

General FAQ

Q. What is the definition of an unaccompanied asylum seeking child?

The definition of an unaccompanied asylum seeking child (UASC) is set out in the Immigration Rules. It states that a UASC is someone who:

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

Q. How was the ceiling of 0.07%¹UASC to child population decided?

Through agreement with the Association of Directors of Children's Services. The formula is a simple and transparent way of checking whether the responsibility for looking after unaccompanied children is distributed fairly across the country. It is based on analysis of the total child population from the 2014 census and our understanding of UASC numbers.

Q. What happens when the 0.07% threshold is exceeded in all regions?

We do not expect that to happen, but will monitor the situation closely and will review the proportions annually.

Q. Does the data on the current number of UASC in my local authority include those placed here by other local authorities or only those we are legally responsible for?

The data is based on the number of UASC per local authority based in financial claims submitted by local authorities to the Home Office for UASC for whom they are responsible. This will not include those placed in their areas by other local authorities. However, it is intended that the transfer scheme will reduce the need for out-of-area placements, and will also enable responsibility for out-of-area placements to be transferred to the host authority where this is agreeable and desirable.

Q. Will a child who is reunited with a responsible adult be considered part of the 0.07% allocation?

No. The 0.07% is the ceiling for how many UASC and unaccompanied refugee children a region or local authority is reasonably expected to be looking after at any time, as a proportion of its total number of children. Children who are not looked after by the local authority because they have been reunited with their families will not count towards this figure.

¹ This percentage is agreed for the year 2016-17 and will be reviewed annually.

Q. Does the data on the current number of UASC in my local authority include former UASC who are care leavers?

No. Only those aged under 18 are included in the 0.07%.

Q. What data will be included in the National UASC database?

For the scheme to operate effectively, we will need an accurate and up to date picture of the numbers of UASC supported by each local authority, which is what the national UASC database will capture. We will need local authorities to notify our central admin team in a timely way of changes in their looked after UASC populations, using the single Unique Unaccompanied Child Record proforma we have designed.

Q. Will there be a regional data base in each region – if so how will they be funded?

Each region is considering its own data, process and resource requirements. We will consider any funding requests that we may receive for regional structures to underpin the scheme.

Funding

Q. What benefits are UASC entitled to?

If UASC are granted leave (status is regularised) they are entitled to the same benefits as any other child in the UK. However, support for UASC care-leavers will depend on their immigration status. If they are refused asylum they would be expected to leave the UK and will therefore have different benefit entitlements.

Safeguarding

Q. In cases where supported lodgings/shared/supported accommodation placements are deemed appropriate, can UASC be placed under Section 17 of the Children Act as a child in need, as opposed to Section 20 of the Children Act as a looked after child?

Once UASC have been accommodated for 24 hours by a local authority (and this may be the entry local authority) they are then looked after children.

Looked after children can be accommodated in independent living arrangements as set out in the paper now on the ADCS website.

Q. Could there be dispensation from government to not make UASC “looked after” even when accommodated in a placement by the LA? (i.e. make UASC s17 instead of s20/s22)

Local authorities have a number of statutory duties under the Children Act 1989 and other related legislation for children in their area and those duties remain. These duties are set in primary legislation and continue to apply: local authorities will therefore need to ensure the proper exercise of professional judgement in all cases.

Q. Can LAs be given dispensation to use support workers instead of social workers for UASC?

It is important that a qualified social worker is responsible for case management, which means having a meaningful influence on the way in which a case is handled and the decisions that are made. The decision to use unqualified support staff to assist social workers in their case management duties is at the discretion of the local authority.

Q: If the child is under 16, does this constitute a private fostering arrangement and should a private fostering assessment be undertaken?

No, we do not expect that these arrangements will constitute a private fostering arrangement, and therefore statutory provisions, including for private fostering assessments, will not apply.

This is because private fostering, as defined under the Children's Act 1989, is an arrangement made privately between individuals – that is to say without the involvement of a local authority – and requires that the child is being cared for by someone other than their parent or relative (amongst other limitations, including on the child's age and the duration of the placement). A relative is defined as a grandparent, brother, sister, uncle or aunt (whether full or half blood or by marriage or civil partnership) or a step-parent. Where a child is reunited with a relative, as defined above, through an arrangement that is not made privately, this would not be a private fostering arrangement.

The definition of a private fostering arrangement is given in the General Introduction to the National Minimum Standards for Private Fostering, found here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274482/national_minimum_standards_for_private_fostering.pdf. The statutory guidance for private fostering can also be found here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274414/Children_Act_1989_private_fostering.pdf.

Q. What pre-assessment is required by LAs prior to a Dublin III child being reunited with family?

In addition to UKVI's checks on the Police National Database and the identity of the family, local authorities will need to satisfy themselves that the family in question is suitable to take responsibility for the arriving child. This will require appropriate checks being carried out by the local authority, for example, a visit by a social worker to the home in which the child is intending to live (if possible before the child arrives) and a follow-up visit some days after arrival to ensure that the child is safe and well. Since we anticipate that most of these children will, at least to begin with, be in informal family and friends care arrangements, the appropriate guidance for these

arrangements should be followed (including [Family and Friends Care: Statutory Guidance for Local Authorities \(2010\)](#))

Q. What if a Dublin III placement goes wrong?

Where the placement of a child who has been reunited with family breaks down the local authority where the family resides will be responsible for that child's welfare. The Home Office is amending its UASC grant agreement to ensure that local authorities can claim for funding for these children as it would with other UASC.

Q What is the legal status of Dublin III children placed with families?

It is for the local authority in whose area the child is placed to determine the legal status of that child. We anticipate that most of these children will, at least to begin with, be in informal family and friends care arrangements and so the appropriate guidance for these arrangements should be followed (including [Family and Friends Care: Statutory Guidance for Local Authorities \(2011\)](#)).

Q. Do family members need to be approved as formal kinship care foster carers of Dublin III children?

Whether the child's circumstances trigger the section 20 duty is a judgement for the local authority in whose area the child is accommodated. Statutory guidance states that "not all children who are cared for by friends and family carers will be looked after by the local authority. Some arrangements may simply require the kind of support which the local authority can offer under section 17 of the 1989 Act." (p.10 Family and Friends Care: Statutory Guidance for Local Authorities). Local authorities should look to this guidance to understand the range of legal situations in which family and friends care takes place.

Q. If so, do there need to be court proceedings to ensure that formal kinship carers have parental responsibility?

Where a child is being supported under section 17 or looked after under section 20, no person will have parental responsibility (PR) for these children, however the local authority will have legal responsibility for the child and will be able to do anything that is necessary to safeguard and promote the welfare of that child. Some local authorities have expressed a concern that there is a need to confirm PR through a court process. This is not a requirement although the relatives may decide to initiate proceedings to acquire PR by applying for a relevant private law order.

Q Will fostering/adoption services be available for unaccompanied children?

Unaccompanied children will be eligible for foster care if it is considered that that this placement type will provide appropriate support and best meet their individual needs.

It is unlikely that adoption will be an appropriate option however. The United Nations and other humanitarian charities advise that no new adoption applications should be considered in the period after a disaster or fleeing from war. It is not uncommon for children in these circumstances to be temporarily separated from their parents or

other family members who may be looking for them. Efforts to reunite children with relatives or extended family should therefore be given priority.

NEW

Can unaccompanied asylum seeking children who are aged under 16 be placed in accommodation which is not regulated?

The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review² is statutory guidance relevant for the care of all looked after children. Additional guidance is also available in the 2014 Care of unaccompanied and trafficked children Statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children.

Guidance sets out that children who are not yet aged 16 will need to be placed in an Ofsted regulated and inspected children's residential care home, or cared for in a family setting which is either an Independent Fostering Agency foster carer or in a placement with a local authority foster carer.

Can unaccompanied asylum seeking children who are aged 16 or over be placed in accommodation which is not foster care or an Ofsted regulated and inspected children's residential home?

Statutory guidance and The Care Planning Placement and Case Review (England) Regulations 2010 (the Care Planning Regulations) clearly set out that in some cases, a child aged over 16 can be suitably placed in accommodation termed as "other arrangements". This is "unregulated" in the sense that it isn't regulated and inspected by Ofsted in the same way that a registered children's home or foster care provider is regulated and inspected, however it is covered by statutory guidance and the Care Planning Regulations which set out when and how local authorities might use them. Appropriate local authority use of "other arrangements" is looked at, as appropriate, by Ofsted as part of the single inspection of any local authority children's services.

Where there has been an assessment of need of a young person 16 or over and the best match to their needs is in "other arrangements" the placement could be supported lodgings, supported accommodation or shared accommodation.

The local authority must be satisfied that any such placement is in the best interests of each individual young person, with practice in line with all relevant statutory guidance and the Care Planning Regulations. See also the 2014 Care of unaccompanied and trafficked children Statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441643/Children_Act_Guidance_2015.pdf

Is it appropriate to keep an unaccompanied asylum seeking child as looked after under section 20 or should they become looked after under a section 31 care order so that the LA is granted Parental Responsibility?

There is no requirement to obtain a section 31 care order for any unaccompanied asylum seeking child who has become looked after under section 20 of the Children Act 1989 unless the LA believes that the threshold in section 31 of the Act is met in respect of that child. Section 20 might be sufficient (for most unaccompanied asylum seeking children) as the child becomes looked after being accommodated for 24 hours and therefore will get all the benefits that this brings. The local authority does not obtain Parental Responsibility (PR) through section 20, but they do not need it to provide all the support the child needs.

If a foster carer wants to acquire PR, they can do so by applying for a child arrangements order, a special guardianship order or by adopting the child.

An application under section 31 is only made where a child is suffering or is likely to suffer significant harm as a result of the care they are receiving or the child being beyond parental control.

The Munby judgment highlighted that LAs shouldn't be using s20 as a prelude to care proceedings but that it is up to LAs to determine when such proceedings are actually necessary because the child's circumstances are such that they meet the test in s31. Many unaccompanied asylum seeking children, s20 isn't being used as a prelude to care proceedings as, in most cases, there won't be any care proceedings. The children are being accommodated under s20 because they require accommodation and the threshold in s31 is not met. There won't be any care proceedings unless, at some point, the child's circumstances change and they meet the threshold test in s31.

Can local authorities “fast track” new foster carers for unaccompanied asylum seeking children by using the approval process which would normally be used when placing a child in formal kinship care foster care?

No, this would not be possible as it would not be compliant with the Children Act 1989 and the Care Planning Regulations. The decision to let somebody foster a child is a very important one to get right. It's appropriate that the approval process for potential foster carers is thorough and robust to ensure the safety and wellbeing of looked after children. Family and friends carers can be approved as foster carers on a temporary basis where that is the most appropriate placement for a looked after child and the need for such a placement is urgent. Temporary approval can be granted for no longer than 16 weeks (extended in specific circumstances only) to allow sufficient time for the full foster carer approval process to be undertaken. These provisions are intended to be used exceptionally and relate to connected persons only (defined as a relative, friend or other person connected with the child). Temporary approval is therefore not relevant for unaccompanied asylum seeking children who have not previously met the potential foster carer.

However, to expedite the approval process, stages 1 and 2 of the assessment can be run concurrently (see 2013 Assessment and approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services)