

Chapter 26 - Index

26.	Unaccompanied children
26.1.	Claims for asylum from unaccompanied children
26.2.	Checklist - what the Enforcement office is to send to ACU1 in SEF cases (children cases)
26.3	Medical Examinations and X-rays
26.4.	Removal of unaccompanied children
26.5.	Children Unexpectedly Encountered On Enforcement Visits.
26.5.1.	Actions to take if a child is unexpectedly encountered during a visit – no welfare concerns
26.5.2.	Actions to take if a child is unexpectedly encountered during a visit – Children at risk or in need of support
26.6.	Unaccompanied children – actions not to take
26.7.	Recording Actions/Decisions in relation to unaccompanied children

26. Unaccompanied children

Definition

The Immigration Rules define a child as a person who is under 18 or who, in the absence of documentary evidence, appears to be under 18. An unaccompanied asylum-seeking child is one who is applying for asylum in his own right and who has separated from both parents and not being cared for by an adult who by law or custom has responsibility to do so.

26.1. Claims for asylum from unaccompanied children

Claims for asylum from unaccompanied children are to be referred to Asylum Routing team, after screening and fingerprinting.

Unaccompanied children should not be interviewed by the LEO about their asylum claim except in the most exceptional circumstances and the decision to conduct an asylum interview must be made by the relevant casework section.

Unaccompanied children must only ever be detained in the most exceptional circumstances, and then only overnight, with appropriate care, whilst alternative arrangements for their safety are made. This applies equally in third country cases. Where it is decided to detain a minor or claimed minor, authority must be sought from an Inspector, and you must notify MODCU. You must also inform the DC as DEPMU maintains a record of all detainees who are, or claim to be, under 18. An Assistant Director must review detention at the earliest opportunity and in every case of an unaccompanied child as soon as detention has exceeded 24 hours.

Each unaccompanied child should be issued with an advice leaflet issued by the Refugee Council and notify all cases involving unaccompanied minors to the Children's Panel of the Refugee Council on 020 7346 1134 at the earliest opportunity even if it is suspected that the person is over the age of 18. Referrals to the Panel should be on a "without prejudice" basis. Provide full details of the port/HO reference numbers and the office dealing, together with a contact number. Where the Panel encounter difficulties in locating an individual case, OEP has agreed to act as a contact point.

Each child should be issued (via a representative if appropriate) with a Children's Statement of Evidence Form (Self-completion-ASL 1957) ensuring that the section requesting details of parents/relatives is included. The SEF should be returned to the case owner within 20 working days.

The use of reporting restrictions attached to TR is discretionary and should be considered on a case by case basis. When considering whether restrictions would be appropriate, the LEO should ensure that they are proportionate, reasonable and take into account the practicalities of the person's ability to comply. Reporting restrictions should be kept to an absolute minimum. The presumption should be more if they are in the care of social services.

Disputed Age Cases

An applicant's age should only be disputed where their physical appearance strongly suggests that they are aged 18 or over and there is no satisfactory documentary evidence to substantiate the claimed date of birth. The onus of proof is on the applicant to supply satisfactory documentary evidence or otherwise demonstrate they are in fact a child. All applicants must be served with an IS.97M and BP7 (Screening officer report) immediately after the Border and Immigration Agency dispute their age. Age disputes must be authorised at CIO/HEO grade or above.

Local authority should be asked for an age assessment in age dispute cases wherever possible and at the earliest opportunity. It is Border and Immigration Agency policy to accept a local authority (in England and Wales) Merton compliant age assessment as evidence of age where we are satisfied that such assessment has been carried out.

Where an applicant initially claims to be adult when they make their application for asylum, but later states they are a child, they should be given benefit of doubt and treated as a child if their physical appearance strongly suggests that they are under 18. If the applicant's appearance

strongly suggests they are aged 18 or over, the onus of proof is on the applicant to supply satisfactory documentary evidence or otherwise demonstrate that they are in fact a child.

Disputed age cases need to be notified to MODCU, DEPMU and to be referred to the Children's Panel.

26.2 Medical Examinations and X-rays – children

It is currently Border and Immigration Agency policy not to commission medical reports as part of its age assessment process, although it will consider those relied on by applicants themselves. Instead as indicated above, the Border and Immigration Agency generally relies on Merton compliant age assessments undertaken by local authorities. In some cases a local authority may have also commissioned its own medical test, e.g. a dental x-ray, as part of its overall age assessment in which case they are acceptable. The Merton compliant age assessment must be accepted unless a valid reason not to do so applies.

26.4. Removal of unaccompanied children

During the course of their consideration, NAM case owners may, establish the likelihood of removal should the asylum claim fail. Where a case is referred to an enforcement office to effect removal:

- ◆ establish with the country to which the child is to be removed that adequate reception arrangements are in place;
- ◆ Liaise with the Children's services and/or nominated guardian with responsibility for care of the child in the UK to ensure the removal is effected in the most sensitive manner possible.
- ◆ Consider the need for escorts to accompany the child.

26.5. Children Unexpectedly Encountered On Enforcement Visits.

When a child is unexpectedly encountered on an enforcement visit extra care must be taken in the handling of the case. This section covers 3 specific purposes, namely:

- ◆ To act as a reminder to staff of the procedures that must be followed when a child is unexpectedly encountered on an enforcement visit and/or it is suspected that the child may be at risk or in need of support. For the purposes of this instruction this includes;
 - (i) unaccompanied children;
 - (ii) children encountered with adults where the relationship is still to be established e.g. in family cases where there is no trace of the child being associated with the family on any Home Office Records; and
 - (iii) British and/or EU children;
- ◆ to ensure the child is not registered as a missing person; and
- ◆ To ensure that we safeguard the welfare of the child before any other form of action is taken.

26.5.1. Actions to take if a child is unexpectedly encountered during a visit – no welfare concerns

If a child is unexpectedly encountered all reasonable steps must be taken to ascertain their identity and who has parental responsibility for them. The information they provide must be checked against Home Office records to check the details provided are accurate and their immigration status is verified.

If all this is satisfactorily established and does not highlight any cause for concern no further action need be taken in respect of the child.

If there is someone who has parental responsibility for the child but they are not at the address where the child is encountered all reasonable steps must be taken to ascertain who they are, where they are and when they will be back. The child should not be left alone in the premises. It may be appropriate to liaise with the local police so they can reunite the child and the parent and if necessary investigate the circumstances of the child being left alone.

If the child's identity and who has parental responsibility for them are not satisfactorily established, further checks are needed. This may be by contacting the local authority children's services departments, social services and/or local police.

In some cases it may be appropriate for a PNC check to be undertaken. Officers should liaise with the local police to see if this is an appropriate course of action.

If a PNC check is conducted and the child has any known alias names the same checks must also be conducted on those details. All alias names must also be fully recorded.

If questions are put to the child and/or parent to ascertain identity and parental responsibility and they refuse to answer them, this should be fully recorded in the officer's notebook or Premises Search Book (PSB) (as appropriate). A dynamic risk assessment will need to be conducted in order to find the most appropriate way forward. This could include explaining the circumstances, contacting language line/an interpreter if one is not on the visit, referring to other agencies etc.

Further considerations

If the child encountered is not subject to immigration control e.g. British and/or EU national no further action would be required by any immigration officers, unless there are child welfare concerns (including concerns because a child may be left unaccompanied).

26.5.2. Actions to take if a child is unexpectedly encountered during a visit – Children at risk or in need of support

Where a child may be suffering from any form of abuse or neglect they will be in need of protection. Officers may also come across children who are not suffering from abuse as such, but are in a situation where they are in need of support. For example a child who has a disability or a child who is having to provide care on their own to apparent with disabilities or chronic health problems. In such cases both the child and the parent with disabilities or chronic health problems may be referred to children's services.

Whenever there is any child protection concerns the circumstances **must** be referred to the police and local social services immediately. This includes children who may not be subject to immigration control or children who are with their parents or someone who has parental responsibility for them. The welfare of the child must be ensured before any other form of action is taken.

In an operational context, immediate referrals may be made by phone.

However, all child protection referrals to Children's Services **must** be followed up in writing by the end of the officer's shift.

26.6. Unaccompanied children – actions not to take

A child should not be asked to undergo a fingerprint scan on a 'quick check' unit unless there is an appropriate adult present as you could be relying on the child to give consent that they may not be competent to give. The definition of a person who must be present when a child is fingerprinted is explained in s141 of the Immigration and Asylum Act 1999. For the sake of clarity, an immigration officer is **not** classed as an appropriate adult for the purposes of checking/taking fingerprints or any other situation where an appropriate adult is needed e.g. interviewing.

A child should never be left alone in the premises when officers are departing.

A child should not be arrested or detained under immigration powers simply for their own protection i.e. where there is no immigration objective. If the child is suspected of criminality or there are concerns about their welfare then the local police should be called and/or other agencies should be notified.

26.7. Recording Actions/Decisions in relation to unaccompanied children

The results of all checks, positive or negative, actions taken and decisions made must be recorded in the officer's notebook or PSB (as appropriate) to ensure there is a clear written audit trail. There should also be a clear record of the same actions and decisions made by or relating to the actions of other agencies involved.

Only once all necessary checks have been conducted, and all appropriate steps to a) safeguard the welfare of the child and b) ensure the child is not registered as a missing person have been taken, will it be possible to decide on the most appropriate way forward with the case.

Once back at the office the National Operations Database (NOD) **must** be updated (as a minimum) with all the relevant information from the visit i.e. personal details of those encountered, checks conducted, contact with other agencies, outcomes etc.

