

# ***SAFEGUARDING CHILDREN AND YOUNG PEOPLE FROM ABROAD***

**Safeguarding Children  
North East England  
Regional Inter-agency Procedures**

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In order to produce the documents, a regional project was initiated and sustained by a multi-agency partnership working across the twelve local authority areas in the North East of England. Extensive inter-agency consultation took place on the draft documents, with the final versions being amended on the basis of the responses.

Thanks are due to everyone involved, either in the project or reading the drafts and responding to them. Particular thanks for producing this document go to North Tyneside Local Safeguarding Children Board.

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## **PREFACE**

### **Status of the Document**

The procedure in this document applies to all staff of agencies represented on the Area Child Protection Committees (ACPCs) and Local Safeguarding Children Boards (LSCBs) in the North East of England. Staff of these agencies should:

- Comply with the procedures contained in this document, unless there are exceptional reasons, which should be recorded.
- Take account of the rest of the contents.

ACPCs/LSCBs and their constituent agencies should ensure that any other inter-agency or internal procedures/guidance/protocols are consistent with this document.

### **Principles**

- All children and young people should be safe and able to develop to their full potential.
- The needs of the child or young person are paramount and should underpin all work to safeguard children.
- All children and young people deserve the opportunity to achieve their full potential.
- All children and young people have the right to be safeguarded from harm and exploitation whatever their:
  - Race, religion, nationality, first language or ethnicity
  - Gender or sexuality
  - Age
  - Health, physical or learning disability
  - Location or placement
  - Criminal behaviour, where this applies
  - Political or immigration status.
- Responsibility for the protection of children and young people must be shared because they are safeguarded only when all relevant agencies and individuals accept responsibility and co-operate with one another.
- Statements or allegations about abuse or neglect, made by children and young people, must always be taken seriously.
- The wishes and feelings of children and young people, which are vital elements in assessing risk and formulating protection plans, must always be sought and given weight, according to the level of understanding of the child or young person.
- No child or young person should be allowed to feel responsible for actions taken by professionals, nor for the outcomes.
- During enquiries, the involvement and support of those who have parental responsibility for, or regular care of a child or young person, should be encouraged and facilitated, unless doing so compromises that enquiry or the immediate or long term welfare of the child or young person.

“ The basic requirement that children are kept safe is universal and cuts across cultural boundaries. Every child living in this country is entitled to be given the protection of the law, regardless of his or her background. Cultural heritage is important to many people, but it cannot take precedence over standards of childcare embodied in law. Every organisation concerned with the welfare and protection of children should have mechanisms in place to ensure equal access to services of the same quality, and that each child, irrespective of colour or background, should be treated as an individual requiring appropriate care.”

**Victoria Climbié Inquiry Report 2003**

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## **1. LEGISLATION - MAIN ACTS**

Children Act 1989 Section 17

Children Act (1989) Section 20

Children Act 1989 Section 47

Children Act (1989) Section 20

Children Act (1989) Section 67

Children Act 2004

Nationality, Immigration and Asylum Act 2002 S.54

Nationality, Immigration and Asylum Act 2002 S.55

Other Relevant Legislation and Guidance

Adoption and Children Act 2002

Children (Leaving Care) Act 2000

Sexual Offences Act 2003

See Appendix 1 for further information.

The Children (Private Arrangements for Fostering) Regulations 2005

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## **2. INTER-AGENCY PROCEDURES**

### **2.1 Key Principles**

Practitioners should never lose sight of the fact that children and young people from abroad are children first, which may be forgotten in the face of legal and cultural complexities.

Assessing the needs of these children and young people is only possible if their legal status, background experiences and culture are understood, including the culture shock of arrival in this country.

Practitioners should be prepared to actively seek out information from other sources and should ensure they do not 'interrogate' the child or young person.

Children or young people who arrive to be with carers who are not their parents and children or young people who are unaccompanied should be assessed as a matter of urgency, as they may be very geographically mobile and as a result their vulnerabilities may be greater.

In any assessment or enquiries by Social Services, there is always to be separate discussion with the child or young person, in a setting where, as far as possible, s/he can talk freely and in their first language. This will always entail the services of an Interpreter where English is not the child's first language.

### **2.2 Information Sharing**

Matters of information sharing, confidentiality and data protection are covered in the Government guidance 'What to do if you're worried a child is being abused' (and in the summary version of the same document).

### **2.3 Children and Young People Residing with their Parents**

Whatever the status of a child or family in relation to immigration legislation, there are responsibilities to children and young people in terms of their health, education, welfare and safety. Any practitioner coming into contact with a family from overseas are to satisfy themselves that contact has been made with appropriate Health and Education services for the children or young people. If not, appropriate referrals are to be made. As professionals continue to be involved with families, the children and young people should be seen and their views sought.

**Irrespective of a child or family's immigration status, if it appears at any point that a child or young person is in need, or at risk of significant harm, local arrangements for referrals to Social Services are to be followed without delay.**

*Section 3 of this document must be taken into account during assessment and all relevant factors in Section 3.7 followed.*

### **2.4 Child or Young Person with, or to be with, Adult who is not the Parent**

**If there is an indication that a child or young person has come from overseas and is in the care of an adult who is not the parent, or one whose relationship is uncertain, a referral must be made to Social Services immediately.**

Such children and young people are to be assumed to be in need, unless assessment shows otherwise. Where it is considered there may be a risk of significant harm, a Strategy Meeting is to be held within 24 hours, to share information and plan for the protection of the child or young person.

The Asylum Seekers Team are to be contacted to see if they have any information about the adult(s) concerned or the address. Depending on the level of involvement, consideration should be given to inviting a representative from the Asylum Seekers Team to the Strategy Meeting.

Where assessment/child protection enquiries show that it is not safe for the child or young person to be looked after by the adult concerned, Social Services are to ensure the welfare and safety of the child. This may require Police Protection or Emergency Protection Order or other legal proceedings, whichever will provide the greatest protection.

A core assessment is to be completed as quickly as possible to assist in formulating a longer term plan for the child or young person.

Where the assessment concludes that the child or young person's needs can be met by the adult in question, then legislation, regulations and procedures, to do with private fostering and care by relatives and friends, are to be followed by Social Services and other agencies.

*Section 3 of this document must be taken into account during assessment and all relevant factors in Section 3.7 followed.*

## **2.5 Unaccompanied Children and Young People**

**Children and young people who arrive in the UK alone or who are left at the point of entry by an agent are particularly vulnerable to commercial, domestic or sexual exploitation. All such children and young people are to be referred to Social Services.**

Where such a child or young person is being interviewed by the Immigration Department a Social Worker should attend as an appropriate adult. Thereafter the child or young person becomes the responsibility of Social Services.

*Section 3 of this document must be taken into account during assessment and all relevant factors in Section 3.7 followed.*

## **2.6 Risk of Trafficking**

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 sexual exploitation or domestic servitude' (AFRUN/NSPCC).

It is a rapidly growing global problem and is a violation of human rights affecting all communities. There is evidence that large numbers of children and young people, from different parts of the world, are subject to such exploitation within the UK or that the UK is used as a step in the process, with children and young people arriving here and at a later point being trafficked to another part of the world.

A number of factors identified by the initial assessment may indicate that a child or young person has been trafficked. In all such cases the first priority is to ensure the safety of the child or young person.

- The child or young person may present as unaccompanied.
- Child or young person may go missing.
- Multi use of the same address may indicate that this is a sorting house.
- Contracts, consent and financial inducement with parents may become apparent.
- The child or young person may hint at threats to family in their country of origin.
- Talk of financial bonds and the withholding of documents.
- Befriending of a vulnerable child or young person.
- False hopes of improvement in their lives.

Some children and young people are also trafficked for the purpose of domestic labour. These may be less obvious but may be picked up during a private fostering assessment or because someone notices that a child or young person is not in school. Children and young people who enter the country apparently as part of re-unification arrangements can be particularly vulnerable to domestic exploitation

**If any suspicions are raised that a child or young person is being trafficked, or at risk of this, immediate action to safeguard the child or young person is required. This includes urgent liaison with the Police. Planning of the investigations should be within a Strategy Meeting, for the immediate protection of the child or young person and to address possible crimes having been committed.**

**Any child or young person from abroad who goes missing should be reported to the Police and Immigration Department immediately. Inter-agency procedures in respect of missing children/young people are to be applied.**

## **2.7 Risk of Being Trafficked for Child or Young Person Looked After**

Where a child or young person from abroad becomes the responsibility of Social Services, the degree of risk to the child or young person of possible abduction should be assessed and should inform placement choice. Foster carers/residential staff should have an understanding of the child/young person's situation and of the risk of exploitation and trafficking and be clear about what is expected of them to ensure the safety of the child or young person.

Anyone approaching Social Services and claiming to be a potential carer, friend or member of the family of the child or young person should be thoroughly investigated. The Asylum Seekers Team should be contacted for any relevant information they may have. The possibility that the child or young person is, or may be, vulnerable to exploitation or trafficking must be considered and checked out. Agreement from appropriate Managers and Panels should be sought before allowing the child or young person to transfer to the person's care.

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### **3. INFORMATION TO ASSIST GOOD PRACTICE**

Immigration Legislation impacts significantly on work under the Children Act 1989 to safeguard and promote the welfare of children and young people from abroad. This section 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 etc.

#### **3.1 Status of Children Residing with Parents**

Children and young people from abroad may be in a family where there is a legal right of entry and no concerns are raised for statutory agencies. In this situation, the child or young person and family should receive the same services as UK citizens.

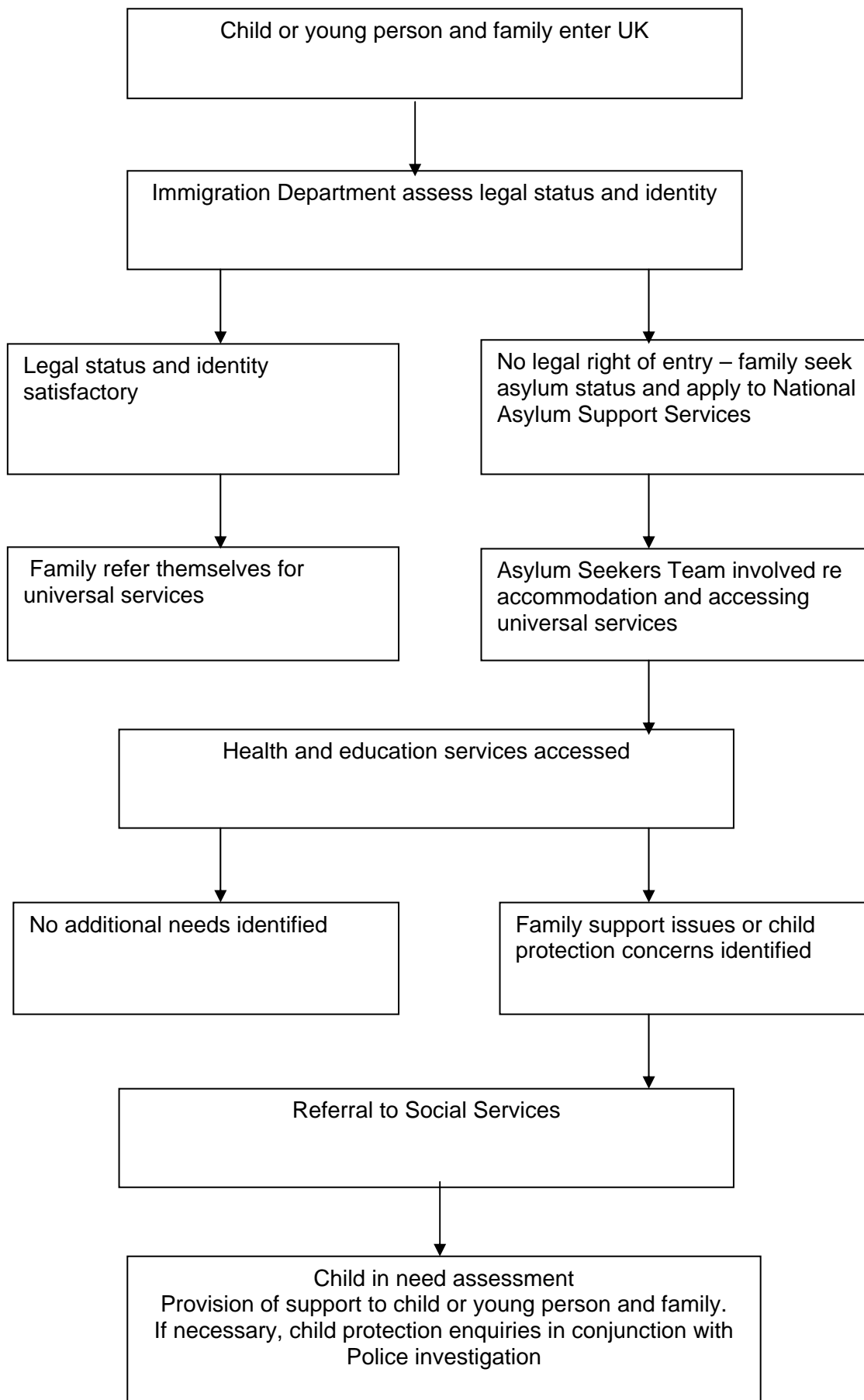
Families who are nationals of the European Economic Area cannot be supported by Social Services except for the provision of return travel and associated accommodation. If such families decide to stay and seek further help, Social Services still have responsibilities towards any child who is in need, including provision of accommodation for the child alone if necessary.

Other children will enter the UK with their families where there is no legal right of entry and the family apply for asylum status. In this situation, the families will be accommodated either by the National Asylum Support Service (NASS) under a local contract, or by the North of England Refugee Service (NERS) which provides emergency accommodation. The Local Asylum Seekers Team is likely to become involved in the provision of accommodation and access to universal services.

Where parents are unable to apply for benefits due to their immigration status, their children should be able to access support from Social Services, under the Children Act 1989, separately from their parents.

See Flowchart 1: 'Child or Young Person with Parents' on following page.

### 3.2 Flowchart 1: Child or Young Person with Parents



### **3.3 Status of Child or Young Person with, or to be with, Adult who is not the Parent**

In some cultures child rearing is a shared responsibility between relatives and members of the community. Adults may bring children and young people to this country who they have cared for most of their lives, or children and young people may arrive to live with adults who have previously cared for them, but who may be unrelated or 'distantly' related. In these situations the adult concerned does not have 'parental responsibility' (See Appendix 1.7 'Parental Responsibility').

Children or young people who arrive in the UK with, or to be with, carers without parental responsibility, may have leave to enter the country or may be in the country unlawfully.

Referral to Social Services may come from Immigration, due to concerns such as:

- The child or young person has false documentation.
- The child or young person is unable to confirm which adult is going to look after them.
- The person seeking to care for the child or young person is not a parent, relative or friend.
- The child or young person fits agreed profiles for those at risk of trafficking or exploitation.

Social Services are required to conduct an immediate assessment (in line with Section 3.7) and work to local inter-agency child protection procedures where necessary to determine:

- Whether arrangements for the child or young person have been made by his/her parents.
- Whether the child or young person is in need of immediate protection.
- Whether child protection (S47) enquiries are necessary.
- Whether legal proceedings are necessary to protect the child.

This may result in an immediate decision that the child or young person be placed by Social Services whilst assessment and enquiries continue, if necessary through Police Protection or obtaining an Emergency Protection Order.

Alternatively the child or young person may go with, or remain with, the adult concerned whilst assessment/enquiries continue.

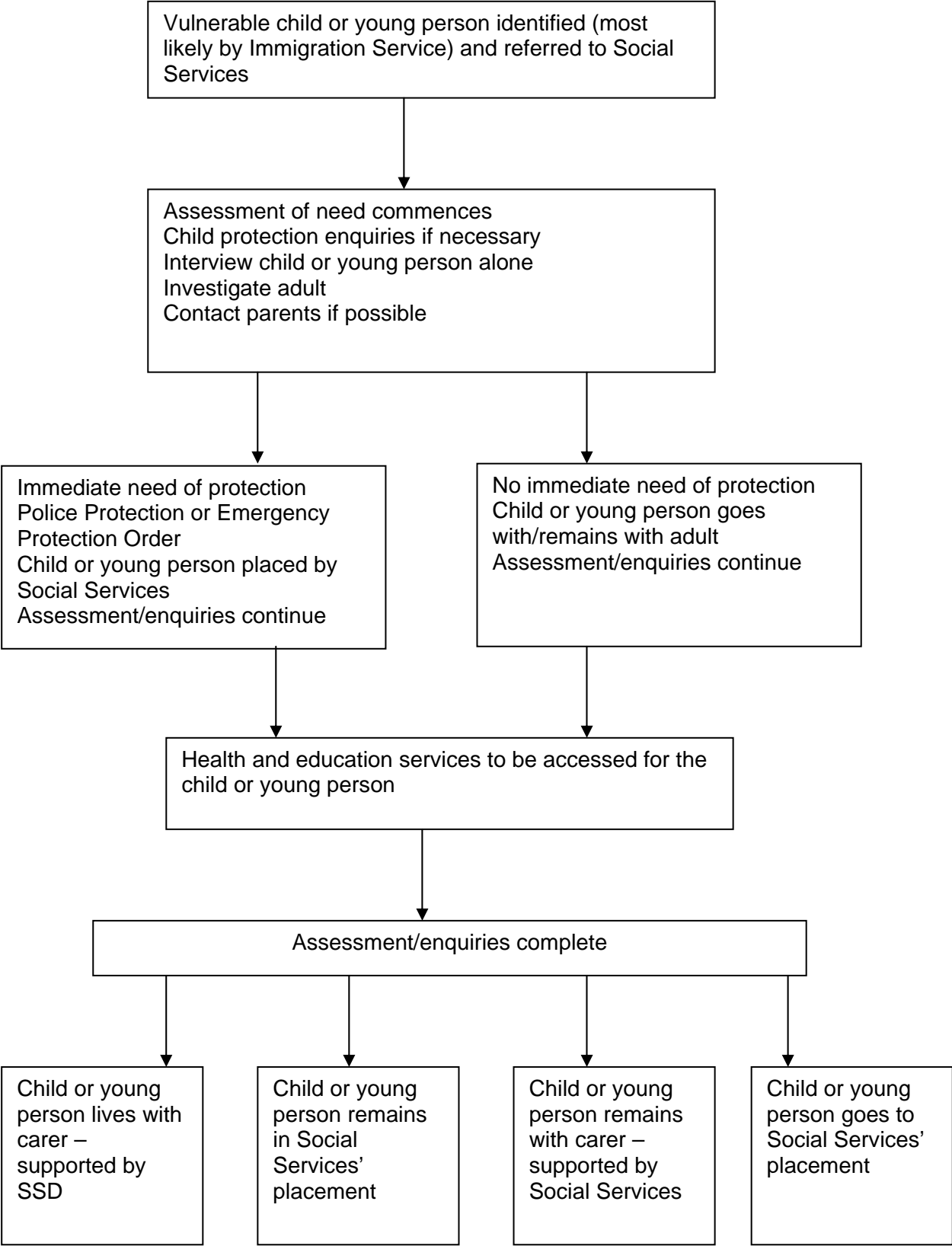
Health and Education services will be accessed for the child or young person at the earliest opportunity.

The outcome of assessment/enquiries will be a decision for the child or young person to either remain or be placed by Social Services or for the child or young person to remain or become looked after by the adult concerned.

Where a child or young person is looked after by a carer who does not have parental responsibility, Social Services are required to apply private fostering regulations (see Appendix 1.4 'Private Fostering') or other regulations which apply to relatives who care for children or young people

See Flowchart 2: 'Child or Young Person with, or to be with, Adult who is not the Parent' on following page.

**3.4 Flowchart 2: Child or Young Person with, or to be with, Adult who is not the Parent**



### **3.5 Status of Unaccompanied Child or Young Person**

A third group of children and young people from abroad are those who arrive in the UK alone or who are left at a port of entry by an agent.

If the Immigration Service deems that the child or young person has no right of entry and the probability is that the person is under 18 years of age, s/he will be classed as an unaccompanied asylum seeking child and will be referred to Social Services.

The child or young person is then the responsibility of the Social Services Department, who will take steps to address any initial health problems and provide emergency accommodation.

The type of accommodation provided will be determined by the age of the child or young person, their perceived vulnerability and any immediate needs that can be identified. Accommodation at this stage may be provided under S20 of the Children Act 1989. This means that these young people will become eligible for leaving care provision.

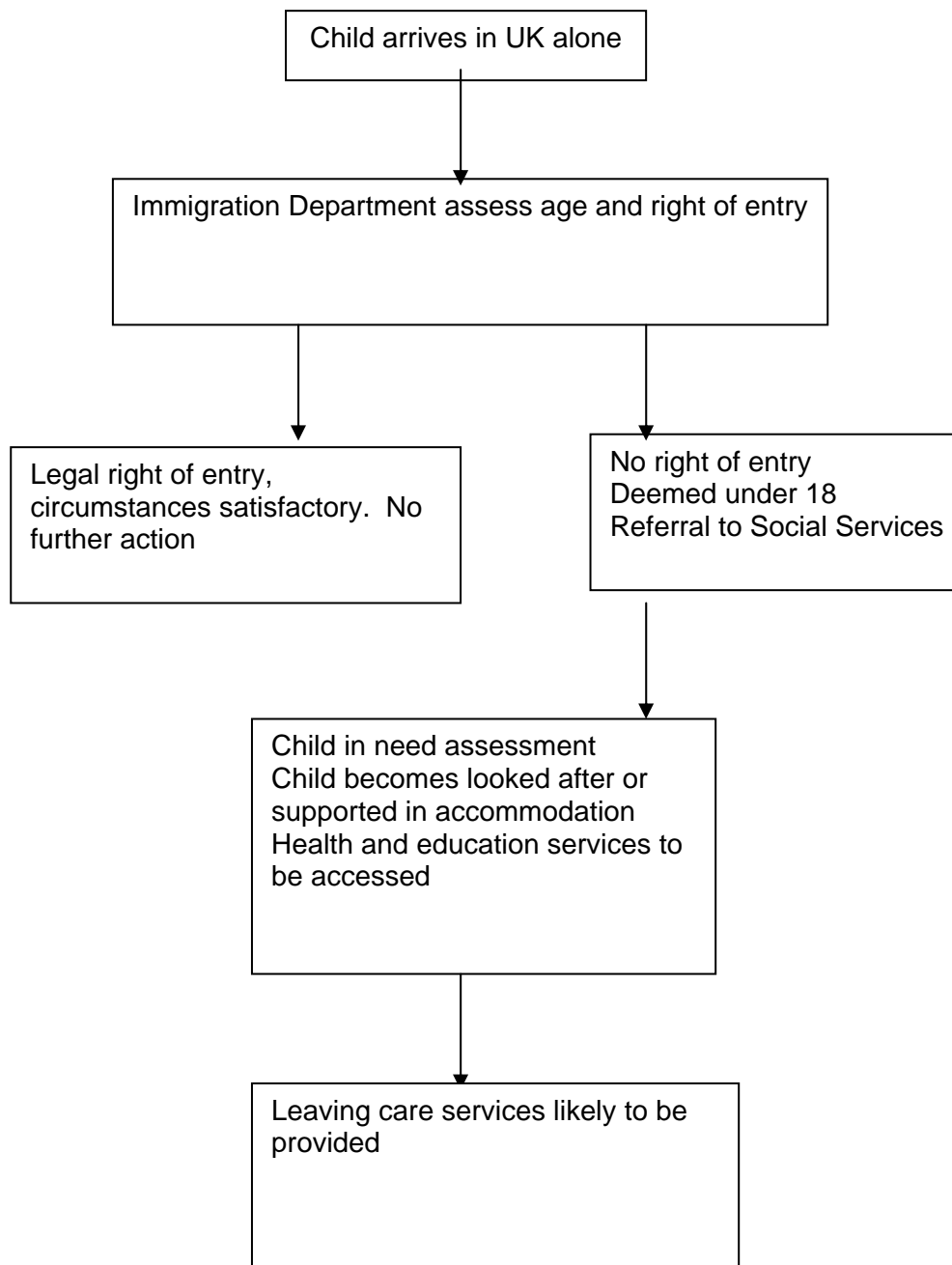
The tasks of the Social Worker include the following.

- An initial assessment, within seven working days.
- Registering the child or young person with a GP and accompanying him/her for the initial health assessment.
- Referring the child or young person (if 16 years of age or under) to the appropriate education service taking into account possible language difficulties.
- Arranging independent legal advice for the child or young person regarding their asylum claim.
- Interviewing the child or young person with an interpreter to establish details about the child's background.
- Following up any contacts the child or young person may have in this country.
- Contacting equivalent agencies in the country of origin and liaising with relevant agencies such as the Red Cross to try and trace parents, if this does not compromise the safety of the child or young person or their family.

The child or young person's needs will be regularly reviewed. If a young person's asylum claim has not been determined by his/her 18<sup>th</sup> birthday, the Social Worker would be expected to assist the young person in applying to the National Asylum Support Service. This is particularly important where services have been provided under S17 of the Children Act and the young person is not entitled to a leaving care service. For asylum seeking young persons who have been placed by Social Services and fulfil the criteria to become an eligible child, a full leaving care service will be provided.

See Flowchart 3: 'Unaccompanied Child or Young Person' on following page.

### 3.6 Flowchart 3: Unaccompanied Child or Young Person



### **3.7 Assessment Factors for Children and Young People from Abroad**

Whenever there is a referral to Social Services about a child or young person from abroad, whether the child or young person is currently in the care of his or her parents, or there is a possible private fostering arrangement or the child or young person is unaccompanied, a child in need assessment is to be undertaken.

The child in need assessment should be multi-agency, led by Social Services and based on the 'Framework for Assessment of Children in Need and their Families' and the supplementary guidance below, as necessary.

#### **3.7.1 Interpreters**

Where a child in need assessment and/or child protection enquiries are being undertaken and the first language of the child or young person is not English, the services of an Interpreter should always be obtained. Interpreters to be used in child protection enquiries and/or interviews with children and young people should be subject to references and CRB checks. It is good practice for the Interpreter to have undertaken child protection awareness training.

Even if the child or young person or adult is reasonably fluent in English, consideration should be given to using an interpreter when dealing with sensitive issues or with issues which will raise cultural differences.

If an Interpreter shares more than a common language, and is professionally trained, they may be a rich source of information about traditions, politics and history of the area from which the child or young person has arrived. They may be able to advise on issues like the interpretation of body language and emotional expression.

Wherever possible, the Interpreter should be interpreting in their first language and in the correct dialect.

The Social Worker should meet with the interpreter to explain the purpose of the assessment, stress that the interpreter is working for Social Services and clarify the following.

- The interpreter's role in translating direct communication between the worker and family members.
- The need to avoid acting as a representative of the family.
- When the interpreter will explain any cultural issues that might be overlooked.

There should be a written agreement regarding confidentiality of information.

#### **3.7.2 Background Checks and Seeking Information from Abroad**

The Victoria Climbié Inquiry Report stressed the need for thorough background checks. This includes:

- Checking with other local practitioners the account given by a parent/carer.
- Checking dates of birth and full names of family, for example, by looking at the passport of the child or young person and/or birth certificate.
- Exploring any discrepancies or inconsistencies.
- Contacting the parent and ascertaining their account of why their child is in the care of another person (where this applies).

Seeking information from abroad should be a routine part of assessment, unless it is likely to put a child or young person or family members at risk. Professionals from key agencies

should be prepared to request information from their equivalent agencies in the country of origin, and any other countries in which the child or young person has lived since, in order to gain as full as possible a picture of preceding circumstances.

Planning in respect of obtaining information from abroad should take place at a multi-agency planning meeting, with clarity about who is going to seek what information, who from and for what purpose.

Information about who to contact can be obtained via the Foreign and Commonwealth Office on 020 7008 1500 or the appropriate Embassy or Consulate based in London. Contact information about Embassies in London can be found on the London Diplomatic List (ISBN 0 11 591772 1 from the Stationery Office on 0870 600 5522) or from the Foreign and Commonwealth Office website [www.fco.gov.uk](http://www.fco.gov.uk)

The Red Cross provides a service for reuniting families. The families involved must give their permission before the service can be accessed. The local contact number is 0191 2737961.

When seeking information from overseas, agencies can also contact the International Social Services who will advise regarding services they are able to offer and whether fees are involved. Contact details are International Social Services, 39 Brixton Road, London SW9 6DD. Tel 0207 7358941 Fax 0207 582 0696 E-mail [issuk@charity.vfree.com](mailto:issuk@charity.vfree.com)

It is worth noting that agencies abroad tend to respond quicker to e-mail requests/faxed requests than by letter. Any e-mails sent should be encrypted to preserve confidentiality. Similarly, the Internet may provide a quick source of information to locate appropriate services abroad.

As would be the case in undertaking checks within the UK, there should be clarity about why an organisation in another country is being contacted and who is responsible for undertaking the task(s).

### **3.7.3 Cultural and Associated Factors**

Throughout any assessment or enquiries, due regard must be given to barriers relating to cultural, linguistic and religious differences and sensitivities arising from the need to seek asylum. Every effort should be made to understand and address such issues.

The needs of children or young people may have to be considered on accounts given by the child or young person and/or family regarding situations about which professionals involved have no experience. Additionally the language, culture and way of life are likely to be unfamiliar.

The impact of other factors on the child or young person and/or adult must be taken into account, such as:

- Past trauma in living conditions and/or the journey.
- Concerns around immigration status.
- Fear of repatriation.
- Anxieties raised by yet another practitioner asking similar questions.
- Lack of understanding of the separate role of Social Services as compared to the Police.
- Shock of arrival.
- Alien culture, system and language, which can affect mood, behaviour and presentation.
- Lack of understanding as to 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.



- Communication difficulties.
- Additional implications for a family of deportation where there is a threat of prosecution.
- Balancing the impact of separation on a child or young person with the likely history of separation/disruption.
- Judgements about child care practices in the context of different cultural backgrounds and experiences.

Past regime/experiences can impact upon the mental and physical health of the child or young person and/or carer. Such experiences can make concerns from authorities about minor injury or poor living conditions seem trivial and this mismatch may add to existing fear and uncertainty.

In such circumstances, reluctance to divulge information should not be viewed automatically as non co-operation.

Practitioners must ensure that they do not have an exclusive focus on the above to the detriment of the welfare and safety of the child.

### **3.7.4 Establishing identity and age of child or young person**

Age is central to the assessment and affects the child/young person'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 European Union countries will have a passport or ID card (usually both). Unaccompanied children or young people very rarely have 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. Such assessment may be compounded by issues of disability. 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 be genuinely not know their age and this can be misread as lack of cooperation. Levels of competence in some areas or tasks may exceed or fall short of expectations of a child or young person of the same age in the UK. The advice of a Paediatrician with experience in considering age may be needed to assist in this or assistance from a Dentist.

### **3.7.5 First Contact**

The quality of the first contact with the child or young person and/or parents/carers is crucial to the engagement with the family and the promotion of trust, which underpins the future support, advice and services.

Open questions are most helpful, with a clear emphasis on reassurance and simple explanations of the role and reasons for assessment. If engagement is good there are more likely to be opportunities to expand on the initial contact, as trust is established.

### **3.7.6 Additional Developmental Factors**

Additional factors to be taken into account include:

- Health, behaviour and social presentation can be affected by trauma and loss.
- Wider health needs may need to be considered including HIV, TB and hepatitis
- Education if any.

- Self-care skills should not be judged by comparing a child or young person of the same age in this country.
- Physical appearance may have been affected by lack of nourishment.
- Perceptions of disability.
- Impact of racism.

### **3.7.7 Additional Parenting Capacity Factors**

Additional factors to be taken into account include:

- War, famine and persecution may make a family mobile.
- The stability of the family unit may be more important than the home.
- The fact that the child or young person may have been given up by a parent may not represent rejection, as the motive may have been to keep the child or young person safe or seek better life chances for them.
- Talking about family may be stressful and painful.
- The importance of the family/community.
- Lack of toys may indicate poverty or different cultural norms.
- Additional issues of parenting a child conceived through rape.

### **3.7.8 Additional Family and Environmental Factors**

Additional factors to be taken into account include:

- The importance of economic and social hardship.
- Family history and functioning may have included the loss of previous high status as well as periods of desolation.

### **3.7.9 Assessment where carer/potential carer is not the parent**

Whereas many carers may be genuine and provide very good care for the children and young people, in other cases children and young people will be with adults who are little known to them or who present a risk. This risk may be directly from the adult, as was the situation with Victoria Climbié (see The Victoria Climbié Inquiry Report 2003) or from commercial, sexual or domestic exploitation.

It is essential to assess the attachment and bonding between the child or young person and the carer/potential carer.

#### ***Contacting the Parent(s)***

Where the carer is not the parent of the child or young person, details of the parent are to be obtained and, wherever possible, contact made with the parent(s) in order to ascertain their account as to why the child or young person is in the care of another person.

It should not be presumed that a parent who is living abroad cannot be contacted unless this has been established by actively seeking to do so.

#### ***Seeing the child or young person alone***

The views of the child or young person should not be presumed to be the same as the carers/parents.

The level of consistency between the account given by the carer/potential carer and that given by the child or young person should be established.

The child or young person should always be interviewed alone (with an Interpreter) in order to establish the following.

- Their understanding of the situation.
- Their knowledge of the carers/potential carers.
- Their relationship with the carers/potential carers.
- Their wishes and feelings.

If there is more than one child or young person, each should be seen on their own.

It is essential that consistency between the account of the child or young person and that of the adult is checked. Someone from the same place of origin should have a similar knowledge of the place, for example.

As it is essential that the interpreter repeats everything that the child or young person says, this should be reinforced with the interpreter if the interviewer has any doubts.

It should also be remembered that the professional is going to be seen as powerful and as such a child or young person may believe that they must 'get it right' when they may not wholly understand the system or the question.

### ***Assessment of the Carers/Potential Carers***

It is essential to assess the suitability of the carer/potential carer and to undertake thorough background checks. This should be with an interpreter when English is not the first language of the child or young person or carers. The carers' knowledge of the background of the child or young person and family should be investigated and an assessment made of their parenting capacity and ability to meet the needs of the child or young person.

In order to ensure that the children or young people are not at risk of exploitation, it is important to establish the relationship between the child or young person and the adult and the quality of that relationship.

In every case involving a carer who does not have parental responsibility, the Social Worker must establish the carer's identity through two or more clear proofs, such as birth certificate and passport and have sight of a current utility bill with address. The adult's immigration status must be confirmed if not a UK citizen.

It should be established as to whether or not the carer or child or young person had any previous contact with this or other local authorities/agencies in the UK and abroad.

The needs of the child or young person have to be considered based on an account given by the child or young person or carers 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.

It is essential to establish the carer's identity and immigrations status and previous contact with other local authorities in the UK and equivalent agencies in countries abroad.

To assist in clarifying the situation, see 'Questions for a Carer/Potential Carer' on following pages.

### 3.7.10 Questions for a Carer/Potential Carer

Whilst being careful to ensure that an interview does not become interrogatory in tone, core questions to be asked include the following.

- How do you know the child - friend/relative?
- What is your relationship and through which parent are you related to the child?
- How long have you personally known the child/family?
- What are the details/names of individual family members?
- Which town or city does the child in your care come from?
- Please describe their family home/surroundings/environment?
- If you have never seen this child before – how do you know this child belongs to your relative?
- Can you tell me why the child has come to this country?
- Did the child have any contact with you prior to their arrival in this country?
- Has the child stayed with anyone else, or in another area in this country, or on the way to Britain?
- Are the child's parents alive or dead?
- If alive, where are the child's parents?
- Do you know why the parents sent their child to Britain and to you?
- Did the parents ask you to look after the child and do you have anything in writing?
- Are the parents aware that the child is with you?
- Are you in contact with the child's parents and if so by what means?
- Would it be possible for us to contact the child's parents?
- Who brought the child into the country?
- Who paid for their passage?
- By which route/transport did they arrive?
- Do they have any other friends or relatives in this country?
- Are you in contact with other friends or relative, if yes please provide their details?
- If yes, why did they not stay with them?
- Which documentation does the child have pertaining to their identity and nationality?
- Do you have a letter from Home Office stating that you are the carer/guardian?

- How did the Home Office decide that you should be the guardian/carer?
- Do you have a partner/husband/wife, if yes, is he/she happy to continue to care for this child?
- Do you have any children? If yes what are their ages and gender?
- How do you think caring for another child for will impact on your own family/finances?
- Does the child have his/her own bedroom?
- What responsibility are you willing to take for the child - i.e. basic essentials/ carer's role/legal responsibility?
- How long are you able to commit yourself to this responsibility?
- What particular needs does this child have?

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## **APPENDIX 1: LEGISLATION – FURTHER INFORMATION**

### **1. Children Act (1989) Section 17**

A child is defined as 'in need' by Section 17 of the Children Act (1989) if:

- s/he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him/her of services or
- his/her health or development is likely to be significantly impaired, or further impaired, without the provision for him/her of such services or
- s/he is disabled.

### **2. Children Act (1989) Section 20**

Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of:

- there being no person who has parental responsibility for him
- his being lost or having been abandoned or
- the person who has been caring for him being prevented (whether or not permanently and for whatever reason) from providing him with suitable accommodation or care.

Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.

### **3. Children Act (1989) Section 47**

Where a local authority has reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm, the authority shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare.

'Harm' is defined as:

- ill treatment, which includes sexual abuse, physical abuse and forms of ill-treatment which are not physical, for example, emotional abuse or
- impairment of health (physical or mental) or
- impairment of development (physical, intellectual, emotional, social or behavioural)

This may include seeing or hearing the ill treatment of another (s120 Adoption and Children Act 2002).

### **4. Children Act (1989) Section 67 Private Fostering**

Under section 67 of the Children Act 1989 a local authority is under a duty to satisfy itself that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted and to ensure that such advice is given to those caring for them as appears to the authority to be needed.

'A privately fostered child' means a child who is under the age of sixteen (eighteen if disabled) and who is cared for, and provided with accommodation in their own home by, someone other than:

- a parent

- a person who is not a parent of his but who has parental responsibility for him or
- a relative.

A child is not a privately fostered child if the person caring for and accommodating him:

- has done so for a period of less than 28 days and
- does not intend to do so for any longer period.

A child is not a privately fostered child while:

- he is being looked after by a local authority;
- he is in the care of any person in premises in which any parent of his; person who is not a parent of his but who has parental responsibility for him; or person who is a relative of his and who has assumed responsibility for his care, is for the time being living;
  - in accommodation provided by or on behalf of any voluntary organisation;
  - in any school in which he is receiving full-time education;
  - in any health service hospital;
  - in any care home or independent hospital;
  - in any home or institution not specified above but provided, equipped and maintained by the Secretary of State.
- in the care of any person in compliance with an order under section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000; or a supervision requirement within the meaning of Part II of the Children (Scotland) Act 1995;
- he is liable to be detained, or subject to guardianship, under the Mental Health Act 1983;
- he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency or he is a protected child.

A child who is a pupil at a school, and lives at the school during the holidays for more than two weeks, is under 16 and none of the above exemptions apply is regarded as a private foster child during that time.

The usual fostering limit applies to private fostering.

A carer, who is disqualified from being a private foster carer or who lives with someone else who is disqualified, cannot privately foster without the consent of the local authority. There is a right of appeal against the refusal of consent.

A local authority is empowered to prohibit a carer from being a private foster carer if they are of the opinion that:

- the carer is not a suitable person to foster a child or
- the premises in which the child is, or will be accommodated, are not suitable or
- it would be prejudicial to the welfare of the child to be, or continue to be, accommodated by that carer in those premises.

A prohibition may prevent the carer fostering anywhere in the area, restrict fostering to specific premises, or restrict fostering a particular child in those premises. There is a right of appeal against the imposition of a condition.

The local authority may also impose requirements on a carer affecting:

- the number, age and sex of the children to be fostered
- the standard of accommodation and equipment
- health and safety arrangements

- specific arrangements for the children to be fostered.

The local authority must be given notice of the placement by both the parent and the carer and any other person involved in its arrangement.

The local authority must be satisfied as to the suitability of each arrangement notified to it.

Regulations prescribe the frequency that a privately fostered child should be visited.

Where a local authority is not satisfied that the welfare of a privately fostered child is being satisfactorily safeguarded or promoted it must take such steps as are reasonably practicable to secure the care of the child is undertaken by a parent, a holder of parental responsibility, or a relative (unless not in the interests of the child to do so) and consider exercising its functions under the Children Act 1989 and 2004.

## **5. The Children Act 2004 includes amendments to the Children Act 1989.**

The amendments are: -

- Section 44 of the Children Act 2004 – amendments to the notification scheme
- Local authority duties under s.67 (1) and (5) of the Children Act 1989 are extended to include children who are proposed to be privately fostered.
- The duty under 67(1) to secure that such advice is given to those caring for privately fostered children as appears to the local authority to be needed is extended to include all those concerned with a child who is proposed to be, or who is, privately fostered as appears to the Local Authority to be needed.
- Local authorities are required to promote awareness in their area of requirements as to notification

The following have not been introduced however notice has been taken of the government's authority to introduce such actions.

### **Sections 45 and 47 of the Children Act 2004: power to establish a registration scheme and expiry of this power**

- Sections 45 and 47 of the Children Act 2004 make provision to allow the Government to introduce a registration scheme in England at any point within four years of the Act receiving Royal Assent (i.e. from November 2004).
- The Government will introduce a registration scheme for private foster carers if the strengthened and enhanced notification scheme is found not adequately to be safeguarding and promoting the welfare of privately fostered children.

### **Replacement regulations (The Children (Private Arrangements for Fostering) Regulations 2005)**

The replacement private fostering regulations (the Children (Private Arrangements for Fostering) Regulations 2005) require local authorities to satisfy themselves of the suitability of a proposed arrangement before it commences (where advance notice is given).

The replacement regulations also require local authorities to monitor their compliance with all their duties and functions in relation to private fostering, and places a duty on them to appoint an officer for this purpose.



It is also a requirement of the replacement regulations that an annual report, detailing the finding of the monitoring compliance arrangements, and the impact made in the Borough resulting from them, is produced and presented to Director of Children's Services, the Chair of the Local Safeguarding Children Board and to the Commission for Social Care.

## **6. Nationality, Immigration and Asylum Act 2002 Section 54**

Section 54 is intended to discourage the concept of 'benefit shopping' within Europe. It is retrospective and applies to anyone who comes within the categories set out below. This is not dependent on the length of time they have been in the UK.

The Act has the effect of preventing local authorities from providing support under certain provisions, including section 21 of the National Assistance Act and section 17 of the Children Act (1989) to:

- those with refugee status in another European Economic Area state
- persons unlawfully present in the UK who are not asylum seekers, including those who have overstayed visa entry limit and those without confirmation of leave to remain.
- failed asylum seekers who refuse to co-operate with removal directions.

## **7. Nationality, Immigration and Asylum Act 2002 Section 55**

Section 55 applies to those who have made or are intending to make an asylum claim in the UK. It prevents NASS from providing asylum support unless the Secretary of State is satisfied that the person applied for asylum as soon as reasonably practicable after arrival in the UK. Families with dependent children will, however, receive asylum support even if they did not apply as soon as reasonably practicable.

Section 55 does not apply to unaccompanied minors.

Those who have not yet officially lodged an asylum claim can be offered assistance with accommodation (usually overnight) and travel to Immigration and Nationality Directorate Public Caller Unit (IND) by social services in order to register the claim with the Home Office. Family can then access NASS support via Refugee Action once IND has accepted the claim and provided written confirmation of this.

## **8. Parental Responsibility**

The Children Act 1989 introduced the concept of 'parental responsibility', which means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property. This legal framework provides the starting point for considering who has established rights, responsibility and duties towards a child.

A child whose parents' whereabouts are not known has no access to parents for consent when making important choices about their life. Whilst the parents still have parental responsibility, they have no way of exercising it.

Children who do not have someone with parental responsibility caring for them can still attend schools, which are normally pragmatic in allowing the carer to make most decisions normally made by the parent.

A child in this position is entitled to health care and has a right to be registered with a GP. If there are difficulties in accessing a GP, the local Patient's Services will assist. Emergency life-saving treatment will be given if required, however, should the child need medical treatment such as surgery or invasive treatment in a non life-threatening situation, the need for consent would become an issue and legal advice would be required.

A main route for a carer to obtain parental responsibility is through obtaining a Residence Order, however, an adult whose immigration status is unresolved cannot apply for a Residence Order.

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## **APPENDIX 2: GLOSSARY OF TERMS RELATED TO IMMIGRATION**

**(FROM CHILDREN'S LEGAL CENTRE [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com))**

**Accession countries:** The 10 accession countries which joined the European Union (EU) on the 1<sup>st</sup> May 2004 are: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, the Slovak Republic, Slovenia, Cyprus and Malta. The government has introduced temporary restrictions to the free movement rights of nationals from eight of the ten accession countries (known as the 'A8' countries) the two countries not being affected are Cyprus and Malta.

**Age disputed:** Age disputes occur when the Immigration and Nationality Directorate (IND) do not accept the age stated by an asylum seeker. IND policy is to treat an applicant as an adult (and offer NASS support if appropriate) where the appearance of the person claiming to be a child 'strongly suggests' that he/she is over 18. IND record these cases as 'disputed minors'. IND does not currently release statistics on the numbers of asylum seekers who are disputed minors. IND will re-evaluate their assessment of age of a disputed minor where 'credible documentary or medical evidence' can be provided. In practice it is rare for IND to accept medical evidence due to the 'margin of error' in medical assessments of age although this is hard to square with the application of the 'benefit of the doubt' in 'borderline cases'. A recent "consent order" signed by the Secretary of State following judicial review proceedings may indicate a change in Home Office practice. Where an asylum applicant claiming to be a minor is 'age disputed' by IND, the individual is issued with a form (IS97M) which states that their decision does not prevent them from approaching a Social Services Department who 'may conduct a social work assessment'. Where this option is pursued and the person is found to be a minor by the social services department it is IND policy to 'accept the SSD's professional assessment'. SSD's wishing to alter IND's accepted age to under or over 18 should **contact them by fax on 020 8760 3105**. There are detailed liaison arrangements in place between IND and SSD's for handling age disputes cases.

**Article 3 ECHR:** Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (ECHR) states that 'no one shall be subjected to torture or to inhuman or degrading treatment or punishment.' States who are signatories to the ECHR cannot depart from this principle for any reason or in any circumstances. Where an asylum seeker can make out a case that he or she would be subjected to torture or inhuman or degrading treatment or punishment if returned to their country, they cannot be removed, even if their Refugee Convention claim fails. In these circumstances, they would be given humanitarian protection.

**Asylum:** One of the words used to mean 'refuge' in accordance with the criteria set out in the United Nations Convention Relating to the Status of Refugees 1951.

**Asylum seeker:** A person who has applied to the government of a country other than their own for protection or refuge ('asylum') because they are unable or unwilling to seek the protection of their own government.

**Asylum appellant:** A person whose application for asylum has been turned down but who has an appeal pending against the decision to refuse.

**Certificate of Identity:** A brown travel document issued by the Home Office to people with limited leave to remain (ELR, DL, HP) upon payment of a fee (£67) for travel abroad. The document will only be issued if the person needs to travel for one of the following reasons: essential employment/business related reasons, exceptional compassionate grounds, study reasons, religious reasons and other important reasons of conscience.

**Certified - 'clearly unfounded':** Certification under s.94 Nationality, Immigration and Asylum Act 2002 prevents an asylum seeker whose claim is so certified from appealing against the refusal of asylum on either Refugee Convention or human rights grounds from within the UK. There is a statutory presumption that all claims from the countries listed below shall be certified as 'clearly unfounded' unless the Secretary of State is satisfied that it is not. Unless the asylum claim was lodged before the specified country was added to the s.94 list, the individual will not now be able to appeal from within the UK after refusal and certification. Countries currently on the s.94 list are: the Republic of Albania; Bulgaria; Serbia & Montenegro (including Kosovo); Jamaica; Macedonia; Moldova; Romania; Bangladesh; Bolivia; Brazil; Ecuador; Sri Lanka; South Africa; and Ukraine.

**Common Travel Area:** It includes the United Kingdom, Republic of Ireland, Channel Islands and Isle of Man. Except in limited circumstances, a person's movement within these places is not immigration controlled.

**Convention Travel document (CTD):** A blue travel document issued by the Home Office to people with refugee status upon payment of a fee (£42) for the purpose of travel abroad. The CTD is valid for all countries for a period of 10 years except the country of origin.

**Discretionary leave (DL):** Time limited permission to stay, granted where the Home Office does not accept that either refugee status or humanitarian protection is appropriate. Since the abolition of 'exceptional leave to remain', this is the most common form of leave given to unaccompanied asylum seeking children. In these cases, the DL is normally given for three years or until the person's 18<sup>th</sup> birthday - whichever is the shorter period, although the period may be shorter for UASC from "white list" countries. There are certain other specified reasons where DL would be granted to an asylum seeker. For further information on DL, see the Immigration and Nationality Directorate website at <http://www.ind.homeoffice.gov.uk/>

**Eligible children:** One of the four categories of children entitled to leaving care services under the Children Act 1989 as amended by the Children (Leaving Care Act) 2000. Eligible children are children who are aged 16-17 and who have been looked after by a local authority for at least 13 weeks since they were 14 years old and who continue to be looked after.

**Exceptional leave to remain (ELR):** Permission given to remain by the Home Office 'outside of the Immigration Rules', that is, for a reason not covered by the Immigration Rules. Asylum seekers who did not meet all the Refugee Convention criteria but whom the Home Office recognised could still not be returned used to be given ELR. It was abolished on the 1 April 2003 and has been replaced by two types of leave: 'discretionary leave' and 'humanitarian protection'.

**European Economic Area (EEA):** Countries that are members of the European Union together with Iceland, Liechtenstein and Norway.

**European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (ECHR):** An instrument of the Council of Europe. Sometimes called the 'European Convention', the ECHR was incorporated into UK law by the Human Rights Act 1998. Asylum seekers are entitled to protection under Article 3 ECHR and cannot be returned to a country where their right to protection under this Article would be breached.

**Failed asylum seeker:** Someone who has applied for asylum, been refused and has no appeal pending.

**Former relevant children:** One of the four categories of children entitled to leaving care services under the Children Act 1989 as amended by the Children (Leaving Care) Act 2000. Former relevant children are young people aged 18-21 who have been either eligible

children or relevant children. A young person over 21 who is still receiving support from a local authority with education or training will be a former relevant child until the end of his/her programme of study.

**Humanitarian protection (HP):** Leave to remain granted to asylum seekers who do not meet all the criteria to enable them to receive refugee status but whom the Home Office cannot return because there is a serious risk that their rights under Article 3 ECHR would be breached, they would be unlawfully killed or they would face the death penalty. Serious criminals, terrorists and others posing a threat to national security can be excluded from humanitarian protection even where they can not be removed. Humanitarian protection is usually given for three years in the first instance. If it is deemed that protection is still needed after this time, the person will be granted indefinite leave to remain.

**Illegal entrant:** A person who has entered the UK in breach of immigration law, for example, because they have entered the country without passing through immigration control (a clandestine entrant) or because they have lied about their intentions on entering the country (for example, someone with permission to enter as a student, but whose real intention is to work). This is sometimes the correct term for people who are described in the media as 'illegal immigrants' - a term that has no meaning in immigration law.

**Immigration and Nationality Directorate (IND):** The part of the Home Office which deals with immigration, nationality and asylum issues. All applications for asylum are considered and decided by IND staff.

**Immigration Rules:** The Rules made by the Secretary of State for the Home Department (the Home Office) under statutory powers to control the entry and stay in the United Kingdom of non-British nationals.

**Immigration Service (IS):** The part of the Home Office that regulates entry into the UK at ports and enforces removal action against those not entitled to be in the country.

**Indefinite leave to remain (ILR):** Permission given by the Home Office to someone subject to immigration control to remain, without time limit, in the UK. Those recognised as refugees are always given ILR at the time of their status being accepted. Someone granted ILR is still subject to immigration control and a two-year absence from the country (sometimes less) can result in cancellation. There are now very limited grounds concerned with national security and terrorism on which ILR can be revoked.

**Judicial review:** Proceedings taken in the Administrative Court to challenge decisions of government departments, local authorities or decisions of the lower courts. Challenges can sometimes be made to Home Office decisions by using judicial review.

**Lawfully resident:** A person who:

- Has current permission to remain in the UK
- Is awaiting a decision on an application for an extension of that permission
- Is appealing against a decision to refuse an extension
- Is awaiting the outcome of such an appeal.

The person will only become unlawfully resident when any appeal has been finally determined and they have exhausted any appeal rights.

**Leave to enter (LTE):** The permission given by an immigration officer at a port of entry to the UK to enter the country. Leave to enter is usually limited as to time (for example, a typical

tourist visa gives permission to enter the country for six months) and may also contain conditions such as a prohibition on working or on claiming 'public funds'.

**Leave to remain (LTR):** The permission given by an IND (Home Office) official to someone to extend an existing permission to stay in the UK. Leave to remain can also be limited as to time and may contain various prohibitions (on working or claiming 'public funds'). Time limited leave to remain may also explicitly **allow** the recipient to work or claim benefits as in the case of minors granted 'discretionary leave until age 18'.

**Legal Services Commission (LSC):** The body set up under the Access to Justice Act 1999 to administer public funding for legal help and representation. The LSC issues contracts to solicitors' firms and advice agencies to conduct legal work, including asylum and immigration work.

**Limited leave:** The permission that is given to enter or remain in the UK for a specified period of time, sometimes with other conditions attached.

**'Looked after' children:** Children who are being accommodated by a local authority, generally under section 20 of the Children Act 1989, or who are subject of a care order under section 31 of the Children Act 1989. Children who receive assistance under section 17, even if this includes the provision of accommodation, are no longer "looked after" children since 7<sup>th</sup> November 2002.

**National Asylum Support Service (NASS):** NASS was established under the Immigration and Asylum Act 1999 to provide accommodation and/or subsistence to otherwise destitute asylum seekers. Adult asylum seekers and their families are supported by NASS. Since the Nationality, Immigration and Asylum Act 2002, only single adults who claimed asylum 'as soon as reasonably practicable' after arrival can be assisted by NASS. Unaccompanied minors are not assisted by NASS but may, in certain circumstances, transfer to NASS funding on reaching the age of 18.

**Non-compliance refusal:** A 'technical' refusal of an asylum claim on the ground that the applicant has not complied with a direction given by the Home Office, for example, the asylum application form has not been returned within the specified time or the applicant has failed without good reason to attend a Home Office interview. An asylum seeker refused on non-compliance grounds can still appeal against the refusal. (But note that the law now says that asylum seekers from 28 countries shall have their claim certified as 'clearly unfounded' unless the Secretary of State is satisfied that their claim is not. The effect of this for asylum seekers so certified is that they can only appeal once they have left the UK. See 'Certified - clearly unfounded'.)

**Ordinarily resident:** In *R v Barnet LBC ex parte Shah* [1983] 2 AC 309, which is the leading case in this area, the House of Lords held that "ordinarily resident refers to a man's abode in a particular place or country which he has adopted voluntarily and for settled purposes as part of the regular order of his life for the time being, whether of short or of long duration". The residence has to be lawful e.g. not in breach of the immigration laws. Temporary absences of short duration do not normally discontinue ordinary residence and it is possible to be ordinarily resident in two countries at the same time. It is not necessary to determine what the long term plans or intentions of a person are. The concept of "ordinary residence" is different from "habitual residence" which is used to determine a person's entitlement to certain benefits. Although this case was concerned with the meaning of "ordinarily resident" in relation to the Education Acts it is generally recognised as having a wider application, for example in relation to immigration and nationality legislation.

**Overstayer:** A person who was lawfully in the UK but whose leave to remain has now expired and who did not apply for an extension of that leave while it was still current. Overstayers are in breach of the Immigration Rules and are liable to being removed.

**Panel of Advisors:** The Refugee Council, the largest voluntary organisation in the UK supporting asylum seekers and refugees, provides services to children through its Panel of Advisors. Its role is to help a child gain access to legal representation and other support. All unaccompanied children, even where the Home Office or Immigration Service disputes their age, are supposed to be referred to the Panel of Advisors. However, any agency dealing with any unaccompanied child should check that the referral has been made by telephoning 0207 582 4947.

**Port:** A point of entry to the UK (either airport, sea port or train terminal in the case of Eurostar) where an asylum seeker can lodge their claim for asylum. Asylum seekers who claim at port are called 'port applicants' and are distinguished from those who get into the country first (either clandestinely or on the basis of another reason, such as a visitor) and then claim asylum 'in country'.

**Public funds:** Asylum seekers and many other categories of entrant into the UK are prohibited from accessing 'public funds'. The Immigration Rules define public funds as: Income Support; Job-Seekers Allowance; Family Credit; Child Benefit; Council Tax Benefit; emergency housing (for example, under the homelessness provisions of the Housing Acts); Housing Benefit; Disability Living Allowance; Attendance Allowance; Invalid Care Allowance; Severe Disability Allowance; and Disability Working Allowance. NB: it does not include treatment on the National Health Service or student grants. Refugees are entitled to access public funds, as are unaccompanied asylum seeking children given 'discretionary leave until age 18'.

**Qualifying children:** One of the four categories of children entitled to leaving care services under the Children Act 1989 as amended by the Children (Leaving Care) Act 2000. Qualifying children are children under 21 and who have ceased to be looked after, accommodated or fostered after the age of 16.

**Refugee:** A former asylum seeker who has been **recognised** by the government as meeting the definition of a refugee set out in the United Nations Convention Relating to the Status of Refugees 1951. On being recognised by the government as a refugee, the person is conferred with 'refugee status'. In the UK, recognition as a refugee leads to 'indefinite leave to remain' (ILR) and attracts other rights, for example, family reunion and issue of a refugee travel document.

**Relevant children:** One of the four categories of children entitled to leaving care services under the Children Act 1989 as amended by the Children (Leaving Care Act) 2000. Relevant children are children aged 16-17 who are no longer looked after by a local authority, but who were looked after for at least 13 weeks after the age of 14 and have been looked after at some time while they were aged 16 and 17.

**Removal centre:** Formally called 'detention centres', these are dedicated facilities for detaining asylum seekers and others subject to immigration control. An asylum seeker is liable to detention at any stage of their application (for example, for processing the claim at the beginning or removal at the end of the application process). It is government policy not to detain asylum seeking children except in 'exceptional' circumstances. Despite this, many are detained either as part of a family or because their age is being disputed by the Home Office.

**Temporary admission (TA):** An asylum seeker who is not detained on arrival in the UK is given 'temporary admission' and issued with a form called an IS96 by the Immigration Service. For immigration purposes, someone with temporary admission has not yet been given permission or leave to enter the UK. They are, therefore, liable to detention at any stage while on temporary admission. Conditions of temporary admission may be that the person resides at a particular address and reports to the immigration service after a specified time.

**Unaccompanied asylum seeking child:** The definition for immigration purposes is given in the Unaccompanied asylum seeking children: Home Office information note: 'An unaccompanied asylum seeking child is a person who, at the time of making the asylum application is, or (if there is no proof) appears to be, under eighteen, is applying for asylum in their own right and has no adult relative or guardian to turn to in this country.' It should be noted that the Immigration and Nationality Directorate does not consider a child to be unaccompanied where there is an adult prepared to take responsibility for them, although they will involve Social Services where there is a concern about the child's relationship with the 'responsible' adult.

**United Nations Convention Relating to the Status of Refugees 1951 (the 'Refugee Convention'):** The Refugee Convention and its 1967 Protocol are the key international legal instruments in defining who is a refugee, their rights and the legal obligations of states. The UK is one of the 138 states who have signed both the Refugee Convention and its Protocol. The original Convention was restricted to events prior to 1 January 1951 but the 1967 Protocol removed the temporal restrictions. In the UK a person will qualify as a refugee if he/she satisfies the criteria laid down in Article 1 of the Refugee Convention, that is a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

**"White list" countries:** Section 94 of the Nationality, Immigration and Asylum Act 2002 lists countries from which an asylum claim shall be certified (see definition of **Certified - 'clearly unfounded'**). These are referred to informally as the "white list" countries. The following 14 countries currently make up the "white list": the Republic of Albania, Bulgaria, Serbia and Montenegro (including Kosova), Jamaica, Macedonia, the Republic of Moldova, Romania, Bangladesh, Bolivia, Brazil, Ecuador, Sri Lanka, South Africa, and Ukraine. (NB: The 10 EU 'accession' countries - Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia - were all removed from the 'white list' as from 1st October 2004).

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### **APPENDIX 3: USEFUL CONTACTS**

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

Foreign and Commonwealth Office 020-7008 1500

The appropriate Embassy or Consulate – contact details for embassies in London can be found on the London Diplomatic List (ISBN 0 11 591772 1 from the Stationery Office on 0870 600 5522) or from the Foreign and Commonwealth Office website [www.fco.gov.uk](http://www.fco.gov.uk)

International Social Services of the UK, Cranmer House, (3<sup>rd</sup> Floor), 39 Brixton Road, London SW9 6DD. Tel No 020-7735 8941/4. Fax 020-7582 0696

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## **BIBLIOGRAPHY/FURTHER READING**

ADSS Briefing Paper 2003 'Care And Support Of Unaccompanied Asylum Seeking Children'

Department of Health 1999 'Working Together to Safeguard Children'  
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