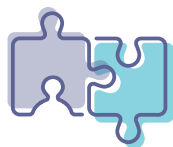


A Best Practice Guide for Social Workers in Wales supporting Children who are claiming asylum



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Children's
Legal
Centre
Wales

These guides cover asylum applications under the standard procedures for those under 18. They do not cover the law concerning nationality specific arrangements - such as the schemes for those from **Ukraine** and **Afghanistan**. Whilst individual legal advice is required in all cases, it is particularly important for children affected by these schemes.

This guide refers to ‘children’ as aged 0-17 years, as defined in the UN Convention on the Rights of the Child.

This document aims to support social workers working with children who are claiming asylum. It provides advice regarding the specific issues that may be linked to children arriving irregularly in the UK, who might be age assessed and who need to navigate immigration. It also looks at the pathway planning for someone who may not be able to stay in the UK.

Here in Wales, we recognise the rights of all children, wherever they come from. Underlying everything, first and foremost these are children rather than being seen as migrants. Welsh Social Care law has adopted the United Nations Convention on the Rights of the Child (1989), meaning that Local Authority staff must give consideration to those rights, as well as the Articles of the European Convention on Human Rights (1951). All children have the same rights in terms of social care¹, wellbeing and safeguarding (SSWWA 2014: CA 1989).

As social workers involved at the heart of their care, you are best placed to support these children to ensure that they access the practical, cultural, medical and legal help they need. You can help give these children a voice and control by offering them respect and acting according to the Social Care Wales (2017) Code of Professional Practice, for example acting with integrity and honesty towards these citizens of the future.

1. Those leaving care may have some differences linked to their immigration status

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1.

Arrival / First point of contact

The majority of children arrive in the UK and Wales 'spontaneously'. This means via a lorry drop or other clandestine means. Some children may arrive in the UK under the mechanism of **s.67 Immigration Act 2016** (known as the **Dubs amendment**). This is a commitment by the UK Government to transfer 480 children to the UK from other areas of Europe, in particular France, Italy and Greece. A small number of children have already been resettled in Wales and more may come.

The **National Transfer Scheme** is now available in Wales. This Scheme facilitates the transfer of children out of local authorities in England where there are large numbers being cared for, such as Kent and Croydon. The National Transfer Team will work with the Wales Strategic Migration Partnership and your local authority, to identify any possible placements for these children.

You may come into contact with a child very soon after their arrival in the UK.

- If immigration officials or the police have encountered a child who appears to be under 18, they should immediately contact children's services. These agencies must also involve children's services straight away if a child says they are 18 but there is no evidence that strongly suggests that he or she is significantly over the age of 18.
- In other cases, the child may have avoided detection by the immigration authorities when they entered the UK, or may initially have been treated as an adult. They may only come to your attention at a later stage, after they have been in the UK for some time.
- - Sometimes, a child will claim to be older than 18, perhaps because they have been told to say this by the people who brought them into

the UK, or because they are scared of what may happen if they admit to being under 18.

- - If immigration officials consider that the physical appearance and demeanour "very strongly suggests they are significantly over 18 years of age and there is little or no supporting evidence for their claimed age", the child will be treated as an adult, and placed into adult accommodation. If the child claims to be over 18, they will also be placed into adult Home Office (NASS) accommodation. The child may then come into contact with others – health professionals, legal representatives, accommodation providers, workers at drop-in centres, churches or other agencies – who raise concerns that the child might be under 18. The child may have been living in adult accommodation for some time before he or she is referred to children's services and comes into contact with you in your role as a social worker.

At the initial wellbeing assessment, your role as social worker is to gather information to establish the child's immediate needs. One of the outcomes of this assessment may be that age assessment is a priority. Information gathered during the initial wellbeing assessment may be relevant to the age assessment process. Communication with the child is key to find out what they want to happen, and their views about where they should stay, so that these can be taken into account in any decisions that are taken about them, and to make sure that decisions are in the child's best interests.

2.

Primary needs

Interpretation

Establish the child's first language and ensure a suitable interpreter is available, not just in terms of language and dialect, but also the gender of the interpreter. Face-to-face interpreting with an interpreter from a reputable agency is essential (for example interpreters may be required undergo a DBS check and will always need to maintain confidentiality):

- It ensures the likelihood of accurate and reliable interpretation
- It reduces the risk of the child being put into contact with someone who might not have his or her best interests at heart.

Safeguarding

- Consider whether the child may have been trafficked, or is vulnerable to trafficking
- Consider the risk of the child going missing from care
- Obtain a photograph of the child (with consent). It can help with a child's identity if they do go missing at a later date.
- If the child is at serious risk of harm because of the other people he or she is with, it might be appropriate to seek a court order placing him or her in the local authority's care. The emergency provisions under the Children Act 1989 (s 46, 47) may be relevant, especially if the child has arrived in your care following intervention by the police.

Accommodation

If the child is being held by the police or immigration authorities, they will have an immediate need for accommodation. This means that they will, by default, become 'looked after'.

Children's immigration status should not dictate the type of accommodation that is considered suitable. However, establishing suitable accommodation may be challenging for a number of reasons:

- Age of the child
- Linguistic and cultural needs
- Physical and mental health needs.
- Resource limitations (for example availability of suitable foster carers/ residential provision)

If there is any real doubt about the child's age, or the child is 'age disputed' and has been referred to you after he or she has already spent time in adult accommodation, the immediate outcome of the welfare assessment will be to carry out an age assessment to consider whether the local authority accepts that they are under 18.


The Home Office does not have the power to accommodate unaccompanied children, therefore all those who are or may be under 18 should be accommodated, to safeguard them and protect their rights to future Local Authority support and accommodation (in line with Part 6 SSWWA 2014). While there is uncertainty the benefit of the doubt should be afforded to them and decisions should be made on a protective basis.

Health and Wellbeing Services

The **Social Services and Wellbeing (Wales) Act 2014** requires a holistic consideration of wellbeing including physical, mental health and emotional wellbeing, education, relationships and securing rights and entitlements. For children, their physical, intellectual, emotional, social and behavioural development and welfare should also be considered when looking at overall wellbeing.

The initial duty is to create a **Care and Support Plan (Section 54, SWWWA 2014)**, or once the young person reaches 16 this should convert into a **Pathway Plan**, to prepare the child for adulthood.

Additional to your usual process, working with Children Looked After Nurses as appropriate, you will need to consider:

- As with all looked after children, you have a duty to make sure the child is registered with a GP within 10 days.
- The local health board has to ensure that all asylum seekers have a health assessment to screen for diseases such as TB.
- The health board will also want to carry out immunisations as necessary. If you are in a dispersal area, there may be a clinic specifically for asylum seekers where these assessments can be carried out by specially trained health professionals. If not, the child's GP will be responsible for progressing this.
- It is paramount to consider the impact of ACE's (Adverse Childhood Experiences) on development and to ensure that appropriate, trauma-informed care is available². [NHS Wales most recent guidance can be found here](#). 
- Also consider the unseen and complex impact of the child's previous life and the hardships they may have faced on the way to the UK. These could include but aren't limited to:
 - Female Genital Mutilation (FGM)
 - Post-Traumatic Stress Disorder (PTSD) and other mental health problems
 - Malnutrition
 - Physical/sexual abuse
 - Extremist views.


Mental health considerations



Children coming to Wales may have mental health issues as a result of their experiences in their home countries, on their journey to the UK, or

as a result of the situation they find themselves in once they are here. It is recognised that this group of children are extremely likely to have mental health difficulties, and sadly many do not receive the care they need³.

Health professionals are available to support in this area and you can help by ensuring the child receives suitable interpretation services to make sure that ongoing contact with CAMHS is meaningful and beneficial for the child. Consideration should be given to how best to support young people whilst waiting to access mental health services.

Home Country information

You can find information where the child has come from online, or from booklets such as: corambaaf.org.uk/books/caring-unaccompanied-asylum-seeking-children-and-young-people 

You can also look at the country information reports on the [Human Rights Watch website](#) or [Amnesty International website](#)  

There may also be local cultural community organisations that may be an invaluable source of support and knowledge.

Education and Training

Children coming to the UK seeking asylum will have had very different experiences of education. Some children arrive with a good command of English, others have almost no English. Some will have had a high level of schooling in their country of origin, some, almost none. Whatever their background, many young people coming to the UK and to Wales are keen

2. Wood S, Ford K, Hardcastle K, Hopkins J, Hughes K and Bellis MA, Adverse Childhood Experiences in child refugee and asylum seeking populations (Cardiff: Public Health Wales NHS Trust 2020).

3. Children's Society, 'Distress Signals: Unaccompanied Young People's Struggle for Mental Health Care' (Children's Society, 2018), <https://www.childrenssociety.org.uk/sites/default/files/2020-10/distress-signals-repo-rt.pdf>.

to continue their education or to receive training.

It's vital that once their needs have been identified, you work closely with education colleagues to ensure appropriate school, college or training places can be found to meet those needs. Learning English is a priority for these children. ESOL courses may be available locally. It is also extremely important that if there are any signs of Additional Learning Needs that these are properly assessed, and that specialist advice is sought rather than considering language to be a barrier to assessment. Whilst formal educational provision is being arranged it is important to consider children's wellbeing in terms of for example social isolation and meaningful activities which could be put in place.

Further information about the Additional Learning Needs Tribunal (Wales) Act can be found here [Additional Learning Needs and Education Tribunal \(Wales\) Act](#)



3. Trafficking

People – adults as well as children – are trafficked when they are taken or kept somewhere for the purposes of exploitation.

Some children may not be aware that they have been trafficked, and some may have been threatened so they will be unwilling to explain what has happened to them. A child may have been trafficked or may be vulnerable to trafficking even if they have come to your attention before any exploitation has taken place. Concerns about the child may not arise until after he or she has been placed in the care system.

Don't confuse smuggling with trafficking

A significant number of those coming to the UK and claiming asylum will have been smuggled here. They will have paid someone to get them to the UK and may have spent time working for an agent to raise the money – or in lieu of making a cash payment. If it becomes clear that the smuggler's only intention is to get the child to the UK, then trafficking is unlikely.

How to respond if you suspect trafficking

If you are worried about a child and suspect they may have been trafficked, you should contact [Barnardos Independent Child Trafficking Service](#)



Wales has access to Independent Child Trafficking Advocates (ICTAs) - specialist professionals able to support children

who have potentially been trafficked. If there is strong evidence that a child has been trafficked, the local authority must contact The National Referral Mechanism (NRM) as a 'first responder'.

- You will need to complete a [referral form to the National Referral Mechanism](#). This is part of the National Crime Agency.
- You don't have to have the child's consent to make a referral, however it is good practice to involve them in the process as much as possible.



The first part of the trafficking decision will often come through very quickly from the NRM - usually within 5 days. This is called a 'Reasonable Grounds Decision'.

The child may be entitled to 45 days 'recovery and reflection' in safe accommodation while his or her circumstances are investigated. In reality, this makes no day-to-day difference for the child, as he or she will already be accommodated by the local authority. However, any decision may be important for the outcome of the child's asylum claim.

A second decision the 'Conclusive Grounds' Decision will be made later, usually after an asylum interview if there is also an outstanding asylum claim. In some cases, an asylum claim may not be linked to the trafficking and therefore representations should be made to the Home Office to make the Asylum Decision as soon as possible rather than waiting for the outcome of the NRM referral.

4. Age Assessment

Age assessment is a complex process which has huge implications for the child in terms of the care and support they will be eligible to receive in the UK. Establishing whether the child is a 'child' (under 18) is paramount to ensure that they receive the correct advice and support. Age affects which agencies are responsible for offering help and support to the child while they are in the UK. It also affects how the asylum application is processed.

Age assessment is not an event, it is a process. If information comes to light at a later date which suggests that the child is older than he has claimed, or older (or younger) than the age attributed to him or her by the initial age assessment, you can carry out a further age assessment.

The information provided here is intended only as an introduction and brief overview of age assessment. Practitioners should always refer to the [Age Assessment Toolkit](#) for more detailed advice and guidance



Who instigates age assessment?

The LA may need to carry out an age assessment to determine the support a child should receive, and who should provide the support. Even if it is believed the child may be older than 18, they should be treated as a child until the age assessment has been completed.

Immigration officials who have come into contact with the child may have made a decision about the child and disputed their age, leading to the child being treated as an adult. Though this should never be the default position.

UKVI can only treat a child claiming to be under 18 as an adult if their physical appearance and demeanour ‘very strongly suggests’ that they are significantly over 18.

There is no obligation on the local authority to carry out an age assessment, unless you think the child you are looking after is significantly over the age of 18, or new evidence has come to light relating to their age. The Home Office may challenge your decision not to age assess.

Accommodation during age assessment

If the child is referred to you immediately on arrival and states that they are under 18, the local authority must treat them as a child, and provide accommodation until an age assessment can be carried out. You should bear in mind that this means a child who is eventually assessed as older than 18 may be accommodated for a time with children, for example in a foster home or residential provision.

Appropriate Adult

The child is entitled to have an appropriate adult, or an advocate who can also act as an appropriate adult, with them during the age assessment process. Although the appropriate adult can’t answer questions for the child, they can – and should support them during the process.

The role of the appropriate adult involves:

- making sure the child understands what’s happening, and why
- intervening to ask for breaks if the child needs them; perhaps to consult with legal advisors, with the appropriate adult or if the child is upset or appears tired or unwell
- intervening if the people conducting the age assessment are not acting properly and fairly
- assisting with communication with the people carrying out the age assessment

- ensuring that the child understands that he or she can take legal advice and understands his/her rights through the age assessment process.

The appropriate adult should be independent of the local authority carrying out the age assessment. For this reason, as the social workers responsible for the child, you will not be regarded as ‘independent’ for the purposes of age assessment interviews. It would also not usually be considered appropriate for the child’s lawyer to act as appropriate adult. The appropriate adult is not merely being an observer. They need to have the relevant skills and training to undertake their role and be confident to challenge social workers if they feel the interview is not being conducted appropriately.

If the child decides not to have an appropriate adult present, you should check the child understands the role of the appropriate adult, and try and establish why they are objecting. If the child continues to refuse an appropriate adult, these wishes should be respected.

The Process

The age assessment process can be lengthy. As practical points, make sure the child in your care has food and drink with them, and suitable clothing so that they are comfortable during the day. You should also check with the child that the environment is comfortable for them.

If an interpreter is required, this will need to be arranged. It is important to check with the child the preferred gender of the interpreter and if there are any special dialect or cultural requirements. It would be important to take into account such factors in line with the experiences and needs of the child.

What happens once the age assessment is completed?

- If the outcome of the age assessment is that the child is 18 or over, they should be referred to the Home Office for support and accommodation.
- If the child is assessed as under 18, they should continue to be accommodated by the local authority.

You will need to advise the Home Office of the outcome of the age assessment using the '[age assessment information-sharing pro forma](#)'. Note. If there has been a change in the assessed age of the child you will need to contact the Home Office again.



The Home Office requires written notification to say that the child is 18 or over before it will house and support them. Once the accepted age is agreed, all records and documents need to be amended to show the accepted date of birth. You should provide the child and, if appropriate, their advocate or legal advisor, with a copy of the full age assessment. They may wish to challenge the outcome of the assessment.

Challenging the decision of the Age Assessment

Age assessment is a process which is open to 'Judicial Review', meaning the decision can be challenged.

The eventual outcome of an application for judicial review may be that you have to carry out the age assessment again – for example if a court finds that you didn't take account of a piece of information that you should have considered, or you considered something that was irrelevant.

The Upper Tribunal may also make a declaration as to a child's age which will be binding on the local authority.

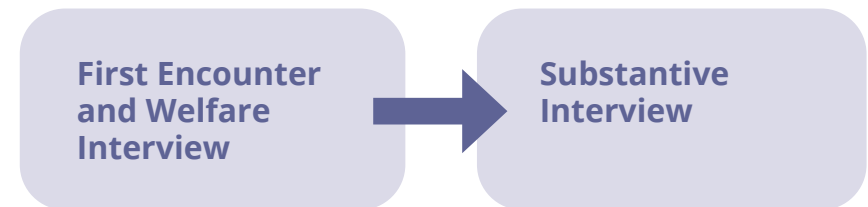
If the child decides to judicially review your decision on age, the notes that you make at time of the age assessment, during the process and immediately following the process may provide important evidence to demonstrate what you did and did not take into account, and what weight you gave to the different factors. Keeping full notes and recording decisions that are made and the evidence to support those decisions will be helpful.

5.

The Asylum Process

If the child hasn't already made a claim for asylum, and wants to do this, he or she has to do so **as soon as possible**. Your support in this initial stage is crucial.

In order to show that it has complied with its duties to support the child, the local authority may be asked to provide evidence of the steps it has taken to help the child register their asylum application.



First Encounter and Welfare Interview

- The claim for asylum will usually be made in Home Office Regional Offices. In Wales these are UK Visas and Immigration Offices on Newport Road, Cardiff.
- It is not possible to have the meeting in Cardiff you may have to help the child with arrangements to travel to UK Visas and Immigration offices in Croydon or Solihull to attend this meeting.
- At the Initial Meeting the child will be provided with a 'SEF' (Statement of Evidence Form) which their lawyer will help them to complete. They will also be helped to draft a statement giving information regarding their claim and journey to the UK.

Substantive Interview

- Children aged 12 or over will have to attend a substantive asylum interview unless there are good reasons why an interview shouldn't take place.
- The child is entitled to have someone they trust with them in the asylum interview as a 'responsible adult'. This person cannot answer questions on behalf of the child but can intervene if the child becomes distressed or tired and needs a break and should have opportunities to speak privately to the child.
- If the child fails to attend their substantive asylum interview, the asylum claim could be refused for non-compliance. Where you are involved as a social worker, and the child doesn't attend for their interview, the UKVI case worker should contact you to check why he or she did not attend.
- If you know in advance that there will be a problem attending the interview, for example illness or transport issues, you should discuss this with the case officer as soon as possible.

A child over the age of 12 will usually be interviewed, however the Home Office are not obliged to interview any asylum applicant if they already have sufficient information to make a decision. If a child is not well enough – physically or mentally – to be interviewed this should be raised.

The Home Office may also request a **Language Assessment**. It is a telephone interview where the child speaks to a native speaker for 20 to 30 minutes, and is part of the process of assessing which country a person may come from if they do not have ID documents.

'Responsible adult'

In many respects, the responsible adult has a similar role to that of the appropriate adult in the age assessment process. The [Home Office Guidance on Children's Asylum Claims](#) (updated December 2020) includes a detailed, but non-exhaustive list of the duties



of the responsible adult, as follows: providing independent support to the child and acting in the child's best interests

- providing independent support to the child and acting in the child's best interests
- looking after the well-being of the child so they feel able to participate in the asylum procedures in a way that meets their welfare needs and recognises their maturity
- raising any welfare issues that the decision maker needs to be aware of, before, during or after interviews so that the welfare needs of the child are actively considered throughout that process
- ensuring that the child feels comfortable during the interview process
- ensuring that the child understands the interview process
- providing moral support and reassurance as necessary to the young person
- facilitating communication between the child and the interviewing officer where necessary
- ensuring that all welfare needs relating to the child are sufficiently provided for during the interview process, such as adequate breaks and refreshments
- offering any additional information to the interviewing officer which may have a bearing on the child's emotional wellbeing and fitness for interview (e.g. religious fasting).

It may not be appropriate for you, as the young person's social worker, to be the responsible adult as you may have information which is different to the information the young person gives during the interview.

Your role in relation to Legal Advice

Applying for asylum is complicated and the child you are responsible for will need legal advice and support through the process. The local authority **must** support the child to obtain legal advice.

Immigration law specialists can be hard to track down, especially within

Wales. Depending on where in Wales you are located – and where the child is living, they may need to travel some distance to see their legal advisor. The local authority should facilitate this.

Legal Aid is available for all immigration matters in respect of unaccompanied children, including asylum. Once the child has attended the initial screening interview and launched their asylum claim, they will be eligible for Legal Aid, but the availability of lawyer handling Legal Aid cases may make it difficult in practical terms.

For a child approaching their 18th birthday, it's especially important to make sure they receive good quality legal advice. Delays in obtaining legal advice can mean that the child's immigration status takes longer to resolve, and can impact negatively on the claim.

Although you cannot give the child legal advice about an asylum claim, you can help and support children to find a suitable legal adviser. A few things to bear in mind:

- You should only suggest legal advisors who are **properly accredited** – either by the Law Society or by the Office of the Immigration Services Commissioner (OISC).
- You may wish to enquire whether a particular lawyer has any additional training or experience in working with children.
- Legal advice funded by Legal Aid can be obtained from a legal advisor with the 'Senior Caseworker' accreditation under the Law Society scheme, or from a legal advisor accredited by the OISC to Level 2. If a legal advisor is to represent the young person at the Immigration Tribunal they must be OISC Level 3 accredited.
- You may need to provide a letter to the chosen legal adviser confirming the child is being looked after, and the level of support received. This will usually be enough evidence of the child being supported and accommodated by the local authority to warrant Legal Aid.

Properly accredited

It is a criminal offence to provide asylum advice unless you are a solicitor, regulated by the Solicitors Regulation Authority, a barrister regulated by the Bar Council or a non-lawyer who is authorised by the OISC at Level 2.

A lawyer should work with children in a way that is suitable to their needs,

including taking account of the impact of trauma and Adverse Childhood Experiences. Sometimes they might find it difficult to talk to their lawyer and there may be some issues, such as sexual assaults, that will need to be discussed with a medical expert rather than the lawyer.

If it is difficult to find a legal advisor who can represent the children on Legal Aid, the local authority will need to consider funding the costs. In at least one case that has been decided by the Local Government and Social Care Ombudsman in recent years, a council that refused to help fund legal advice in respect of the immigration status of a looked after child was found to be at fault.

The Ombudsman said that *"The Council failed to properly balance the cost of the legal advice against the impact of not obtaining appropriate advice to support a 'looked after child'. The Council's responsibility, as a corporate parent, was to safeguard and promote her welfare. Given the circumstances of this case, and the limited costs involved, the Council's failure to fund the advice, or find free advice with a Legal Aid solicitor, was therefore at fault."* [Investigation into a complaint against Royal Borough of Greenwich (reference number: 13 019 106)]

Children have the same rights as adults to complain if a lawyer does not act appropriately, and they should be made aware of these rights and supported to change lawyers or make complaints if they wish.

Outcomes of the Asylum Process

Refugee Status is granted if the child has a well-founded fear of persecution in their home country. The length of time they are allowed to stay in the UK will depend on how they arrived in the UK.

If they travelled directly to the UK from their home country they will be considered a 'Group 1' refugee and will be granted 5 years '**leave to remain**'. At the end of this they can apply for '**Indefinite Leave to Remain**'. It is important that they do this before their first grant of leave expires

If they passed through a country where they did not face direct persecution, they will be considered a 'Group 2' refugee and will be granted leave for a

period of 30 months. They will be able to apply for this to be extended for further periods of 30 months before it ends. This type of leave does not have an automatic route to indefinite leave to remain and the child will need further specialist legal advice to help them apply for indefinite leave, either after 5 years or 10 years.

If they are still looked after at this point, you may need to support the child to access Legal Aid and obtain legal advice and support to complete this process.

Humanitarian Protection

If the child does not qualify for refugee status but is fleeing i.e. war or famine or a breach of their rights as protected by Articles 2 and 3 of the European Convention on Human Rights, the immigration officials dealing with the application for asylum should go on to consider whether the child can be granted humanitarian protection. This is granted if it is accepted that the child faces '*a real risk of serious harm if he or she returns*'. If this is the case they will be treated the same as a 'Group 2' refugee.

Discretionary Leave to Remain (sometimes called 'UASC' Leave)

If asylum is refused and humanitarian protection is not granted, but the reception arrangements in the country where they would be returned to are inadequate, and the child is under 17.5 years' old, the child should be granted temporary leave to remain in the UK as an Unaccompanied Asylum-Seeking Child. This is often known as UASC leave.

In these cases leave is granted until the child is 17.5, or for 30 months, whichever is the shorter. In many cases, once their leave expires, the conditions for granting it will have expired, so it is difficult to argue for a further extension of leave, though if they do wish to remain in the UK it is important they seek legal advice if they do not have an ongoing case at the time the leave expires.

Because of the difficulties with this form of leave, it is important that the

child is fully advised about their right to appeal a refusal of asylum or humanitarian protection at the time of grant.

s.67 Leave

This form of leave was announced in July 2018 and relates to children transferred to the UK under s.67 Immigration Act 2018 (the Dubs amendment).

If these children fail in their asylum claim, they should be granted s.67 leave to remain in the UK, able to study, work, access health care and have recourse to public funds for 5 years. At the 5 year point, they can apply to settle permanently in the UK.

Calais Leave

This form of leave was announced in September 2018 and relates to children transferred to the UK from Calais, between October 2016-July 2017 via a form of Dublin III family reunification.

This form of leave gives the child rights to study, work, access health care and have recourse to public funds for 10 years. At the 10 year point, they can apply to settle permanently in the UK.

Family reunion

The child may ask if they can bring other members of their family into the UK to live with them. The immigration rules do not currently allow this, only allowing for children to come to the UK to join their refugee parents who are already here, but not for siblings and parents to come and join a refugee child.

In some cases, the child may be able to argue that human rights law (and in particular Article 8 of the European Convention on Human Rights) means that other family members should be able to join him in the UK. A decision preventing the parent/sibling from joining the child in the UK may amount to a disproportionate interference with the young refugee's family life.

It may also be argued that they have created a family life with a foster family in the UK and should be granted leave to remain on that basis.

If a child is adopted by British Citizens, they will become a British Citizen at the point of adoption.

6.

Planning for the future

In many cases, the children who come to the UK and fall within the definition of 'Unaccompanied Asylum-Seeking Child' will be close to the age of 18. Although they will initially be accommodated by the local authority, you will need to give thought to what happens once they turn 18.

It may be difficult to fit a child at this age into appropriate education or training, and the need to regularise their immigration status will overshadow everything they do. Resolving this will be a priority, although this is likely to take some time, months or potentially years. **Pathway Planning** should include the possibility that the child will not be able to stay in the UK, but should also plan for the eventuality that they can, or that at the age of 18, he or she will still have unresolved immigration status. The child may also decide that they would like to go back to their home country voluntarily.

Beyond 18

Anyone who has been looked after for 13 weeks is eligible for post-18 support under the Social Services and Wellbeing (Wales) Act 2014.

Children in Wales and seeking asylum should be offered this service by the local authority. The child's immigration status doesn't immediately impact on their right to support as a 'looked after child', and as the social worker, you should be confident to continue offering support as you would any other child. A child whose asylum claim has failed and has no further avenue to pursue as far as obtaining permission to remain in the UK, may still be eligible to post-18 support, even though he or she is 'Appeal Rights Exhausted'.

Post-18 support continues until the child is 21 – or 25 if in full time education. If the child's refugee status or humanitarian protection status is reviewed during this time or the child wants to apply for indefinite leave to remain, the local authority will need to support them in that. This could include funding legal advice if legal aid is no longer available because the child is 18 or older.

Ineligible for local authority support post-18

The entitlements of those turning 18 should be viewed with reference to their age and circumstances as laid out in ss 105 to 155 of the Social Services and Well-Being (Wales) Act 2014. Their immigration status is not a relevant consideration.

You may need to help the child transition into the system as an adult asylum seeker if they are no longer eligible for local authority support. You can explain that they may be eligible to have somewhere to live and a weekly allowance. Support for adults seeking asylum in the UK is provided by the Home Office rather than the local authority but it is not provided in every case and it can be difficult for adult asylum seekers to access this support.

The child may also need help to keep track of their asylum claim if there is no longer social worker/local authority support. The child will need to take steps to regularise his status in some other way if their asylum claim is eventually refused.

It may be possible to put the child in touch with charities, community groups or other organisations that can provide this support and advice, so the child is not left feeling completely cut off from help once he turns 18.

Citizens of the future

The complexities of the UK immigration rules mean that you will have to consider additional factors above and beyond those that you come across with other children in your care. While age assessment and immigration status may add extra layers to the care and support you provide, they

remain children. Never be afraid to look beyond the label 'Unaccompanied Asylum-Seeking Children' and recognise these young people as citizens of the future, with the same human rights as every other child in your care. Your professionalism and integrity will play a huge part in helping these children access their rights: allowing them to be treated with respect and given support and a voice as they navigate the complex path of claiming asylum in the UK.

7.

Resources

The legal framework



United Nations Convention on the Rights of the Child
www.unicef.org.uk/what-we-do/un-convention-child-rights



Social Services and Well-being (Wales) Act 2014
www.legislation.gov.uk/anaw/2014/4/contents



Social Services and Well-being (Wales) Act 2014 – Codes of Practice, Regulations and Guidance Information and Learning
socialcare.wales/hub/home



Rights of Children and Young Persons (Wales) Measure 2011
legislation.gov.uk/mwa/2011/2/contents

Legal advice and guidance for social workers on immigration matters



Right to Remain Toolkit. This is a comprehensive and regularly updated resource for practitioners and Refugees and Asylum Seekers. Six sections are translated into other languages.
[Right to Remain Toolkit – Right to Remain](#)



Free Movement. This website is regularly updated, and you can also sign up for the weekly email.
www.freemovement.org.uk



UK Government Home Office Guidance
[Processing children's asylum claims](#)

Additional guidance

Age Assessment Age Assessment of Unaccompanied Asylum-Seeking Children



Welsh Government Age Assessment Toolkit
[Toolkit Unaccompanied asylum seeking children: age assessment toolkit](#)



UK Government Guidance
[Age assessment: joint working - GOV.UK \(www.gov.uk\)](#)

Care and Safeguarding



All Wales Practice Guidance for Safeguarding Children
Who Many Have Been Trafficked 2011
[Social care Wales \(safeguarding.wales\)](https://www.safeguarding.wales/)

Health



UASC Health
[Unaccompanied asylum-seeking children's health](https://www.unaccompanied.org.uk/)



Welsh Refugee Council
www.welshrefugeecouncil.org.uk
029 20489 800



National Referral Mechanism
([Independent Child Trafficking Advocacy Service](https://www.independent-advocacy.org.uk/))
Barnardo's



British Red Cross Family Tracing Service
[redcross.org.uk/get-help/find-missing-family](https://www.redcross.org.uk/get-help/find-missing-family)



Wales Interpretation and Translation Services
www.wits.wales



TGP Cymru
www.tgpcymru.org.uk



Ethnic Youth Support Team (EYST)
www.eyst.org.uk



National Youth Advocacy Service
www.nyas.net

Other Useful Contacts



Office of the Immigration Services Commissioner for a list
of approved immigration lawyers
[Office of the Immigration Services Commissioner - GOV.
UK \(www.gov.uk\)](https://www.gov.uk/government/organisations/immigration-services-commissioner)



UK Visas and Immigration
[gov.uk/government/organisations/uk-visas-and-immigration](https://www.gov.uk/government/organisations/uk-visas-and-immigration)

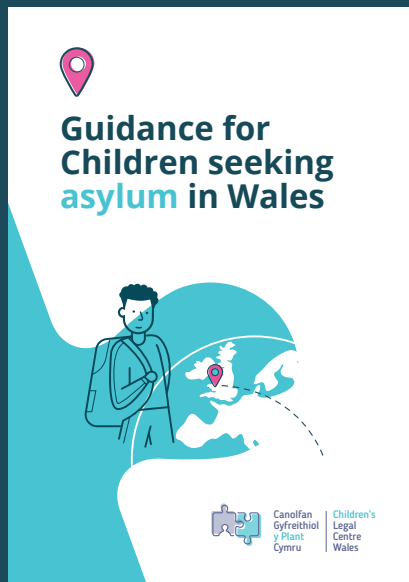


Wales Strategic Migration Partnership
[Wales Strategic Migration Partnership - WLGA](https://www.wales.gov.uk/wales-strategic-migration-partnership)



[National Referral Mechanism](https://www.independent-advocacy.org.uk/)

Other information in this series



Children's Legal Centre Wales

Richard Price Building
College of Law & Criminology
Swansea University
Singleton Park
Swansea
Wales
SA2 8PP

✉ childrenslegalcentre@swansea.ac.uk

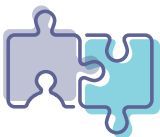
☎ 01792 295399

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childrenslegalcentre.wales

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