

Unaccompanied Asylum Seeking Children

1. What sort of children does this definition cover?

The United Nations High Commissioner for Children defines unaccompanied children as:

‘those who are separated from both parents and are not being cared for by an adult who, by law or custom, has the responsibility to do so.’ UNHCR (1994) Refugee Children: Guidelines of protection and care.

The Home Office defines an unaccompanied asylum-seeking child as a person who, at the time of making the asylum application

- Is, or (if there is no documentary evidence) appears to be, under eighteen;
- Is applying for asylum in his or her own right;
- Has no adult relative or guardian to turn to in this country; and
- Is fleeing persecution from their own country

2. What do we have to do in East Sussex?

For migrant children who come to the United Kingdom alone and who are separated from their families, the assistance they would be entitled to from East Sussex Children’s Service as a ‘child in need’ means that their age is the most important characteristic in determining whether they are owed a duty of assistance at all ie if they are age assessed to be under 18 then they become the responsibility of ESCC.

Section 20 of the Children Act (1989) states that every local authority “shall provide accommodation for any ‘child in need’ in 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”.

Following LAC (2003) 13 Guidance and the Hillingdon Judgement there is a clear legal need to respond to UASCs as 'looked after children' under the Children Act 1989 (Section 20).

3. What happens when they turn 18?

Once the child reaches 18yrs what happens next will depend on their immigration status.

- If asylum application is positive, the same threshold criteria for leaving care provision as British born children entering the Looked After Child system is applied.
- If at aged 18yrs a child has no status and is All Rights Exhausted (ARE), then a Human Rights Act assessment should be completed to consider if leaving care support can be terminated and care transferred to National Asylum Support Service (NASS).

4. How do we know how many UASC there are nationally or in the South East?

The data concerning the number of resident migrant children across the UK, is predominantly linked to the three Government schemes currently in operation, the National Transfer Scheme, Dubs amendment and vulnerable children's scheme. Data is generated, by the number of payment requests received by the Home Office in any specified timeframe. Whilst this is considered an accurate measure for the purposes of calculating unaccompanied asylum-seeking children in the UK, it does not account for children being cared for by friends or relatives (Dublin III) who do not qualify for government funding.

Data generated in March 2018 estimates the entire child population in the UK to be 14,000,000. The estimated number of UASCs being claimed for by local authorities is 4,600. In the South East region (19 local authorities), the entire child population is estimated at approximately 2,000,000. The estimated number of UASCs currently being claimed for in is 885. The Government calculates that it is reasonable for each Local Authority to care for the equivalent of 0.07% of their entire child population. For the South East as a region this equates to 1353 children. In terms of percentages the South East are currently caring for approximately 65% of their 0.07% calculated figure.

5. What does this mean for East Sussex?

East Sussex has an estimated entire child population of 106,000 and so the 0.07% calculated figure is 74. The current figure cared for by East Sussex County Council is 25, this equates to 33.7% of what the Government considers is the capacity.

6. Where are children coming from?

Most young people arriving in the South East region are between 15-17yrs. With the highest numbers from Sudan, Afghanistan, Eritrea, Iran and Albania. Some will be refugees whilst others may be considered to be economic migrants.

7. How do they arrive?

There are various routes by which migrant children can arrive in East Sussex;

i) Spontaneous arrivals

Children who come to the attention of either Police or Border Force, 'inland' or at Port of entry (Newhaven) ie some children are found in lorries at the port whilst others just 'appear' on the streets. These children have travelled to the UK either of their own 'free will', using smuggling networks with family or friends paying for their journey; or have been trafficked to the UK for the purpose of exploitation (eg the sex trade, cannabis farming etc). Regardless of which method these children have used they are all considered vulnerable and likely to have suffered harm or abuse either in their Country of origin or on the journey to the UK.

ii) National Transfer Scheme

The scheme was introduced on 1st July 2016 to relieve the pressure on Port authorities who were caring for high numbers of unaccompanied asylum-seeking children (eg Kent and Portsmouth). The transfer protocol provides guidance on the operation of the NTS and the way in which local authorities in England, can transfer unaccompanied children to another local authority in accordance with section 69 of the Immigration Act 2016. In essence "where an unaccompanied child first presents in a participating local authority which is over the ceiling of 0.07% UASC to total child population the local authority may arrange for the transfer of the child through the NTS, unless there are clear reasons why transfer would not be in the best interests of the child.

Key transfer rules:

- a)** If the region in which the child first presents is under the ceiling of 0.07% then the child would be expected to be transferred to a participating local authority within that region unless there is good reason to transfer to another region. For example, if they are a potential victim of trafficking and if it is in their best interests to be placed away from the alleged trafficker who may reside in that region or if they have a relative in that region who may pose a safeguarding risk to the child. Similarly, it would also be appropriate to consider transfer out of region if the child had a relative living in another region and it was considered to be in their best interests to be placed near the relative.

b) If the region is over the ceiling of 0.07% then the child would be expected to be transferred to another participating local authority out of the region using the transfer protocol”.

iii) Vulnerable Children’s Resettlement Scheme.

This scheme was announced in April 2016 and was specifically tailored to support vulnerable and refugee children at risk and their families. The Government has committed to resettling up to 3,000 children and their families over the lifetime of this Parliament.

The scheme does not solely target unaccompanied children, but also extends to vulnerable children at risk, such as those threatened with child labour, child marriage and other forms of abuse or exploitation. It will be open to all ‘at risk’ groups and nationalities within the Middle East and North Africa region (MENA).

This scheme, which is the largest resettlement effort aimed specifically at children at risk from the MENA region, is in addition to the Government’s commitment to resettle 20,000 Syrian refugees under the Vulnerable Persons Resettlement Scheme (VPRS).

iv) Dubs Amendment

The amendment, passed in May 2016, required the Government to act “as soon as possible” to relocate and support unaccompanied refugee children in Europe, who it is considered would have their needs best met by living in the UK. There has to be consultation with local authorities to determine the number of children each council has the capacity to help.

v) Dublin III Regulation.

The Dublin III regulation is a European Union Law that allows applicants to be considered for family reunification. Children can apply to be brought to the UK to be reunited with parents, siblings, grandparents, aunts or uncles. The UK are obliged under the Dublin Regulation to transfer children so that he may reside in the same country as their family member, whilst their claim for international protection is assessed. In cases where the relative is a parent or sibling they are entitled to come to the UK regardless of whether the family can support them or not. In cases where it is a grandparent, aunt or uncle, the relative must be assessed as being able to support the child to live with them in the UK.

8. Does the Government pay East Sussex to look after these children?

The Home Office will reimburse costs incurred by LAs, caring for UASC and Care Leavers who were formerly UASC. Each LA is required to submit claims on a bi-monthly basis. The funding level was increased in 2016 for any new arrivals but funding for pre-existing or 'legacy' cases was not.

The current funding tariff is as follows;

Category	£ daily
Legacy UASC Under 16	£95
Legacy UASC 16-17yrs	£71
National Rate UASC Under 16 (UK arrivals from 1 July 2016)	£114
National Rate UASC 16/17 (UK arrivals from 1 July 2016)	£91

Leaving Care

Legacy cases (25 FTE threshold)	£150 per week
National Rate cases	£200per week

If a local authority's actual expenditure (for all eligible UASC supported) is less than a sum calculated by applying the standard rates, payments will be capped at the level of actual expenditure.

The Home Office is currently reviewing the funding arrangements for local authorities caring for UASC. Whilst the outcome of the review is underway, the existing arrangements, as set out above remain in place. If the review results in any changes to the current arrangements, the Home Office will publish a revised funding instruction. This level of funding does not cover the costs of most of the placement- with the gap being as great as £200/week for some children.