



# **UK BORDER AGENCY CODE OF PRACTICE FOR KEEPING CHILDREN SAFE FROM HARM**



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# 1. CHILDREN FIRST AND FOREMOST

- 1.1. The Government believes it is important that the law and policy relating to asylum and immigration, and the law and policy relating to the welfare of children, should be in step with each other; whilst retaining the distinct functions and decision making roles of the agencies concerned. Ultimately, this can only be beneficial to children. One of the ways in which the Government is seeking to achieve this is through this Code of Practice which applies to the UK Border Agency in its dealing with children in the United Kingdom.<sup>1</sup>
- 1.2. This Code of Practice is issued under s.21 (1) of the UK Borders Act 2007 which provides that the Secretary of State shall issue a Code of Practice designed to ensure that in exercising functions in the United Kingdom the UK Border Agency takes appropriate steps to ensure that while children are in the United Kingdom they are safe from harm. Section 21(2) (a) imposes a duty on the Agency to have regard to the Code in the exercise of its functions; and section 21 (2) (b) requires the Agency to take appropriate steps to ensure that those providing services on behalf of the Agency, such as contractors, also have to have regard to the Code.
- 1.3. The Code was presented to Parliament on 16 December 2008 and comes into force on 6 January 2009.
- 1.4. This Code reflects the outcome of a consultation held in April 2007 but it is not intended that this Code shall be the last word on the subject. In addition, the Government is including provision in the Borders, Immigration and Citizenship Bill for immigration and nationality functions to be carried out having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom. This will be equivalent to the duty contained in section 11 of the Children Act 2004.
- 1.5. The UK Border Agency acknowledges the status and importance of the following: the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the EU Reception Conditions Directive, the Council of Europe Convention on Action Against Trafficking in Human Beings, and the UN Convention on the Rights of the Child. The UK Border Agency must fulfil the requirements of these instruments in relation to children whilst exercising its functions as expressed in UK domestic legislation and policies.
- 1.6. The UK Border Agency must also act according to the following **principles**:
  - Every child does matter, as much if they are subject to immigration control as if they are British citizens;
  - The best interests of the child will be a primary consideration (although not necessarily the only consideration) when making decisions about his or her future.
  - No child should be discriminated against through being a child, or on grounds of gender, race, religion, disability, sexual orientation or culture.
  - The views and wishes of children should be sought and taken into account whenever decisions affecting them are made. This should be done in an age-appropriate way.
  - In addition, the UK Border Agency is determined to exemplify good practice in the way that members of staff deal with children.

<sup>1</sup> 'Children' means anyone below the age of 18.

1.7. The UK Border Agency will seek to ensure that **children**

- Are treated in a way that safeguards them, promotes their welfare and promotes their upbringing by their parents<sup>2</sup>.
- Receive full advice, guidance and support about any applications they make or about any contact they have with government agencies.
- Are seen first, foremost and fully as children rather than simply as migrants subject to immigration control, or as adjuncts to a principal applicant.
- Are listened to with respect; and where procedures and services are there to address their needs, a child should be involved as much as possible in applying them to his or her own circumstances.
- Have their experiences taken seriously as well as checked against known records for their country of origin. They should experience a need for confirmation of events, but should not feel that they are up against a culture of disbelief.
- Have their applications dealt with in a timely way that they can understand and that minimises the uncertainty that they may experience.
- Experience contact with the authorities that is characterised by fairness, being listened to, and the absence of conflict.

1.8. Keeping children safe from harm has to be defined widely but sensibly. 'Harm' means the ill-treatment or impairment of health or development of a child. 'Development'

<sup>2</sup> Cf. the guidance to the Children Act 1989 which makes it clear that a child's interests are best served when they are with their natural parents.

means physical, intellectual, emotional, social or behavioural development; 'health' means physical or mental health; and 'ill-treatment' includes sexual abuse and forms of ill-treatment which are not physical. These meanings are consistent with those used in the Children Act 1989 and are to be taken as applying in the context of immigration control. The definitions are wide to reinforce the emphasis on preventing an identifiable state of affairs continuing where this is plainly having an adverse effect on a child.

1.9. Consistent with its main functions, the UK Border Agency will take positive steps to keep children safe from harm by incorporating the following key principles into its work:

- (i) Ensuring that immigration procedures and situations are responsive to the needs of children and that time is made available for appropriate communication with children and families about immigration procedures;
- (ii) Identifying children whose circumstances mean they may be at risk of harm when they come into contact with the immigration system; and
- (iii) Referring such children to the appropriate agency or agencies and working together effectively with that agency or agencies.

1.10. Staff must approach their dealings with a child or a case involving a child with a view to being as responsive as possible to the needs of the children involved without over-riding the purpose of their work.

1.11. The Code applies to the UK Border Agency both when it is dealing directly with children, and when it is dealing with cases on paper involving children who are in the United Kingdom. Private or voluntary organisations that are commissioned to provide services on

behalf of the UK Border Agency in the United Kingdom are required to have regard to the Code in the provision of those services.

- 1.12. This Code does not create any new or overriding duty which will interfere with the UK Border Agency's primary function; namely to uphold the integrity of the immigration control system, and in doing so, to apply the immigration legislation, the immigration rules and the relevant policies of the Secretary of State for the Home Department.
- 1.13 The Code does not create any new obligations for UK Border Agency staff overseas. UK Border Agency staff overseas will also refer children to the authorities of other countries where local or international agreements permit or require.

## 2. CHILDREN'S CASES MUST BE HANDLED SENSITIVELY ON ARRIVAL AND WHEN THEY MAKE APPLICATIONS TO THE UK BORDER AGENCY

**Paragraphs 1-5 refer to children who are not applying for asylum**

### CHILDREN AT THE POINT OF ARRIVAL IN THE UK

- 2.1 When children come to the United Kingdom it will usually be clear who is responsible for their care.
- 2.2. In most cases, the care and welfare of a child will be provided by parents who are accompanying them or who are already in the United Kingdom; in other cases it might be a school or college where the child has been formally enrolled. In a small number of cases, there may be less clear-cut arrangements such as an accompanying adult who is not a parent, or a relative to whose address the child is to travel. In these cases, the UK Border Agency will seek further evidence that a particular named adult is caring for the child with the parent's consent.

### VISA REQUIREMENTS

- 2.3. In cases where a visa national child is seeking entry to the United Kingdom as a visitor in the company of an adult, that adult must be identified and the child's visa must identify the adult with whom they seek to enter. We require a child seeking to visit the United Kingdom in their own right (i.e. unaccompanied) to demonstrate that there are adequate arrangements for their care here and to identify a person in their home country who is responsible for them. This creates a record that can be used to tackle some of the problems associated with unaccompanied children arriving in the United Kingdom, chief of which is the lack of information about who is responsible for them in their home country. It will also contribute to the ability to act, where necessary, when individual children come to the attention of a public body after arrival for welfare and other reasons.

### NON-ASYLUM SEEKING CHILDREN WITH NO ADULT TO CARE FOR THEM

- 2.4. When staff members encounter a child who does not appear to have a parent or legal guardian to care for them, they will refer the child to the Local Authority<sup>3</sup> (or in Northern Ireland the health and social care trusts). Indicators that a child has no suitable carer include:
- a child living with adults in circumstances that suggest tasks and errands are carried out in return for care;
  - a child being the principal applicant in any application made to the UK Border Agency;
  - a child who has arrived with an adult in the United Kingdom, but has since submitted an application in their own right;
  - a child who is accompanied by an adult but who provides a different account of their circumstances to that of the adult without there being a reasonable explanation for this;
  - the principal carer for the child has changed since the last contact with the UK Border Agency.
- 2.5. Further action that must be taken – but only when it is clear that the child is not seeking asylum – is to notify the Embassy or High Commission in the United Kingdom of the country from which the child comes with a view to tracing the parents or adult carers. In the majority of cases, this should lead to action to reunite the child with his or her parents or carers.

<sup>3</sup> All references to Local Authority should be taken as a reference to Local Authority Children's Services

## **Paragraphs 6-10 apply to children who are making asylum applications**

### **UNACCOMPANIED ASYLUM SEEKING CHILDREN**

- 2.6. This Code is not a statement of the policy on unaccompanied asylum seeking children (UASC). However, the principles set out in the first section of this Code about how to treat children apply similarly to those who are vulnerable due to the lack of a safeguarding adult in their life.
- 2.7. Physical settings in which applications from unaccompanied or separated children are dealt with (e.g. areas where they are asked to wait, or where they will be required to answer further questions), may be separate settings in some UK Border Agency locations, and in other locations they may be shared with adults also waiting. The important thing is that the area that is to be used by children must be as friendly as possible to them, with furniture and décor that is suitable, in order to ensure that the child feels safe and protected.
- 2.8. Children may not always be fully aware that they are making an application that may be turned down - seeing the process as similar to accessing services to which there is an entitlement. There may therefore be a need to explain carefully that this is a possibility and to encourage the development of plans that take this into account. The UK Border Agency will endeavour to assist other bodies that have a statutory role in planning for a child's future to do this; for instance, by helping with parallel care planning or planning for more than one outcome. Where appropriate, it will also take account of the advice and views of voluntary and charitable organisations that have a formal role in working with children or that may be involved directly in their care.
- 2.9. In addition, recognition should be given to the child as an individual with his or her own context of development and the handling of

the application should take place with this in mind. It should not be assumed that the child will have a full understanding of the immigration process or that the significance of the individual stages (such as initial screening, consideration of the application, availability of support and access to it, any actions that might follow a final decision) will be apparent to him or her. Every effort must be made to explain these and to situate them in the personal context of that particular child.

- 2.10. There should also be a recognition that children continue to develop. They cannot put on hold the stages of growth and personal development as social and cognitive individuals, until a potentially lengthy application process is resolved. Every effort must therefore be made to achieve timely decisions for them. In co-operation with the bodies qualified to plan for children's futures such as Local Authorities, clear avenues of support for the continuing development of the child into adulthood should be available. Unless it is clear from the outset that a child's future is going to be in the United Kingdom, these arrangements should include planning for more than one outcome.

### **CHILDREN BEING LOOKED AFTER IN A PRIVATE FOSTERING ARRANGEMENT**

- 2.11. The Children Act 1989 (Part IX, section 66) defines privately fostered children. The Victoria Climbié Inquiry recommended that the Government take further steps to strengthen safeguards in respect of private fostering arrangements as a child safety issue. All professionals and agencies that work with children must establish the relationship that exists between any child and those who care for him or her. If that relationship appears to be a private fostering relationship — or if the relationship cannot be established — a referral to the relevant Local Authority must be made.
- 2.12. **Where it appears that a private fostering arrangement has been made involving**



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**a child seeking leave to enter or remain, and there is no evidence that the Local Authority in which it is to take place has inspected the arrangements, the UK Border Agency will notify that Local Authority.** If it becomes obvious at the port of entry that a private fostering arrangement is intended, then notification of the Local Authority should take place by the port of entry. If the child still qualifies for entry as a visitor or as a dependant and there are no indicators of harm that would justify the immediate attention of the Children's Services, then the child need not be kept there until the Local Authority has responded.

In carrying out these enquiries about eligibility for further residence, UK Border Agency staff members must be vigilant for any indications that a child is under-achieving in any area of physical, mental or emotional development. If this is the case, then a referral should be made to the local Children's Services department.

- 2.13. There are times when the application process will reveal that a child has entered the United Kingdom as a visitor and an arrangement has been made for them to stay on with relatives or another carer after the return of those with whom the journey was originally made. In exercising vigilance on behalf of children, the UK Border Agency needs to be aware that these arrangements are likely to amount to 'private fostering' arrangements and make a referral to a Local Authority.

#### **APPLICATIONS MADE BY OR INCLUDING CHILDREN WHO HAVE BEEN IN THE UK FOR A WHILE**

- 2.14. It is not unusual for applications to remain in the United Kingdom to be made by or on behalf of children who have been here for some time. The normal practice is for children to be granted leave to remain in the United Kingdom in line with the parents or adults looking after them. Staff must be vigilant when considering applications that are made by or on behalf of children who are not with their natural parents.
- 2.15. In many cases, the application itself will require it to be established beyond doubt which adult is responsible for the child in the United Kingdom and the nature of the relationship between the child and those with whom he or she is living.

### 3. ENFORCEMENT ACTION MUST TAKE ACCOUNT OF CHILDREN'S NEEDS

- 3.1. The Government would always prefer voluntary compliance and co-operation with the immigration laws, including any requirement to leave the United Kingdom. There are occasions, though when the UK Border Agency has to enforce removal because the family will not leave voluntarily.
- 3.2. There must always be a presumption in favour of not detaining a family and each family's case must be considered on its individual merits<sup>4</sup>. The factors that have led to the decision to detain should be set out in every case as well as the basis upon which the decision was made<sup>5</sup>.
- 3.3. In addition, there must be a realistic prospect of removing the family from the United Kingdom within a reasonable period of time.
- 3.4. Before detaining a family, UK Border Agency staff must endeavour to confirm that the children and parents are related as claimed. The staff members doing this work must have been instructed<sup>6</sup> on how to respond if children prove not to be related in this way, or if any previously unknown or undocumented children are with the family. This will include knowing the importance of how to make a timely referral to the right agency. In the majority of cases this referral will be to Children's Services professionals.
- 3.5. If detention takes place, then throughout the detention process, including the point at which it takes place, the UK Border Agency will endeavour to ensure a continuation of the pattern of care that exists between the parents and their children.
- 3.6. **In particular, it is the UK Border Agency's policy that nursing mothers and their children will not be separated at any stage unless there is a compelling reason that involves the safety of the child involved (for instance, an accompanying parent has threatened to harm the child).**
- 3.7. **Other than in the most urgent circumstances involving the safety of the child, such a decision must be made and supervised by a Local Authority Children's Services Department.**
- 3.8. For all children, it is vitally important that they are allowed to be close to their parents throughout each stage of any immigration law enforcement actions that involve them as a family; and also that reasonable personal belongings should be with them if they are to be detained.
- 3.9. The UK Border Agency must make appropriate arrangements when detention extends beyond 2 – 3 days. Steps must be taken to ensure that children are not in the position of putting their lives on hold for this time. They should be allowed to maintain voluntary personal links with their school or education provider if they wish. The UK Border Agency must take reasonable steps to ensure that their education record and their medical record are available in any place where they are detained. They should be able to maintain contact with friends they have made in their schools and local communities, whether by e-mail or other means; and they should be able to worship according to their religion and custom.
- 3.10. The UK Border Agency will seek to ensure a high degree of co-operation between itself and parents during any detention procedures, and will contribute to this as follows: It will provide

<sup>4</sup> This presumption will not apply in the case of foreign nationals convicted of a criminal offence where the criteria for deportation are met.

<sup>5</sup> Factors likely to contribute to a decision to detain include: having previously absconded, having previously failed to comply with conditions attached to staying in the UK, having previously used deception, having previously failed to leave the UK when required to do so, having failed to produce satisfactory evidence of identity, nationality or of lawful entry / residence in the UK. As a list of factors that may be taken into account this is not exhaustive and may be added to or amended.

<sup>6</sup> Chapter 26.5 of the Enforcement Instructions and Guidance sets out the relevant guidance and instructions.

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explanations of the reasons for any detention and what it entails that are appropriate to that family. It will recognise the role of the parents as the main providers of communication, care and reassurance to children. It will allow ample opportunity for parents to communicate with and provide explanations to their children.

- 3.11. If a parent's inability or unwillingness to provide an explanation to the child in this way is causing anxiety to a child, then the UK Border Agency staff or the staff of the Immigration Removal Centre must ensure that a qualified social worker is aware of this so that professional consideration is given to the question of how to reduce this anxiety.
- 3.12. If adult family members have not observed the time limit on their stay in the United Kingdom by departing voluntarily when that time limit expired and a decision is made to detain the adults, then the children will normally be taken into detention with the adults in order to avoid separating them from their parents.
- 3.13. On these occasions, every effort should be made to ensure that the parents' rights and wishes in relation to what happens to their children are respected. In particular, the children should be seen as being there purely as an alternative to separating the family and every effort should be made to maintain the family routines and interaction that they are used to. Wherever possible, there should be opportunities to participate in a daily timetable that includes contact with peers, continuation of education and times of play.
- 3.14. Although the primary carers for a child at this point are the parents, this should not rule out an ongoing concern for a child by those in charge of the detention facility. In particular, detention staff and professional advisers need to be vigilant for any deterioration in the capacity or willingness of the parents to care for their children. If a parent is unwell, physically or mentally, then staff must be extra vigilant in

looking out for any health problems in a child, both physical and mental.

- 3.15. There must be a health assessment for children if detention is expected to last more than 2-3 days. The effects of detention on children must be closely monitored by way of a social work assessment in the first 21 days and at periodic intervals following that. Any information sought or any assessments made, including the regular welfare assessments, should be carried out sensitively, and in particular should be done in such a way as to avoid implying that the parents are not looking after their children's health properly.
- 3.16. The detention of children beyond 28 days must be reviewed and personally authorised by a Home Office Minister. Care should be taken to ensure at review stage that the continuing detention of the child remains justified and reasonable, no appropriate alternatives are available, and that any continued detention will not lead to harm being caused unnecessarily to the child.

### **ESCORTED TRAVEL FROM ONE VENUE TO ANOTHER**

- 3.17. There are also going to be times when families need to be transferred from one detention facility to another. The safety and comfort of everyone involved in such a journey must be paramount and it is likely to be a time when extra care is required to ensure that children's needs are looked after.
- 3.18. Before any escorting activity begins, those responsible for the escorting (whether the UK Border Agency staff or contractors or both) must make all reasonable enquiries to identify any issues relevant to safeguarding the welfare of children<sup>7</sup>.

<sup>7</sup> Good practice on this is set out in chapter 45 of the Enforcement Instructions and Guidance and in particular in the sections on Contact Management and on the completion of a Family Welfare Form.

- 3.19. When children are in the care of a Local Authority, and are going to be removed from the United Kingdom to another country, then the UK Border Agency will liaise with and endeavour to plan with the Local Authority for that to take place.
- 3.20. When travelling, some refreshment must be provided when the child needs it as well as breaks for comfort, for nappy-changing etc., when needed. Refreshment provided should be culturally appropriate where required.
- 3.21. Suitable and correctly positioned child seats and / or restraints must be available for all babies and children in line with current legislation (S.I. 1993/ 31; S. I. 2006/ 1892 and S. I. 2006/ 2213)<sup>8</sup>.
- 3.22. A new health assessment on children should be carried out on arrival at any new facility where detention is expected to last more than 2-3 days.

### EXCEPTIONAL CASES OF UNACCOMPANIED OR SEPARATED CHILDREN

- 3.23. When unaccompanied or separated children are being escorted from their normal place of residence to a port where removal will take place, then they must be subject to detention procedures in the sense of being served with formal notice whilst the supervised escort is taking place. The introduction of formal detention arrangements at this point means that there is full accountability for the child during that period as well as proper provision for the child's welfare.
- 3.24. Other than in these situations, unaccompanied or separated children must only ever be detained in the most exceptional circumstances and then **only normally overnight if**

**absolutely necessary**, with appropriate care, whilst alternative arrangements for their care and safety are made<sup>9</sup>. This exceptional measure is intended to deal with unexpected situations where it is necessary to detain unaccompanied children very briefly for their care and safety. In circumstances where responsible family or friends in the community cannot care for children, they should be placed in the care of the Local Authority as soon as practicable. **The UK Border Agency must not detain an unaccompanied child for any other reason**, including for the purpose of a pending removal.

- 3.25. If a child is detained because of the need to safeguard him or her, then the specific circumstances or reasons for the detention must be recorded, including the details of the efforts made to place him or her in non-immigration care facilities such as may be provided by a Local Authority before deciding to detain, and the responses received.

<sup>8</sup> The references are to Statutory Instruments followed by year and then reference number, available on the Office of Public Sector Information (OPSI) web-site [www.opsi.gov.uk/stat.htm](http://www.opsi.gov.uk/stat.htm) .

<sup>9</sup> This presumption does not apply in the case of foreign nationals under the age of 18 who have been convicted of a criminal offence and who meet the criteria for deportation where it can be shown that they pose a serious risk to the public.

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## 4. VIGILANCE HELPS CHILDREN AS MUCH AS THE FORMAL PROCEDURES

- 4.1. The UK Border Agency's powers are exercised in order to regulate entry into and residence in the United Kingdom. In carrying out their work, the staff of the Agency will be alert constantly to any signs or indicators that the children whom it encounters might be at risk of harm. **Where children appear to be at risk, the staff of the UK Border Agency will refer to outside statutory and professional agencies where appropriate.**
- 4.2. The UK Border Agency will take such actions as are necessary to keep children safe but without unwarranted intrusion or intervention in families' lives. The UK Border Agency will also seek to avoid the undermining or weakening of family relationships that can occur, for instance, by undue or inappropriate questioning of parents in front of their children. UK Border Agency staff must ensure that arrangements are in place so that parents are not required to give an account of personal victimisation or humiliation (in an asylum claim, for instance) if their children are present. Such arrangements might be provision of child-care and supervision through the use of volunteers who have been CRB checked for that purpose, the occasional use of paid and qualified personnel for such purposes, or making arrangements to conduct interviews near to applicants' homes so that they can make their own arrangements.
- 4.3. In dealing with parents and children, the staff of the Agency must therefore see the family as a unit, but also as individuals. **In particular, it is important not to lose sight of the child as an individual, as well as part of a family, and to be vigilant and responsive to the child's needs.**
- 4.4. The UK Border Agency will apply the wider aims and arrangements for safeguarding children as expressed in "Every Child Matters: Change for Children" A programme for change" published in 2004.

## 5. THE UK BORDER AGENCY MUST MAKE TIMELY REFERRALS OF CHILDREN AND WORK POSITIVELY WITH OTHERS

### MAKING REFERRALS

5.1. A referral will be made to a relevant agency in the following circumstances:

- When any of the visible features at the end of this section has been identified;
- When a child appears to have no adult to care for them and the Local Authority has not been notified;
- When a private fostering arrangement has been identified;
- When a child is a potential victim of trafficking;
- When a child is identified as having gone missing;

5.2. All UK Border Agency operational workplaces must have the contact details of the local statutory Children's Services departments, Police Child Protection Units, Local Safeguarding Children's Boards, and local health services readily available. The corresponding contacts for Wales, Scotland and Northern Ireland must be provided in the relevant regional offices. Thus, in Scotland, contact details for Child Protection Committee lead officers must be provided.

5.3. Most referrals will be to the Local Authority. The referral must be made immediately by phone, followed up with a fax using an officially agreed form.

5.4. There must be a formal instruction in place setting out procedures to be followed when a child is identified as potentially missing.

5.5. When a referral is made, a written record must be completed by the member of staff making the referral as soon as is practicable. This record must include:-

- A retained copy of the referral form and confirmation of its receipt;
- Decisions taken (clearly timed, dated and signed);
- The names of the people with whom contact has been made.

5.6. If a referral takes place over the telephone then a written record with details of the authority to which it was made must be made immediately afterwards. This should be recorded on the formal casework system in operation so that the information is available to any UK Border Agency staff members subsequently working on the case.

5.7. If a child has been referred to the Local Authority Children's Services because of concerns about the carer, the UK Border Agency must check with the Local Authority and make a written record of the phone call and of what action is being taken before taking any action of its own on the immigration application.

5.8. When a referral is being made because it is believed the child may have been trafficked, the receiving Children's Services department must be made fully aware of risks specific to the case, such as any particular degree of influence that the trafficker might have over the child and any imminent risk there is of that influence triggering the child's return to the trafficker.

### REFERRAL ARRANGEMENTS FOR EACH OF THE FOUR UK ADMINISTRATIONS

5.9. Statutory children's services have been devolved to each of the devolved administrations of Scotland, Wales, and Northern Ireland. Referrals to children's services may still be made to the relevant public authority by the UK Border Agency when members of staff have identified children as being in need or at risk. Differences in legislation and local



arrangements for making referrals will be respected and where necessary, the relevant UK Border Agency regional director will ensure that these differences are taken into account and suitable arrangements developed in Northern Ireland, Scotland, Wales and the English regional government offices.

## WORKING WITH OTHERS

5.10. Making appropriate referrals to other agencies is a key part of how the UK Border Agency discharges its responsibility to keep children safe. It will therefore produce and keep up to date guidance on how to make such referrals<sup>10</sup>. The UK Border Agency acknowledges that Local Authorities will often have different policies and priorities depending on the overall demand placed on their resources. The UK Border Agency will therefore work with Local Authorities to identify and implement arrangements that are appropriate to that Local Authority.

5.11. Decisions taken by the UK Border Agency relating to a child's immigration status will take account of work done by any other agency with statutory responsibility for safeguarding and promoting the welfare of a child. However, there is no absolute bar on removal if arrangements in the country of destination do not mirror the arrangements that would have been provided in the United Kingdom.

5.12. The UK Border Agency will assist other appropriate agencies such as Local Authorities or the police who have contact with children if they are seeking to establish the identity of a particular child.

<sup>10</sup> This is currently the 'Children in Need' Guidance issued to UK Border Agency staff members on 15 March 2007, which also contains a referral form.

## LOCAL SAFEGUARDING CHILDREN BOARDS OR AREA CHILD PROTECTION COMMITTEES

5.13. The UK Border Agency staff must as a matter of practice participate in these where relevant, and will take a full part in any local committees or sub-groups on the same basis. The UK Border Agency will co-operate fully with any serious case reviews or other formal inquiries instigated by a Local Safeguarding Board<sup>11</sup>.

### The following is a brief list of features that can be used as signs in identifying cases where a referral is appropriate:

- Bruising
- Scarring;
- Burns;
- Very poor hygiene including untreated infections and infestations;
- An unusual level of withdrawal or lack of communication and engagement with adults;
- Fearful attitude to carers;
- Inappropriate approaches to strangers;
- Inebriation of adult carers;
- Signs of domestic violence between adults and carers;
- Rough handling or contemptuous attitude to the child by carers;
- Evidence that adults in the household have convictions for sexual or drug offences.

<sup>11</sup> When abuse or neglect is known or suspected to be a factor in the death of a child, the Local Safeguarding Children Board, has a responsibility to convene a case review (also commonly known as a Part 8 review or serious case review) into the involvement of all agencies and practitioners with the child and family. It will also consider holding a review if a child suffers injury and abuse or neglect is known or suspected. These reviews are not enquiries into who is culpable (which are matters for the coroner, police and courts); the purpose of the case review is to establish whether there are any lessons to be learned about the way in which agencies work together to safeguard children and to implement any necessary changes

## 6. THE UK BORDER AGENCY MUST HAVE MANDATORY TRAINING FOR WORK INVOLVING CHILDREN

- 6.1. The UK Border Agency must ensure that members of staff are appropriately trained to keep children safe, and have the means of expressing sensitive concerns outside their management line.
- 6.2. All staff appointments within the UK Border Agency must be subject to the satisfactory completion of comprehensive pre-appointment checks. These checks are carried out by Human Resources, the Security and Anti-Corruption Unit and the Departmental Security Unit. Formal job offers must not be made until these checks have been completed. The UK Border Agency must not employ anyone found to have a serious conviction, including a spent conviction, particularly if this included an offence against children.
- 6.3. Additionally, the UK Border Agency must require all staff whose job regularly involves them being in charge of a situation involving a child or children to undergo an enhanced check against information held by the Criminal Records Bureau. The UK Border Agency must also refresh the clearance for post holders on a regular basis.

The training must include some or all of the following elements:

- the law concerning children;
- the role of responsible adults, private fosterers, interpreters and children's legal representatives;
- trafficking, smuggling and exploitation;
- missing/abandoned children;
- interpreting children's behaviour;
- arrangements for working together with other agencies; and
- values and principles underpinning the treatment of detained families.

### STAFF TRAINING

- 6.4. **All staff whose work involves children either directly or indirectly, must complete an e-learning package on child safeguarding awareness developed in partnership with organisations that have a formal role in protecting children.**
- 6.5. **All staff who conduct substantive interviews with children or who have regular contact with children in their work must be required to complete specific training, also developed in partnership with organisations that have a formal role in protecting children, on how to keep children safe from harm whilst carrying out immigration functions.**



## 7. THE UK BORDER AGENCY MUST HAVE A SYSTEM OF ACCOUNTABILITY FOR CHILDREN'S CASES

- 7.1. This Code of Practice sets out how the UK Border Agency expects its staff to deal with children when they come into contact with the immigration system in the United Kingdom. It is not exhaustive and cannot deal with every circumstance although it should help staff to understand that there are implications for policy, procedures and practice wherever children are involved.
- 7.2. Where the Code describes a procedure to be followed and staff members depart from this, they must have a clear reason or reasons for doing so. Departures from the Code and the supporting instructions should be reported by the relevant member of staff to his or her immediate line manager.
- 7.3. The Agency's line managers have immediate responsibility for ensuring that this Code is implemented locally and that staff are following it. Staff who do not follow this Code can expect to be subject to disciplinary action.
- 7.4. Complaints about handling of children may also be made through the UK Border Agency's complaints system. Complaints can be lodged by adults on behalf of children if they have a formal role in that child's life and have witnessed an event about which they wish to complain<sup>12</sup>.
- 7.5. Provision<sup>13</sup> has been made in the UK Borders Act 2007 to appoint a Chief Inspector of the UK Border Agency. The role of the Chief Inspector includes "monitoring and reporting on the efficiency and effectiveness" of the UK Border Agency".
- 7.6. The Chief Inspector will also be able to look at the UK Border Agency's performance in relation to children as part of his overall assessment of the treatment of applicants and claimants.
- 7.7. A Children's Code of Practice Programme Board or equivalent within the Agency will ensure on behalf of the Agency Board that the provisions of the Code are implemented.
- 7.8. The Agency will issue specific instructions and guidance to staff wherever these are needed because of variations in operational or practical procedure in the different parts of the Agency.
- 7.9. In carrying out their duties in the United Kingdom, staff of the UK Border Agency may become aware of issues or situations which could run counter to the arrangements to keep children safe from harm. These may be general concerns about the effectiveness of these arrangements; or they may relate to the way in which a particular child was dealt with; or, notwithstanding the safer recruitment arrangements and training for staff working in contact with children, they may relate to the attitude and behaviour of staff towards children.
- 7.10. Where staff members have any concern of this sort, they should first consider raising the matter with their line manager or with a line manager above that level (e.g. their countersigning officer). However, there may be occasions when because of the nature of their concerns, staff feel unable to report their concerns in this way. In such cases, staff should seek to express their concerns to the UK Border Agency's Children's Champion or other senior official with lead responsibility for children's issues. The Children's Champion should treat the matter as a confidential referral.

### REPORTING ISSUES OF CONCERN OUTSIDE THE MANAGEMENT LINE

<sup>12</sup> The complaints registration form and information on who to contact with a complaint are available on [www.ukba.homeoffice.gov.uk/contact/makingacomplaint](http://www.ukba.homeoffice.gov.uk/contact/makingacomplaint)

<sup>13</sup> This appears in section 48 of the UK Borders Act 2007.





