arrivals - whilst in custody - rests with the Home Office Immigration Compliance and Enforcement (ICE) Teams.

3.2.2 The capture of biometric data and other personal details (whether or not a decision to prosecute follows) brings benefits to all agencies in so far as, in the event of an individual going missing, it enables future checks to be made if the individual re-presents elsewhere.

3.2.3 The release of an individual before biometric data and other personal details can be recorded compromises the opportunity to determine any previous contact with the Home Office and the Police (or local authorities Children's Services).

3.2.4 This reduces the opportunity for agencies to trace and safeguard individuals who may go missing and are already known to be vulnerable.

#### **3.3 Police action**

3.3.1 In circumstances where the Police are the first point of contact with an individual claiming to be an unaccompanied asylum seeking child, e.g. a clandestine event or 'lorry

drop', and where the individual has been identified as having entered or remained in the UK unlawfully, the Police will make an arrest for suspected entry without leave under section 24(1) (a) of the Immigration Act 1971 and take the person into custody. The arrest must comply with the standard PACE conditions and is necessary to enable the Home Office to engage in the process. Any child under 10 years entering the UK without permission will not be able to be arrested or held in police detention and in such circumstances officers should ensure that the welfare of the child is maintained. Section 17 Children Act 1989 places a duty of care on the local authority to protect the welfare of any child within its area. A constable could invoke their powers under section 46 Children Act 1989. We have a duty of care to the individual; we must ensure that we remain victim focused. The police must ensure that if the person is identified as a potential victim of trafficking that they are de-arrested and contact is made to the UKHTC victim lead.

The police should also be aware of the fact that an appropriate adult in an interview could be the trafficker or a person allied to the trafficker.

N.B. The general procedures for Police action in the event of clandestine events are outlined in: "A collaborative approach for dealing with immigration offenders encountered by Police forces: Standard Operating Procedure produced by UKBA and Eastern Region Police Forces" (see Annex A attached).

3.3.2 Section 57 of PACE should also be noted in relation to the additional rights for children and young persons in detention, namely that steps should be taken to ascertain the identity of the person who is responsible for the child's welfare as soon as is practicable.

3.3.3 Powers to search - A police constable would be able to rely upon Section 19(3) PACE, allowing him to seize anything which he has reasonable grounds for believing is evidence in relation to an offence and that it is necessary to seize it in order to prevent the evidence from being concealed, lost, altered, or destroyed. At all times the officer must inform the person of the reason for the search. As you will be aware, if the arrest is unlawful any subsequent search itself will be unlawful and therefore it would be prudent to ensure that there is a clear record of any search done, the reasons why and showing the suspect was informed of the reasons.

### **3.4 Home Office action**

3.4.1 Where a child (or individual who is thought to be a child) has been identified as having entered the UK unlawfully the Home Office will endeavour to attend custody during the holding time frame (24 hours) for the purposes of capturing the individual's biometric data.

#### **3.4.2 For the Home Office staff, procedures on fingerprinting state:**

i) Children aged between 5 and 16 can only be fingerprinted in the presence of an adult who is:

- The child's parent or guardian; or
- A person who for the time being takes responsibility for the child (responsible adult)".

ii) Children aged 16 and 17 can be fingerprinted without the presence of a responsible adult.

3.4.3 Where the Home Office are unable to attend, the Police will take and record personal details i.e. photographs and finger prints before arrangements are made to release the child to the care of the local authority Children's Services.

3.4.4 A list of the regional social care teams contact details is contained in Annex B attached.

#### 3.4.5 For Police staff, procedures on fingerprinting:

Police are able to take fingerprints for immigration purposes without consent under the;

- (a) Immigration Act 1971 – for full details please refer to the Act
- (b) Immigration Act 1999 section 141 – for full details please refer to the Act

i) Children aged between 5 and 16 can only be fingerprinted in the presence of an adult who is:

- The child's parent or guardian; or
- A person who for the time being takes responsibility for the child (responsible adult).

ii) Children aged 16 and 17 can be fingerprinted without the presence of a responsible adult.

3.4.6 If the Police or the Home Office suspect that the child in question has been trafficked, a referral should be made to the local authority Children and Young People's Services [see sub-protocol section on trafficking in this document].

### 3.5 Age disputed cases

3.5.1 The Home Office will dispute the age of an applicant who claims to be a child but whose physical appearance and/or general demeanour suggests that they are an adult, unless there is credible documentary or other persuasive evidence to support the claimed age.

3.5.2 If a Chief Immigration Officer is in attendance at the custody suite, they can make a visual assessment and, if satisfied that the subject is an adult, issue notice IS97M advising that the Home Office does not believe that they are a child.

3.5.3 Where the physical appearance and/or general demeanour of an applicant **very strongly** suggests that they are **significantly** over 18 years of age, then they should be

processed and treated as an adult and should be subject to the same conditions as adults.

3.5.4 Where the physical appearance and/or general demeanour of the applicant does not **very strongly** suggest that they are **significantly** over 18 years of age, the applicant should be treated as an **age disputed case**.

3.5.5 In borderline cases, it is the policy of the Home Office to give the applicant the benefit of the doubt and **treat them as a child**.

3.5.6 The Home Office will only **accept** age disputed applicants as children, when a 'Merton-compliant' age assessment has assessed their age to be below eighteen.

3.5.7 Applicants who are being processed as age disputed cases should be referred by custody to local authority Children and Young People's Services for an assessment of age.

3.5.8 A list of the regional Children and Young People's Services team contact details is contained in Annex B attached.

### **3.6 Children and Young People's Services**

3.6.1 As a first step - whilst the individual is still in custody - Children and Young People's Services practitioners may first undertake a preliminary visual assessment in order to determine whether a formal Merton compliant age assessment is necessary [see sub-protocol section for conducting age assessments in this document]

3.6.2 Where a visual assessment confirms a formal Merton compliant age assessment is necessary (but where it is not possible to arrange this within the holding time frame), after the capture of bio-data and service of the Home Office papers, the child will be released from custody into the care of Children and Young People's Services pending arrangements being made for a Merton compliant age assessment. An asylum screening interview will be arranged at a later date in consultation with the Home Office Immigration Compliance and Enforcement Team.

3.6.3 In cases where it is clear from the visual assessment that the individual is obviously over 18 and more likely to be in their mid twenties, then an "over 18" letter should be completed and given, by those making the assessment, to the individual who should remain in custody. The Police and the Home Office should then liaise regarding arrangements for the continuing detention of the individual.

3.6.4 In cases where it is clear from the visual assessment that an individual is more than likely to be a minor and therefore under the age of 18, then Children and Young People's Services should make arrangements to accommodate "without prejudice" until a formal age assessment can be conducted.

3.6.5 Although biometric data and other personal information should have already been recorded by the Home Office and the Police prior to the UASC being released from custody, Children and Young People's Services should also obtain the personal details of the UASC, complete a descriptive form in as much detail as possible and take a photograph of the individual at the earliest opportunity. These details should be updated on a regular basis for those who go on to remain accommodated.

3.6.6 The individual concerned must give written consent to his/her photograph being taken and held on their file.

3.6.7 This information will assist in the event that the child (or individual thought to be a child) subsequently goes missing from care.

3.6.8 All documentation held by the referrer and other agencies should be checked by the social worker. This should include, if available:

- Passport (check date of issue; length of visa; whether picture resembles child; name in passport is same as alleged mother/father, and if not why not; whether it appears to be original and take copies to ensure further checks can be made if necessary)
- Home Office papers
- Birth certificate
- Proof of guardianship
- Any papers/documentation relating to their home country
- Place of birth - town
- National identity number

## **4. Sub Protocol for conducting age assessments**

### **4.1 Referral process**

4.1.1 All referral requests for age assessment should be made through the usual Local Authority procedures (normally a contact centre) or through usual "out of hours" referral arrangements with the Emergency Duty Team.

### **4.2 Age assessment - purpose**

4.2.1 A local authority age assessment aims to determine age and whether an individual is liable to enter the United Kingdom Home Office adult detention system and removal process **or** be provided with local authority children's services.

4.2.2 An age assessment is not intended to judge or determine the merit of an asylum claim.

4.2.3 An individual not found to be a child becomes liable for detention in an Immigration Removal Centre.

4.2.4 An individual found to be a child becomes the responsibility of the local authority Children and Young People's Services which should provide services under S20 1989 Children Act.

### **4.3 Local Authority Age Assessments and the Merton Judgement**

4.3.1 The age assessment process has evolved over time and relies upon a number of factors. It may draw upon information from a range of sources and opinion which may conflict or become contentious. It may need to be a staged process rather than a single event.

4.3.2 The landmark case of R (B) v London Borough of Merton [2003] 4 All ER 280 laid down guidelines for social workers (practitioners) conducting age assessments which are required to be "lawful, fair and rational".

4.3.3 A requirement of the Merton Judgement is that an assessment should be conducted by two assessors in the presence of an interpreter.

4.3.4 Although it is not a legal requirement, many local authorities ensure that at least one of the two assessors undertaking an Age Assessment is a Qualified Social Worker.

4.3.5 The 2009 judicial review [NA v Croydon] introduced a new requirement allowing for the attendance of an independent adult during the age assessment.

### **4.4 Visual assessment and 18+ letter**

4.4.1 Merton also ruled that "there are cases where it is very obvious that a person is under or over 18. In such cases there is normally no need for a prolonged inquiry".

4.4.2 In these circumstances - on the basis of a visual assessment and opinion on the applicant's appearance, demeanour and a brief enquiry - it may suffice for the local authority assessors to issue an "18+ letter" to the applicant explaining that it is not proposed to undertake a full assessment and they should be treated as an adult.

### **4.5 Information sharing – outcome of age assessment**

4.5.1 When sharing information with the UK Visas and Immigration (UKVI) a local authority must only provide the back page of the pro-forma of the Merton compliant Age Assessment unless the individual being assessed has given informed consent that the whole assessment can be shared. UKVI Case Owners will request a full copy of the local authority's age assessment and confirmation that it has been carried out in compliance with the guidelines in the Merton case.

4.5.2 A Model Information Sharing Protocol document produced by Bedfordshire local authorities is attached [see Annex C].

### **4.6 Training**

4.6.1 EAST Region authorities should develop and maintain training programmes drawing upon recognized expertise - including specific training for staff practitioners undertaking age assessments.

## **5. Guidelines to ensure that newly arrived UASC are placed in appropriate types of regulated supported accommodation suitable for vulnerable looked after children and young people, particularly in relation to 'out of hours' referrals and over weekends.**

### **5.1 Provision of accommodation for children under S20 Children Act 1989**

5.1.1 Under Section 17 of the Children Act 1989 the local authority has a general duty to safeguard and promote the welfare of children in their area.

5.1.2 Where a UASC presents or is referred as having no parent or guardian in this country, then in fulfilling its duties to assess and respond to their needs, the local authority should accommodate the child using its powers under Section 20 of the Children Act 1989.

5.1.3 The decision to accommodate a UASC should be made (approved) by the recognized Children's Service decision maker or, outside normal working hours, their representative.

5.1.4 For those cases arriving outside "normal working hours", where a Merton compliant age assessment cannot be conducted immediately but a visual assessment indicates they are more likely to be children than not, accommodation "without prejudice"<sup>2</sup> should be provided until such time as a Merton compliant age assessment is arranged.

5.1.5 Accommodation should continue to be provided for those later confirmed by a Merton compliant age assessment to be children.

5.1.6 A UASC provided with accommodation under Section 20 of the Children Act 1989 is a 'looked-after' child.

5.1.7 All UASC entering the looked after system should be managed and reported within each local authority Children's Services' organization and their resource allocation/control processes.

5.1.8 UASC becoming "looked after" should be subject to the normal statutory reviewing procedures for all "looked after" children.

5.1.9 The reasons and circumstance of UASC being in the UK differ from those of indigenous children and there is usually no imminent prospect of them returning home to their birth family.

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<sup>2</sup> \*The "without prejudice" reservation means that an accommodation arrangement ends if a Merton compliant age assessment later finds that an individual is not a child. The local authority should be clear about the status of those going missing from accommodation "without prejudice", prior to a Merton compliant age assessment being conducted, and whether or not they are regarded as missing from care.

5.1.10 There should be a presumption that a UASC will retain their looked after status until their 18<sup>th</sup> birthday unless they are able to return home or to a safe third country and safe arrangements can be made for their return.

## **5.2 Interpreters and information for service users**

5.2.1 Language and cultural barriers present additional challenges both to service users and professionals seeking to provide assistance. This is particularly true where services are required outside normal working hours.

5.2.2 Wherever possible or practicable the service of independent DBS checked interpreters - directly or indirectly - should be available to service users, professional staff and service providers at appropriate/key times when significant issues or steps or service arrangements are considered.

5.2.3 Wherever possible and practicable written information - using a prepared pro-forma in their language of choice - should be available to UASC explaining and providing core details regarding decisions made and interim services being provided to them and by whom.

## **5.3 Models of emergency accommodation provision and outside normal working hours responses**

5.3.1 The service arrangements for receiving and supporting UASC in each Local Authority may vary.

5.3.2 A Government review of existing models of emergency accommodation provision - Commissioning, Delivery and Perceptions of Emergency Accommodation for Young Runaways - aims to support the development of local, regional and sub-regional commissioning and provision of emergency accommodation.

5.3.3 However, it is up to local authorities to decide on the most appropriate and effective form of emergency accommodation provision in their area and develop a commissioning strategy.

## **5.4 Service planning and commissioning arrangements**

5.4.1 The random incidence of newly arrived UASC poses difficulties in service planning and provision - particularly outside of normal working hours - and the method by which emergency accommodation or supported accommodation is organized is a key issue.

5.4.2 Accommodation or supported accommodation may need to be provided prior to (or following) a Merton compliant age assessment being conducted and placement decisions need to take account of assessed or perceived age.

5.4.3 Local authorities should rely less on ad hoc arrangements in favour of "in-house" or commissioned accommodation or supported accommodation arrangements using preferred individual providers (or within a consortium arrangement) meeting an agreed/prescribed service specification in line with "Every Child Matters" outcomes.

5.4.4 Service specification and contracts should stipulate clear service standards - including reporting arrangements for missing children - and contract monitoring arrangements.

5.4.5 EAST Region authorities should consider using a common service specification and/or consortium arrangement.

## **5.5 Service requirements**

5.5.1 It is important that, as far as practicable, accommodation or supported accommodation is genuinely available in an emergency and can be accessed by Children and Young People's Services (particularly the Emergency Duty Team) for a child in need at any time of the day or night.

5.5.2 The accommodation/supported accommodation provider should be prepared and able to receive and meet the presenting needs of a newly arrived child until such time as a substantive assessment of age and need can be conducted.

5.5.3 The preferred accommodation should be a residential or foster placement provision or, where it is regarded as an appropriate alternative, staffed supported accommodation or shared social or private sector housing with defined support arrangements.

## **5.6 Bed & Breakfast**

5.6.1 Bed and Breakfast (B&B) accommodation is not an appropriate place for any child to stay unaccompanied and should never be used for unaccompanied children aged 15 or under.

5.6.2 No 16 or 17 year old should be placed in B&B accommodation by (housing services or) children's services, except in an emergency, where B&B accommodation is the only alternative to "rooflessness". In these exceptional cases, B&B accommodation should be used for the shortest time possible and support must be offered by Children and Young People's Services or delegated provider to the young person during their stay.

## **5.7 Transport to placement**

5.7.1 It is usual for Children and Young People's Services to make the arrangements for the transportation of the child to a placement. This may mean directly undertaking the task or delegating the task to the accommodation/supported accommodation provider or to an approved transport provider. It is the responsibility of Children and Young person's services to ensure the child is accompanied to the accommodation.

5.7.2 Where appropriate and subject to policing requirements at the time the Police may be asked to assist. However, the primary responsibility rests with Children's Services.

## **5.8 Interim services**

5.8.1 The accommodation/supported accommodation provider should - based upon observation and information provided by the referrer and any relevant information

provided by Children and Young People's Services - ensure a child's immediate needs for shelter, food (and perhaps additional clothing) and access to medical services are met. As far as practicable access to interpreter services and basic information should be provided.

5.8.2 The accommodation/supported accommodation provider should be able to provide care or support and maintain regular contact with a newly arrived child particularly during periods outside of normal working hours including weekends and bank holidays when statutory agencies may be operating on a "limited service" basis.

5.8.3 The accommodation/supported accommodation provider should be able to contact Children and Young People's Services (day time and Emergency Duty Teams) and provide appropriate information and details to the Police where there is a perceived risk of a child going missing or when a child is known to be missing (or where a child goes missing but returns).

5.8.4 Children and Young People's Services should ensure that a clear reporting arrangement is in place and systematically used to notify and record UASC missing from care.

## **5.9 Practice note**

5.9.1 Older children (including 16 and 17 year-olds) who run away or go missing are not necessarily any less vulnerable than younger children and they are likely to need just as much support.

## **5.10 Age disputed cases**

5.10.1 Age disputed cases should be provided with accommodation or supported accommodation services until such time as a Merton compliant age assessment can be conducted. This service may be offered as accommodation "without prejudice" which means it is offered as a temporary measure until the status of the individual is confirmed and further service decisions can be made.

## **5.11 Age disputed case confirmed as a child**

5.11.1 If an age disputed case is confirmed as a child the local authority should continue to provide S20 services.

## **5.12 Age disputed case confirmed as an adult**

5.12.1 If an age disputed case is later confirmed as an adult the local authority Children and Young People's Services should discontinue S20 services and make an immediate referral to the Home Office ICE Team to arrange for their detention. This may require a return to custody by Children and Young People's Services pending collection by the UKVI Detention Services.

5.12.2 These steps should be explained to the adult who should understand that responsibility for their future care and support now transfers to UKVI.

5.12.3 Arrangements need to take account of individual circumstances including the service user response, the accommodation or supported accommodation environment from where they may be collected and should address potential issues of risk to health and safety to other service users, professional staff or service providers.

### **5.13 Relocation**

5.13.1 The provision of alternative accommodation in other areas outside of the responsible local authority may provide additional protection to children at risk from traffickers. This option should be actively considered for those known to be at high risk.

5.13.2 EAST authorities should convene a working group to consider inter-authority arrangements.

## **6. A sub-protocol outlining a unified response to trafficking and a risk assessment toolkit to identify the victims of trafficking**

### **6.1 Action to safeguard and promote the welfare of trafficked children**

6.1.1 Any agency or individual practitioner or volunteer who has a concern regarding the possible trafficking of a child should follow the guidance set out in “Working Together to Safeguard Children (2015)” and “What to do if you’re worried if a child is being abused (2015)”.

6.1.2 “Safeguarding children who may have been trafficked” (2011) is intended to help agencies and their staff to safeguard and promote the welfare of children who may have been trafficked. It is supplementary to, and should be used in conjunction with, “Working Together to Safeguard Children” (2015).

6.1.3 If they suspect a child may have been trafficked, an early point of contact should be UKHTC who can provide 24/7 advice and signpost to other services. Contact should be made with the local authority Children and Young People’s Services or local Police for the area in which the child is currently residing or found. They may also contact the NSPCC Child Trafficking Advice and Information Line for advice.

### **6.2 Child trafficking**

6.2.1 Child trafficking into, within and from the UK has become a highly organized crime. It is difficult to detect.

6.2.2 Children from abroad may enter or pass through the country either as accompanied or unaccompanied children, without coming to the attention of the authorities, as not all trafficked children apply for asylum and not all asylum-seeking children who are trafficked are unaccompanied.

6.2.3 Trafficking involves adults aiding children to get to the UK and receiving them or contacting them some time after arrival for the purpose of their exploitation.

## **6.3 Definition**

6.3.1 The Palermo Protocol provides the following widely accepted definition of “trafficking”:

“Trafficking in persons is an act of recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”

## **6.4 Council of Europe Convention on Human Trafficking**

6.4.1 The Council of Europe Convention on Action Against the Trafficking in Human Beings was approved by the UK government on 17 December 2008 and entered into force in the UK on 1<sup>st</sup> April 2009.

6.4.2 The purpose of the convention is to prevent and combat trafficking and to safeguard the rights of victims. The UK child care and child protection framework is compliant with the Convention.

6.4.3 One of the key factors in complying with the convention is the introduction of a national referral mechanism for identifying and protecting victims of trafficking.

## **6.5 National Referral Mechanism (NRM) and Competent Authorities (CA)**

6.5.1 The National Referral Mechanism (NRM) - effective from 1<sup>st</sup> April 2009 - is intended to support agencies and their staff to safeguard and promote the welfare of children who may have been trafficked.

6.5.2 The NRM provides a framework within which public bodies such as the criminal justice agencies, the Home Office, local authorities and third sector partners can work together to identify individuals who may be victims of trafficking to designated “Competent Authorities” who will work with partners to make an assessment.

6.5.3 The competent authorities are a central multi-agency Competent Authority based in the UK Human Trafficking Centre (UKHTC) and linked but separate Competent Authority in UKVI.

6.5.4 Front - line staff in any public body and government funded third sector working within the Local Safeguarding Children Boards (LSCB) framework (or their equivalent) should refer all suspected cases of human trafficking to the Competent Authority (CA) for consideration and decision.

6.5.5 Cases must be referred using a specially designed NRM referral form which incorporates a matrix of evidence based indicators established through research into child trafficking (see below).

[www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms](http://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms)

## **6.6 Decisions**

6.6.1 The competent authority will then decide on 'reasonable grounds' whether or not the child is a victim of trafficking and confirm later with a 'conclusive grounds' decision.

6.6.2 Where a CA finds “reasonable grounds” to believe someone is a victim of trafficking, they will be granted a 45 day period of extendable recovery and reflection during which time they can access accommodation and support and will not be removed from the country. Victims may then be granted a renewable residence permit for a minimum of one year.

6.6.3 EAST regional authorities should consider how accommodation and support can be arranged.

## **6.7 Practice and Risk Assessment Tool**

6.7.1 The Home Office and DCSF in partnership with the Child Exploitation and Online Protection Centre (CEOP) and the Association of Chief Police Officers (ACPO) and the London Safeguarding Children Board developed an assessment tool to assist professionals in this complex process of victim identification. The assessment tool is based on one already in use in the London Borough of Harrow and was developed following extensive consultation with expert social work and other practitioners. The toolkit is available at [http://www.londonscb.gov.uk/files/2010/trafficking/london\\_safeguarding\\_trafficked\\_children\\_tools\\_mar\\_2011.pdf](http://www.londonscb.gov.uk/files/2010/trafficking/london_safeguarding_trafficked_children_tools_mar_2011.pdf)

6.7.2 From the information collected, the practitioner should complete a referral form summarizing the evidence and forward this to the Competent Authority.

6.7.3 All such NRM referrals should come from (or via) a nominated lead professional (or representative) in local authority Children and Young People’s Services acting on behalf of the Local Safeguarding Children Board. The lead professional should establish a point of contact with their partner agency counterparts and with the Competent Authorities.

## **6.8 Practice Guidance**

6.8.1 At all times the NRM should be used in conjunction with the Government’s statutory guidance “Working Together to Safeguard Children” (2015) and “Safeguarding children who may have been trafficked” (2011).

## **6.9 Local Authority Children and Young People’s Services - service arrangements**

6.9.1 Some local authorities have asylum teams who have responsibility for families, single adults and unaccompanied young people for whom there are no concerns in addition to their migrant status.

6.9.2 Where there are specialist asylum teams in place there should be a clearly agreed understanding with other Children and Young People’s Services teams regarding service arrangements and respective responsibilities.

## **6.10 Local Authority Children and Young People's Services - specific point of contact**

6.10.1 Local Authority Children and Young People's Services (and colleague agencies) should identify a lead professional as a specific point of contact and disseminate their contact details to partner agency counterparts.

## **6.11 Local Safeguarding Board Action – Missing Children's Panel**

6.11.1 The Local Safeguarding Board should consider establishing a 'Missing Children's Panel' to review and risk assess all missing children cases, including UASC, on a regular basis. The assessment should include an evaluation of whether a child that has gone missing has been trafficked or internally trafficked.

## **6.12 Data collection and reporting**

6.12.1 The Local Authority Children and Young People's Services lead contact should oversee and monitor NRM referrals and outcomes as part of the data collection and reporting arrangements for National Indicator 71 (Missing from Home and Care).

6.12.2 The lead professional should ensure that a baseline report of missing UASC and analysis is produced and regularly updated for the Missing Children Panel.

## **6.13 Multi-agency working group - trafficking**

6.13.1 A multi-agency working group - including the Home Office, UKHTC and CEOP - should be developed in each authority to identify strategic and operational aims and issues connected with trafficking. This group should do the following:

- Strengthen consultation and liaison opportunities between the Home Office ICE Teams, Police and Children and Young People's Services and other key organizations (particularly the NSPCC Child Trafficking Advice Centre ) to exchange information, manage and monitor missing scenarios more effectively
- Monitor service demands and trends
- Develop policy and practice
- Collect and manage key data
- Raise awareness of trafficking amongst all agencies as part of a preventative strategy
- Develop and maintain a training plan for key managers, practitioners and service providers
- Develop the Home Office involvement in the local authority Local Safeguarding Children Board
- Take account of local, regional and national issues including asylum reform proposals
- Identify areas for service development including a reciprocal "relocation" arrangement for children and young people who need alternative accommodation outside of the host authority

## **6.14 Information, awareness raising and training**

6.14.1 Information, awareness raising and training opportunities regarding trafficking - specifically including the National Referral Mechanism and Competent Authorities - should be disseminated across Children's Services, partner agencies and voluntary organizations in each authority.

6.14.2 Specific multi-agency training opportunities should be developed with accredited organizations with acknowledged training expertise and made available to those front line staff most likely to encounter children at risk of being trafficked.

6.14.3 The "Practitioner's Quick Guide" developed by Suffolk Safeguarding Children Board offers accessible information and other authorities may wish to adopt a similar format.

### **6.15 UK Human Trafficking Centre telephone (24/7) 08447782406**

**6.15.1 UKHTC can provide 24/7 advice and signpost to other services. Website address <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre>**

### **6.16 NSPCC child trafficking advice centre line (0808 800 5000)**

6.16.1 The NSPCC child trafficking advice and information line (CTAC) is an invaluable resource available to children's practitioners who suspect a child may have been trafficked.

6.16.2 Further information can be found at the following web link:  
<http://www.nspcc.org.uk/services-and-resources/services-for-children-and-families/child-trafficking-advice-centre-ctac/>

### **6.17 ECPAT (UK)**

6.17.1 An e-learning tool kit financed by the Home Office and developed by ECPAT (UK) provides practitioners with an additional resource to improve their skills in identifying and taking appropriate action to safeguard trafficked children.

6.17.2 Further information can be found at the following web link:  
<http://course.ecpat.org.uk>

### **6.18 Children and Young People's Services - continuing responsibility**

6.18.1 Local Authority Children and Young People's Services remain responsible for assessing and providing for the needs of all vulnerable children including those trafficked or at risk of being trafficked.

6.18.2 The location of a child should not be divulged to any enquirer until their identity and relationship with the child has been established, if necessary with the help of Police and the Home Office.

## **6.19 Addressing concerns about trafficking with children and young people**

6.19.1 Given the circumstances in which potentially trafficked children and young people present to local authorities, it will be extremely important that any needs assessment and related risk assessments are sensitively managed.

6.19.2 Assessments should be carefully planned and the involvement of or consultation with NSPCC should be considered.

6.19.3 Children who are trafficked may have many reasons not to disclose information about their experiences and it may be difficult to judge whenever a child will be willing to disclose information about their experience. However age assessors and practitioners working with them may need to indicate at an early stage any concerns that they may have been trafficked and how steps may be taken to protect them.

6.19.4 An assessment of risk should establish relevant information about the child's background, their reasons for coming to the UK and vulnerability to the continuing influence/control of traffickers.

6.19.5 The assessment should be a systematic step and consolidated within a child's Care Plan and Pathway Plan.

## **6.20 Education Services**

6.20.1 Children trafficked into the country may be registered at a school for a term or so, before being moved to another part of the UK or abroad. This pattern of registration and de-registration may be an indicator that a child has been trafficked. Schools therefore need to be alert to such patterns.

6.20.2 If a member of the school staff suspects that a child may have been trafficked, they should act immediately to inform the senior member of staff with designated responsibility for child protection and ensure that the police or local authority Children and Young People's Services are contacted immediately.

## **6.21 Health Services**

6.21.1 Children who need health care may be seen at Accident & Emergency services, Walk-in Centre, Minor Injury Units, Genito-Urinary Medicine (GUM) clinics and by primary care services. Reception should be alert to inconsistencies in addresses, deliberate vagueness and children or carers being unable to give details of next of kin, names, telephones or other personal details.

## **6.21 Youth Offending Services (YOS)**

6.21.1 If a YOS practitioner suspects that a child may have been trafficked, safeguarding procedures should be followed immediately, and the local authority Children and Young People's Services and Police should be contacted.

6.21.2 The use of a child in a criminal enterprise is a form of child abuse.

6.21.3 Staff working in Youth Offending Service teams may encounter children held in custody for a criminal offence and who have or may have been trafficked.

6.21.3 In these circumstances YOS should contact Children and Young People's Services UASC to ensure that a visual age assessment can be conducted within the holding time frame.

6.21.4 In cases where the visual assessment indicates the individual is more likely to be a child, then consideration should be given for their release into the care of Children's Services.

6.21.5 Where a child has been detained and charged with criminal offences, local arrangements should be made for individual case bail considerations - particularly if there is risk of absconding before a full assessment can be made and where attendance at court is compromised.

6.21.6 The Code for Crown Prosecutors issued by the CPS gives policy guidance on prosecuting cases involving children and young people as victims and witnesses of crime and, in appropriate circumstances, as defendants.

6.21.7 There are specific provisions in the Code to ensure that young people are not inappropriately criminalised.

## **6.22 Private Fostering**

6.22.1 Parents and private fostering foster carers are required to notify the local authority of a private fostering arrangement at least six weeks before the private fostering arrangement is to begin; or where the private fostering arrangement is to begin within six weeks, immediately.

6.22.2 Many private fostering arrangements are not notified to the local authority for a variety of reasons, not all of them associated with a risk of serious harm.

6.22.3 Identifying a child who is privately fostered is not the same as identifying a child who has been trafficked. However, some children in private fostering arrangements are vulnerable to being exploited in domestic servitude, other forms of forced labour, or even to sexual exploitation. It is therefore important to consider whether a carer, whether or not they present as a relative, is maintaining a private fostering arrangement in order to exploit a child for their own gain.

## **6.23 Adults claiming a family connection to a child**

6.23.1 Where adults present in this country claim a family connection to a child, then the local authority Children and Young People's Services should take steps to verify the relationship between the child and these adults and exercise due caution in case they are a trafficker or a relative colluding with trafficking or exploitation of the child.

6.23.2 Anyone approaching the local authority and claiming to be a potential carer, friend, member of the family etc, should be investigated by the local authority, the Police and the Home Office. Normal procedures for re-uniting a child with their family should be followed.

6.23.3 Where a child may have been trafficked, it will be necessary to ensure that a risk assessment takes place prior to re-unification - establishing that the adult concerned is who they say they are and is able to keep the child safe and exercise responsibility for their care.

## **7. A sub-protocol outlining a unified response to UASC who go missing from care**

This section of the protocol should be read in conjunction with the DCSF guidance: “Statutory guidance on children who run away or go missing from home or care” (DfE January 2014).

### **7.1 Context**

7.1.1 UASC in care and missing from care may be particularly vulnerable to trafficking and there is a body of research to suggest that this is the case in terms of national trends.

7.1.2 Of the 2,744 potential victims of trafficking reported in 2013, 602 (22%) were children at the time of exploitation. This represents a 10% increase on the number of children encountered in 2012<sup>3</sup>.

7.1.3 In November 2009, a Care Leavers Association survey of 202 local authorities across the UK revealed that at least 145 children and young people had gone missing from care over the previous 12 months. Ninety percent of those missing were UASC which raises the concern that - even whilst looked after - many UASC still remain at risk and may have become victims of trafficking<sup>4</sup>.

7.1.4 Children’s Services, together with partner agencies, should develop a strategy for supporting UASC looked after and care leavers which takes into account the needs of those at risk, especially those suspected of being trafficked, including safe accommodation, support and protection.

### **7.2 Children’s Services**

7.2.1 In the event that a UASC goes missing, the local authority “Missing from Care” procedures and reporting requirements should be followed.

### **7.3 For UASC the following additional steps and considerations are required:**

7.3.1 Children and Young People’s Services should register that the child has gone missing on the National Register for Unaccompanied Asylum Seeking Children. This database should be checked regularly to see whether the child has appeared in another authority.

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<sup>3</sup> <http://www.nationalcrimeagency.gov.uk/publications/399-nca-strategic-assessment-the-nature-and-scale-of-human-trafficking-in-2013/file>

<sup>4</sup> Care Leavers Association: *Missing without a trace: 145 from care go missing in the last year* (November 2009)

7.3.2 Children and Young People's Services should notify the Home Office Immigration Compliance and Enforcement Team and UKVI Case Owner, if one is appointed, with 24 hours of the child being considered 'missing from care', regular contact should be maintained to ensure that the local authority is informed if the child has been detained or returned to their country of origin by the Home Office.

7.3.3 Children and Young People's Services should notify the child's legal representative if one is appointed.

## **7.4 Police Action**

7.4.1 Notification of all outstanding missing persons should be sent by the Police to the Police National Missing Persons Bureau (PNMPB) within 24 hours of the child going missing.

7.4.2 The Police will follow the guidance "The Management, Recording and Investigation of Missing Persons"<sup>5</sup> whereby:

- Every missing persons report should be assessed, to identify the level of risk (high, medium or low) to the missing person
- The response should be appropriate to the level of risk
- The risk assessment should be continuously reviewed
- Children who go missing from care are vulnerable and the level of risk does not diminish because of frequency of absence

7.4.3 It is for the Police to advise the media regarding a child missing from the care of the local authority.

## **7.5 Safe and Well Check (Police)**

7.5.1 If a child or young person returns after a missing episode, the Police should carry out a 'Safe and Well Check' at the earliest opportunity to check for any indications that the young person has suffered harm; where and with whom they have been; and to give them an opportunity to disclose any offending by, or against, them.

7.5.2 Interviews with children found to be trafficked or at risk of being trafficked may, as well as providing support to victims, offer valuable intelligence to the Police and the Home Office giving potential prosecution opportunities against traffickers.

## **7.6 Return interviews (Children's Services)**

7.6. Inform Home Office ICE Team and Case Owner, if one is appointed, that the child has returned.

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<sup>5</sup><http://library.college.police.uk/docs/college-of-policing/Interim-Missing-Persons-Guidance-2013.pdf>

7.6.1 After a Safe and Well Check had been made Children and Young People's Services should arrange for a Return Interview to be undertaken with the child (or young person).

7.6.2 Children and young people should be made aware, in a culturally sensitive way, of the concerns that Children and Young People's Services have about them being trafficked and they should be informed of their rights to protection.

7.6.3 The return interview should be carefully planned and the involvement of or consultation with NSPCC should be considered.

7.6.4 The event of a missing child or young person now returning may be indicative of children/young adults being abandoned when no longer of value to the adults (traffickers) controlling them.

7.6.5 Now being supported again by a local authority it is possible they may be more prepared to share their experiences than when first looked after.

7.6.6 The Return Interview and actions that follow from it should:

- identify and deal with any harm the child has suffered - including harm that might not have already been disclosed as part of the Safe and Well check (his/her medical condition should be discussed and any need for medical attention assessed)
- Understand and try to address the reasons why the child or young person ran away.
- Try to prevent it happening again.

7.6.7 It is good practice that this interview takes place within 72 hours of the young person being located or returning from absence. It is especially important that a Return Interview takes place when a child:

- has been missing for over 24 hours;
- has been missing on two or more occasions;
- has engaged (or is believed to have engaged) in criminal activities during their absence;
- has been hurt or harmed whilst they have been missing (or this is believed to have been the case);
- has known mental health issues;
- is at known risk of sexual exploitation; and/or
- has contact with persons posing risk to children.

## **7.7 Young people missing from Leaving Care Services**

7.7.1 Where a looked after child remains 'missing' up to the age of 18 years old, local authorities should decide whether or not to retain their details on the missing children database.

7.7.2 Young people who go missing after their 18<sup>th</sup> birthday should be recorded as missing from leaving care services.

## **7.8 OLA/Out of Area**

7.8.1 Where children placed out of their local authority go missing it is essential that the necessary liaison between the Police and professionals in the area of placement, and in the responsible authority, is well managed and co-ordinated, so that issues of logistics and/or distance do not delay or interfere with the actions of planning to locate the child. Notification should be made of the placement to the 'host' local authority (where appropriate) and to the local Police force.

### **Local Safeguarding Children Boards – protocols and procedures concerning safeguarding children and UASC**

**Missing from Care protocols - please see individual local authority LSCB websites.**

**DH**

## **Annexes:**

A: "A collaborative approach for dealing with immigration offenders encountered by Police forces: Standard Operating Procedure"; UKBA & Eastern Region Police Forces; July 2009

B: List of Regional Children and Young People's Services teams and Immigration Compliance and Enforcement teams; revised October 2015

C: Age Assessment Information Sharing Pro-forma; revised March 2015

## **References:**

"Collection of Missing Persons Data: A code of practice for the Police Service on collecting and sharing data on missing persons with public authorities"; National Policing Improvement Agency; 2009

<https://www.gov.uk/government/publications/collection-of-missing-persons-data-a-code-of-practice>

"Commissioning, Delivery and Perceptions of Emergency Accommodation for Young Runaways"; Department for Children, Schools and Families; 2009

<http://www.york.ac.uk/inst/spru/pubs/pdf/emergency.pdf>

"Interim Guidance on the Management, Recording and Investigation of Missing Persons; Association of Chief Police Officers"; 2013

<http://library.college.police.uk/docs/college-of-policing/Interim-Missing-Persons-Guidance-2013.pdf>

Home Office guidance on human trafficking:

<https://www.gov.uk/government/publications/victims-of-human-trafficking>

"London Safeguarding Trafficked Children Toolkit"; London Safeguarding Children Board; 2011

[http://www.londonscb.gov.uk/files/2010/trafficking/london\\_safeguarding\\_trafficked\\_children\\_tools\\_mar\\_2011.pdf](http://www.londonscb.gov.uk/files/2010/trafficking/london_safeguarding_trafficked_children_tools_mar_2011.pdf)

"Safeguarding children who may have been trafficked"; DfE & Home Office; 2011

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"Statutory guidance on children who run away or go missing from home or care"; DfE; January 2014

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“What to do if you’re worried a child is being abused”; HM Government; 2015  
<https://www.gov.uk/government/publications/what-to-do-if-youre-worried-a-child-is-being-abused--2>

“Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children”; HM Government; 2015  
<http://www.workingtogetheronline.co.uk/index.html>