

# UASC Briefing Paper August 2023

## Unaccompanied asylum-seeking children

Unaccompanied children may arrive in Yorkshire and Humber through one of the routes below: They can also be referred to as 'UASC', 'unaccompanied children' or 'separated children'.

1. The Home Office defines an unaccompanied asylum-seeking child as a person who is:
  - under 18 years of age when the asylum claim is submitted
  - claiming asylum in their own right
  - separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.
2. Local authorities have a duty of care for unaccompanied children under the Children Act 1989.
3. National statistics for the year to 31 March 2023 were as follows:
  - There were 5,010 asylum applications from UASC in the 12 months from April 2022 to March 2023. This is a 7% increase from the previous year's total of 4,636.
  - The top 6 nationalities for UASC applications were Afghanistan (20%), Iran (18%), Sudan (13%), Eritrea (11%) Vietnam (7%) and Albania (7%)

## Reasons for leaving

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

## Arrival routes into Yorkshire and Humber

Unaccompanied children may arrive in Yorkshire and Humber through one of the routes below:

4. **National Transfer Scheme – NTS:** The Immigration Act 2016 introduced the National Transfer Scheme on a voluntary basis. The scheme facilitates fair distribution of UASC looked after by each local authority across the country by transferring children and young

people from areas with a high number of arrivals (e.g., Kent) to areas with fewer UASC. From November 2021, the scheme became mandated, and all local authorities have an obligation to comply by receiving into care the unaccompanied children referred to them via their regional Strategic Migration Partnership (SMP). From August 2022, only local authorities who support a number of UASC at or above 0.1% of its general child population can request the child is referred to the NTS. The number of referrals through the scheme has increased significantly and the region continues to face significant challenges sourcing suitable placements.

5. **Spontaneous arrivals:** some young people may arrive from the back of a lorry, at the docks with a ship, cross the English Channel by boat or be dropped off by a people smuggler in the area. These cases are known as 'spontaneous arrivals'. These young people will not be known to the authorities on arrival and need to be referred to the local Children's Services and supported to contact the Home Office to lodge an asylum claim.?
6. **Adult contingency hotels:** there is an increase in referrals received by local authorities where young people were initially accommodated in adult asylum contingency hotels. These referrals are usually followed by an age dispute claim and in some cases, they are found to be children when their age is assessed. In this scenario, local authorities would become responsible for providing care and support to these children as vulnerable people under the Children's Act 1989.
7. **Other routes:** in the past there have been schemes that provided safe routes for young people to arrive in our region. For example, the Vulnerable Children Resettlement Scheme (VCRS) and the Dublin III Regulation family reunion. These schemes are now no longer in place.

## Immigration Processes and Policies

1. The Nationality and Borders Act 2022 came into effect on the 28 June 2022, resulting in changes in the immigration status available for UASC.
2. Currently, UASC asylum claims lodged *prior to 28 June 2022* may result in:
  - **Refugee status** - 5 years.
  - **Humanitarian protection (HP)** – 5 years.
  - **UASC leave** - a form of temporary leave for young people whose asylum claim is refused. UASC leave lasts for a maximum of 30 months, or until the young person is 17.5 years old (whichever is sooner) when they can appeal, make a fresh claim, or plan to leave the UK.
  - **Section 67 leave** – 5 years. In June 2018, the government announced a form of leave to remain following the Dubs amendments. It guarantees all young people transferred to the UK through the S67 process are granted permission to remain in the UK even if they do not receive refugee status as a result of the asylum process. . After 5 years, the holder can apply to permanently settle in the UK.
3. The Nationality and Borders Act had a different provision for people who apply for asylum after the 28 June 2022. This introduced a 'two-tier asylum system' of Group 1 and Group 2 refugees, which was dependent on whether a person has arrived in the UK through irregular means or not, and whether they have claimed asylum promptly. However, Home Office statement of changes on the 17 July 2023 informed that the system would no longer apply

and would contact people who had received decisions as 'Group 2' to align their status to the 'Group 1' refugees.

4. In an attempt to clear asylum backlogs, the Home Office introduced the 'Streamlined Asylum Process for Children' (SAP) in March 2023. This is a 'fast-track' process for asylum decision-making that only applies to claims lodged before 28 June 2022, called 'legacy claims'. On the 13 July, the timeframe has been extended to include non-legacy claims made from 28 June 2022 to 6 March 2023. The SAP applies to children, both accompanied and unaccompanied, who are from the top 5 grant nationalities, that is Afghanistan, Eritrea, Sudan, Syria, and Vietnam. This process introduces the 'preliminary information meeting' (PIM) which holds the purpose of assessing whether asylum can be granted without the need for a substantive interview. If successful, the young person would receive a positive status, or alternatively proceed to submitting a Statement of Evidence form and attend a substantive interview.
5. Young people who have had their asylum claim fully refused, known as appeal rights exhausted (ARE) and do not possess any other form of leave to remain are expected to leave the UK once they reach the age of 18. The Immigration Act 2016 introduced a provision that ARE former-UASC are not entitled to leaving care services. This provision has not yet been implemented and the regulations have not been published. At present local authorities carry out a human rights assessment to decide whether to continue to support the young person. Home Office funding ceases 3 months after the ARE date.
6. As of 20 July 2023, the Illegal Immigration Bill has become an Act of Parliament and will introduce significant reforms to the asylum system and the support available for unaccompanied children. For more information on the impact, scope and purpose of this new Act, please read our recent briefing on the Bill released by Migration Yorkshire.

## Age assessment

2. Age assessment is used to assess whether a young person is a child or an adult, or to estimate their age if there is contradictory or no information available.
3. A full age assessment should be 'Merton compliant'. There are a few useful principles to guide through the process:
  - It should only be carried out if there is significant doubt about the child's claimed age. If there is no doubt, the local authority should accept the age without undertaking any assessment and record the reason for their decision.
  - The assessment should be done by two qualified social workers and the young person should be supported by an appropriate adult, to ensure they are treated fairly and fully understand the process.
  - It should be noted that calendars vary depending on country of origin and that not all countries have their births recorded routinely, as chronological age may not be considered important.
4. It is important to note that the outcome of an age assessment has significant impact on the young person's life, as the conclusion will be used by all relevant organisations. Young people can challenge the decision through the courts and in such cases the judge's decision is final.

5. The Nationality and Borders Act (NABA) 2022 introduced the National Age Assessment Board (NAAB). The Board is a decision-making body within the Home Office and comprises of social workers who support local authorities with age assessments. The NAAB became officially operational in March 2023. It oversees and may carry out age assessment in some situations as provided by the NABA, which may lead to the use of 'scientific methods' in the future.

## Current challenges

In recent times, there have been some challenges with regards to the support available for unaccompanied children and pressures experienced by local authorities.

2. When a local authority receives an age dispute referral, an age assessment should be carried out to determine the claimant's age if there is significant doubt. They would also have to provide placement and care if the claimant is proven to be a child. Local authority resources are currently under strain, and this is causing significant pressures on children services' teams.
  - under 18 years of age when the asylum claim is submitted
  - claiming asylum in their own right
  - separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.
3. There is also a national placement shortage. Local authorities are struggling to find reasonable options within their vicinity. They are increasingly resorting to other forms of provisions, like private placement providers, which is often costly.
4. There is a national shortage of legal aid provision to support unaccompanied children. Local authorities often struggle to find available solicitors which can impact on the progress of the young person's asylum claim.
5. Challenges such as delays in moving to a placement or progress with their asylum claim can affect the mental health and wellbeing for children and young people. Statutory and key voluntary mental health organisations are also under pressure. Young people may have to endure long waiting lists. Migration Yorkshire provides a list of available services for young people in Yorkshire and Humber.

## Sources of support and information

1. Local authorities have a responsibility to provide services and support to unaccompanied asylum seeking and refugee children in their area under Section 20 (Children Act 1989) both during the age assessment period (up to 28 days) and once it has been concluded they are a child, until their 18th birthday - regardless of their route of entry or immigration status. In most cases children should receive all support associated with being 'looked after' including

a suitable accommodation placement, a care plan, a personal education plan, access to health assessment and health care, support accessing legal advice and an Independent Reviewing Officer (IRO) who will review the child's progress and ongoing support requirements.

2. Migration Yorkshire coordinates UASC referrals into Yorkshire and Humber through the National Transfer Scheme (NTS) and supports local authorities to meet the needs of children by identifying appropriate referrals for each area, providing support and guidance on casework and procedural issues, and offering training. Through the Welcoming Young Refugees Project, Migration Yorkshire works with local authorities in the region to develop UASC provision and expertise amongst professionals working with young refugees.
3. Migration Yorkshire provides a UASC hub, where professionals can find a range of information including policy and guidance, training, and resources.

## About this briefing

This briefing was prepared by Hanna Ayisi and last updated in August 2023. It is available on the Migration Yorkshire website.

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