



# Guidance to Police Forces on Missing Migrant Children

<b>Author</b>	Alan Rhees-Cooper – LLB (1 <sup>st</sup> ), BA (Hons), PGCE
<b>Force/ Organisation</b>	NPCC
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<b>Co-ordination Committee</b>	Crime Operations
<b>Portfolio Lead</b>	DCC Catherine Hankinson – QPM, BA (Hons), MSc
<b>Portfolio</b>	NPCC Lead for Missing People – Violence and Public Protection Portfolio

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## Introduction

This document seeks to provide advice to policing on how to respond to reports of migrant children and seeks to ensure a professional and consistent response across the UK. The primary focus of this document relates to unaccompanied migrant children, although there are sections on missing migrant families that include children, missing migrant children who have applied for a visa, and missing migrant children who have applied to remain in the UK under the EU Settlement Scheme.

Unaccompanied migrant children who arrive in the UK are at potential risk of significant harm. In some cases, young people are brought to the UK by deception, or coercion, and it is crucial to recognise the links between these events and organised crime groups, modern slavery, and child sexual exploitation.

The young person may appear to be in the country willingly, but they may believe they have no option but to comply. They may have been led to believe that their families are at risk, or that UK authorities are their enemy and view figures of authority with mistrust and suspicion.

Some young people will have been brought to the UK to meet up with relatives already in the UK and arrangements may have been made for them to go missing at the first opportunity to meet up with those relatives.

The challenge is that a significant number of migrant children go missing within the first 72 hours of coming to notice and sometimes insufficient information has been established about that child before they go missing. This can make it difficult to assess the level of risk and difficult to identify meaningful enquiries to locate that child. This advice promotes Operation Innerste which seeks to ensure the child has been provided with appropriate support when first encountered to reduce the risk of the child going missing. It also seeks to ensure quality information has been obtained to maximise the chances of locating the child if they do go missing.

The term 'migrant child' is a descriptive one with the emphasis on the word child. Whilst it is recognised that the term 'migrant child' is sometimes portrayed negatively, that is not the intention of this document. It is used as a collective term that includes asylum seekers, refugees, and migrant children who do not claim asylum.

The term 'absconder' is used in this document to refer to a migrant who escapes from Immigration Enforcement detention, or breaches one or more of the conditions imposed as a condition of immigration bail. The term 'out of contact' is used to refer to a migrant who does not meet the definition of an 'absconder' but has lost contact with immigration and appears to be trying to avoid immigration procedures.

## Safeguarding Duties and Legal Duties

Legal duties to safeguard children arise under the European Convention of Human Rights, the Children Act 1989, the Social Services and Well-being (Wales) Act 2014, Children (Scotland) Act 1995, the Children (Northern Ireland) Order 1995, Children Act 2004, Children and Social Work Act 2017, and the Borders, Citizenship and Immigration Act 2009 (see Appendix A for further details).

The police also have core duties under the Common Law to investigate if there are reasonable grounds to believe the child has been, or will be, a victim of a serious crime.

### ***Police Duty to Investigate Missing Migrant Children***

If we apply the legal duties to the context of missing migrant children, the police have a duty to investigate if there is:

- a real, immediate risk to life or serious harm,
- a real, immediate threat of torture, inhuman or degrading treatment or punishment,
- a real, immediate risk of slavery, servitude, and forced or compulsory labour,
- there is concern that the child has been, or is likely to be, a victim of a serious crime,
- there is concern that the child will suffer significant harm, or
- the child is dangerous and poses a real, immediate risk of death or serious harm to another person.

If a migrant child goes missing, in most circumstances, the police will therefore have a legal duty to investigate. Migrant children, in many cases, will have arrived in the UK by illegal routes, so there is a higher likelihood that they will have encountered individuals working for organised crime groups who are involved in human trafficking or modern slavery and use coercion and control tactics. There is a heightened risk that they may be a victim of debt bondage and labour exploitation or forced into criminality. It should be recognised that a child does not make a choice to be exploited.

Officers should also be conscious of the risk of the adultification of children when notions of innocence and vulnerability are not afforded to certain children. Research has indicated there is an adultification bias towards children who are from Black, Asian and minoritised ethnic communities.

However, it should not be assumed that all missing migrant children are at risk of modern slavery or exploitation. Many of the missing migrant children who have been located met up and were staying with relatives already in the UK, and other missing migrant children have self-presented to authorities in another part of the country without making any allegations of exploitation or disclosing any harm. That is not to imply that a child who has met up with other family members, or has self-presented

elsewhere, cannot be at risk. There needs to be professional curiosity and rigorous checks should be made to ensure those adults who claim to be relatives are related to the child. Even if it is established that the adults are related to the child, it cannot be assumed that the child is safe as some parents and relatives can still exploit their own children.

Some missing migrant children who have been located or have self-presented in another local authority area provide different personal details to the ones supplied when they first came to notice. Consequently, in some cases, it has taken several months to cancel their missing person record as it has not been immediately possible to link the child who presented to the original missing person report. It is also likely that when a child provides different personal details when located to those they provided originally, the link to the original missing incident may never be made. It is highly probable that some migrant children will therefore be circulated as missing in perpetuity despite being located, so not all migrant children who are officially recorded as missing people will still be missing. However, despite these uncertain identity cases, it should be acknowledged that there is still a significant number of migrant children who are recorded as missing who have not been located, and it is not possible to determine what percentage of these outstanding missing children are safe, what percentage are unsafe, and what percentage may be victims of criminal exploitation.

There are heightened risks associated with migrant children and when a migrant child goes missing, there is a rebuttable presumption that the child is at risk of significant harm. In most cases, it will therefore be appropriate for the police to record the child as a missing person and investigate, particularly if the child has been referred into the NRM.

A potential exception is where there is a credible belief based on reasonable grounds that the child is safe. Each case should therefore be considered on its own merits. Policies that state all migrants under 18 who leave accommodation must be recorded as missing people, and policies that state all migrants over 18 who leave accommodation will be considered 'out of contact' and 'not missing', do not reflect the reality that young people have different levels of vulnerability, and their ability to live independently and protect themselves is not solely determined by their chronological age. Policies based on chronological age rather than vulnerability are difficult to justify.

Consider the real-life case studies below where the level of risk is uncertain.

### **Case Study**

*A 17-year-old migrant child was living in semi-independent accommodation and was capable of independent living with minimal support. He had previously expressed concern about his asylum application to his social worker. When he was 17 years and 8 months, he left the accommodation*

*without notice. There were no suspicious circumstances, no indications that he had planned to leave, no specific vulnerabilities, no indications of modern slavery or criminal exploitation, and the circumstances suggested that the migrant child had gone missing to evade immigration procedures.*

**Comment** – it should not be assumed that just because a young person has left intentionally because of concerns about their immigration status, that they are not vulnerable to exploitation. However, in this case, the police may decide not to categorise this individual as missing as the circumstances suggest that he has decided to leave to evade immigration procedures and no significant risks are apparent.

### **Case Study**

*A 17-year-old migrant child arrives in the UK by boat and is processed at the Intake Unit. He has no documents and discloses very little information. He does not disclose any medical or mental health concerns. He does not disclose any details of relatives and there is no way of confirming that the name and date of birth he provided are correct. He is taken to a Home Office controlled hotel and then goes missing within 48 hours.*

**Comment** – In this case, there is a distinct lack of quality information to assist the police risk assessment or to generate any meaningful enquiries. However, because of the circumstances of his entry to the UK, there is a higher likelihood that he may be a victim of criminal exploitation or forced into criminality. Whilst there are no objective credible indicators of exploitation that would justify a high-risk categorisation, there is also no objective credible indicators that he is safe that would justify not categorising him as missing. There is an expectation that when a migrant child goes missing and there is uncertainty about the level or risk, police forces will record the individual as a missing person.

### **Case Study**

*A 16-year-old migrant child arrived in the UK with both her parents, and they all applied for asylum. They were provided with accommodation. The Local Authority had no significant concerns about the child or the parent's ability to protect her. The parents were in regular contact with other family members already in the UK. The parents grew increasingly concerned about the time it was taking to process their asylum application. The family then left their accommodation taking all their personal possessions with them.*

**Comment** - In this case, the police may decide not to record the child missing as the circumstances suggest that she is with her family who are capable of looking after her and the family have absconded to avoid immigration procedures.

Any decision not to take a missing person report must be based on credible objective indicators, not on opinion or presumption that cannot be objectively justified. In most missing migrant child cases, a missing person report should be taken. However, in those rare cases where the police decide not to record the migrant child as a missing person, the police should make that clear to the reporting person.

## **Processing of Migrant Children when Encountered**

### ***Importance of Obtaining Quality Information***

Operation Innerste is a multi-agency response to unaccompanied migrant children when a child first comes to attention to prevent the child from going missing. The ECPAT (Every Child Protected against Trafficking) and Missing People Charity report<sup>1</sup> *“Heading back to harm”* recommended establishing early rapport building with children by authorities to turn them away from traffickers, and significantly reduce their influence. The first 72 hours following the initial encounter with a child is critical; creation of a relationship of trust between the professional and the child is an effective measure in preventing the minor going missing. The intention is to provide a safe environment and the priority when a child first comes to attention is to ensure that they are safe, warm, fed and that their medical needs are dealt with.

However, the early collection of information is a key safeguarding intervention. Effort must be paid to the timely securing of information during the initial encounters, including providing appropriate language support for the child; ensuring appropriate expert assessments; understanding cultural and conceptual barriers to support for mental health issues and disabilities; and acknowledging the fear, intimidation, and trauma that some children may be experiencing. This is not the sole responsibility of the police so robust and responsive multi-agency arrangements need to be in place.

It is especially important that quality information on risk factors is obtained, otherwise the police will not be able to accurately assess risk if the child goes missing. To accurately assess risk, the police will need information on medical and mental health issues, physical disability, learning needs, drug or alcohol dependency, objective indicators of human trafficking, modern slavery and criminal exploitation, other vulnerabilities, and the risks that the child may pose to others.

Migrant children who go missing are more likely to go missing for longer periods. Many UK children who go missing have no intention of running away and intend to return home of their own accord but

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<sup>1</sup> <https://www.ecpat.org.uk/heading-back-to-harm-a-study-on-trafficked-and-unaccompanied-children-going-missing-from-care-in-the-uk>



are investigated as missing children because of the risks that they are exposed to during their temporary absence, for example self-harm, child sexual exploitation, county lines or other criminal exploitation. However, a much higher percentage of missing migrant children who go missing in the first 72 hours of coming to attention may not intend to return to the accommodation that has been provided by the Home Office or local authority. Some intend to seek out family members already living in the UK (settled or illegally) or reconnect with family members who have arrived separately. Some intend to take up work to financially support their family or self, or to undertake work arranged by others to pay off the cost of transport to the UK. Some are threatened, coerced, and forced to return to those who have smuggled or trafficked them into the UK and are at risk of criminal exploitation and in some cases their traffickers may prevent them from returning to a place of safety.

It is therefore important that quality information is obtained during those initial encounters that will generate meaningful enquiries to locate the child. This will include information on who they have travelled with, details of relatives, details of individuals they know who are already in this country, places that they know or would like to stay in the UK, social media details, email addresses, mobile phone details, identity documents, and financial details. Where there is no legal power to obtain these details, that does not prevent the child being asked to provide those details. Experience shows that many children do volunteer that information when asked. If those details are not obtained, there may be no meaningful enquiries that the police can conduct to locate the missing child. Without quality information the only chance of locating the child will be to circulate the child on the Police National Computer and hope the child subsequently presents themselves or comes to the attention of the authorities again. The person or agency who first encounters the child should therefore obtain this information for the purpose of sharing it with the police if the child subsequently goes missing. The purpose of collecting and sharing this information is to increase the police's chances of locating the child to safeguard the child. Many migrant children who have been recorded as missing are never located and remain on police long-term missing databases subject to regular reviews for years. Without quality information that will generate meaningful enquiries to locate the child, reporting them as missing will do little to safeguard that child. Obtaining and sharing quality information is therefore an essential aspect of safeguarding. Human traffickers and smugglers will do all that they can to ensure the child distrusts the police and public authorities so that they are reluctant to share information when encountered.

If a migrant child goes missing from a Home Office Operated Hotel for Unaccompanied Asylum Seeker Children, the Team Leader at the hotel will provide a copy of the Welfare Form completed by the Intake Unit, a copy of the Social Work Initial Assessment completed by the on-site social workers, and a copy of the Health Assessment completed by the on-site nursing team.

If a migrant child goes missing from local authority accommodation, a copy of the Welfare Form completed by the Intake Unit can be requested by contacting the National Command and Control Unit (NCCU) or the Asylum Safeguarding Hub.

The NCCU operates 24/7 and can be contacted by telephone on 03000 134 999 or contacted by email [commandandcontrolunit@homeoffice.gov.uk](mailto:commandandcontrolunit@homeoffice.gov.uk).

The Asylum Safeguarding Hub can be contacted by email - [AsylumSafeguarding@homeoffice.gov.uk](mailto:AsylumSafeguarding@homeoffice.gov.uk).

### ***Importance of Obtaining Biometrics***

It is also extremely important that fingerprints and a photograph are obtained as early as possible within the asylum process under S141 Immigration and Asylum Act 1999. There is no power to take a DNA sample. It is acknowledged that there will sometimes be logistical challenges such as insufficient space or staff to process large numbers and obtain fingerprints and a photograph prior to the individual going absent, but these challenges need to be addressed not accepted. Obtaining fingerprints and a photograph can assist in identification and enable located individuals to be linked to the original missing incident should a missing migrant child be located or come to the attention of the authorities again in the future. Without fingerprints and a photograph to confirm identity, some found missing child migrants will not have their missing person record cancelled because they have provided different personal details to what they provided originally.

### ***Children and Age Disputed Individuals***

#### **Section 51 of the Modern Slavery Act 2015**

This section of this act only applies to England and Wales. In respect of age disputed individuals, this section stipulates the way age dispute cases must be treated when a public authority is identifying what support to provide, or is already providing support under relevant arrangements, and they have reasonable grounds to believe that the person may be a victim of modern slavery or human trafficking. In such cases, if they are not certain of the person's age but have **reasonable grounds to believe that the person may be under 18**, they must assume for the purpose of those arrangements, that the person is under 18 until an assessment of the person's age is carried out by a local authority or the person's age is otherwise determined.

This means that **where there is uncertainty about whether the individual is an adult or a child**, the individual should be treated as a child. This would include cases where their physical appearance and demeanour does not very strongly suggest they are significantly over 18 years of age.

## Section 12 Human Trafficking and Exploitation (Scotland) Act 2015

This act applies to Scotland. This requires a relevant authority to assume a person is a child when exercising functions under certain enactments with regard to the person where doubt exists as to their age.

Section 12 applies when (a) a relevant authority has reasonable grounds to believe that a person may be a victim of an offence of human trafficking, and (b) the authority is not certain of the person's age but has reasonable grounds to believe that the person may be a child.

Until an assessment of the person's age is carried out by a local authority, or the person's age is otherwise determined, the relevant authority must assume that the person is a child for the purposes of exercising its functions under the relevant enactment.

## Supreme Court in BF (Eritrea)<sup>2</sup>

The judgment of the Supreme Court in this case held that the Home Office's policy of treating individuals as adults where their physical appearance and demeanour **very strongly** suggested that they were **significantly over 18 years** of age was lawful.

Therefore, where the individual's physical appearance and demeanour **very strongly suggests that they are significantly over 18 years of age** and there is little or no supporting evidence for their claimed age, or there is credible and clear documentary evidence that they are 18 years of age or over, the Home Office may decide to treat the individual as an adult.

## Police response to Age Disputed Cases

It is recommended that if a Merton compliant age assessment has been completed, the police should accept, not dispute, the age assessment unless subsequent enquiries indicate that the person is over the age of 18. For example, if document evidence is obtained indicating the correct age of the young person, or it is established that another agency is aware of the young person's correct personal details, and these indicate that the young person is older than 18, then the police may decide to challenge the age assessment.

If a migrant who claims to be a child goes missing before a Merton compliant age assessment has been completed, and there is uncertainty over their age, the police should check with immigration to see if they are aware of the individual and if so, whether they have previously completed an age assessment. If immigration officers have completed an age assessment, it is recommended that the police should

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<sup>2</sup> R (BF (Eritrea)) v Secretary of State for the Home Department [2021] UKSC 38

accept, not dispute, the age assessment completed by immigration officers as they are experienced in making these age assessments.

However, in those cases where a young person claiming to be a child goes missing prior to any age assessment being completed by either immigration or a local authority, the police should regard the young person as a child if there are reasonable grounds to believe that the young person ***may*** be under 18. However, where the young person's physical appearance and demeanour **very strongly** suggest that the young person was significantly over 18 years of age, the police may decide to regard the young person as an adult. Although the Eritrea case related to immigration officers not police officers, police forces may decide to operate to similar principles until the courts decide otherwise.

For further advice on age assessment, please also see the ADCS guidance on age assessment<sup>3</sup>, the DfE Statutory Guidance for Local Authorities<sup>4</sup>, the Home Office Guidance on Assessing Age<sup>5</sup>, and the Home Office guidance on the National Age Assessment Board<sup>6</sup>.

## **If a Migrant Child goes Missing**

### ***Multi-agency Response and Primacy for the Investigation***

The Police, Local Authorities, Immigration Enforcement, Asylum and Protection, UKVI are all agencies of the state. Where multiple agencies of the state have legal responsibilities, there should be a multi-agency response, mutual co-operation, and sharing of information to maximise opportunities to locate and safeguard the missing migrant child.

If a migrant child has been recorded as a missing person, then the police will take primacy for the investigation assisted by all the other agencies. In those rare cases where the criteria are not met for recording the migrant child as a missing person, if the child is categorised as an 'absconder', or 'out of contact', by Immigration Enforcement, then Immigration Enforcement will take primacy for the investigation assisted by all the other agencies.

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<sup>3</sup> [Age Assessment Guidance 2015 Final.pdf \(adcs.org.uk\)](#)

<sup>4</sup> [Care of unaccompanied migrant children and child victims of modern slavery: Statutory guidance for local authorities \(publishing.service.gov.uk\)](#)

<sup>5</sup> [Assessing age \(publishing.service.gov.uk\)](#)

<sup>6</sup> [National Age Assessment Board: caseworker guidance](#)

## ***Procedure for Reporting a Child Missing***

### **Migrant Child in Care of Local Authority**

The procedure for reporting a migrant child in the care of the Local Authority as missing to the police is identical to the procedure for reporting any other child in the care of the Local Authority as missing.

### **Home Office Hotel for Migrant Children**

When the whereabouts of a migrant child accommodated in temporary accommodation provided by the Home Office pending a transfer to Local Authority accommodation is unknown, and the Team Leader is satisfied that the circumstances suggest that either the child is at immediate risk of harm or has run away and does not intend to return, they should contact the police to alert them of the missing child.

**There is a rebuttable presumption that a migrant child who goes missing from a Home Office operated hotel will be reported to the police and will be recorded as a missing person if they are not expected to return or they may suffer significant harm whilst absent.**

It is recommended that a copy of the Welfare Form and Initial Social Worker Assessment is provided to the police. It is also recommended that a Philomena Protocol form, or Missing After Reasonable Steps (MARS), form is completed by the Team Leader at the hotel to ensure sufficient quality information is passed to the police to enable a proper risk assessment to be completed and to generate some meaningful enquiries.

It is recommended that regular partnership strategy meetings are held in those force areas that have hotels accommodating migrant children to discuss all outstanding missing migrant children. These meetings should include the local police, local authority representatives, relevant staff from the hotel (which may include Team Leaders, social workers, senior practitioners, and nurses), and staff from the Home Office Asylum Safeguarding Hub.

## **Other Types of Cases**

### ***Migrant Families who Abscond***

There are some important considerations to consider if migrant children abscond at the same time as adults purporting to be their family.

- In what circumstances should the whole family be recorded as missing?

- In what circumstances should the children be recorded as missing, but the adults categorised as ‘absconders’ or ‘out of contact’?
- In what circumstances should both the children and adults be categorised as ‘absconders’ or ‘out of contact’?

If the police are notified that a family is missing, the police should conduct their own risk assessment and determine whether the police have a legal duty to investigate, and whether the level or risk justifies recording the family members as missing and justifies the police taking primacy for the investigation.

- If the circumstances and risk assessment suggest that the family are being coerced and controlled by an organised crime group or individual criminal and they are currently likely to be victims of modern slavery, then the police may decide to record each family member as a missing person.
- If there are doubts that the adults are the parents or carers of the children, then the police may decide to record each child as a missing person and consider those who purport to be the parents or carers as potential exploiters.
- If the circumstances and risk assessment suggest the family have likely absconded to evade immigration procedures but there are significant concerns that the family are unable to safeguard the children, and the circumstances and risk assessment indicate that a S47 investigation under the Children’s Act (or equivalent legislation in Wales, Scotland and Northern Ireland) will need to be conducted when the children are located, then the police may decide to record each child as a missing person, but consider the adults as ‘absconders’ if they are in breach of immigration bail, or alternatively as ‘out of contact’. The police should notify Immigration Enforcement of their decision. If the parents are in breach of immigration bail, Immigration Enforcement will circulate the parents as absconders.
- If the circumstances suggest the family have likely absconded to evade immigration procedures and there are no significant concerns that the family are unable to safeguard their children, and the circumstances and risk assessment do not indicate that a S47 investigation under the Children’s Act (or equivalent legislation) will need to be conducted when the children are located, then the police may decide not to record either the adults or children as missing but consider the adults as ‘absconders’ if they are in breach of immigration bail, or alternatively as ‘out of contact’. The police should notify Immigration Enforcement of their decision. If the parents are in breach of immigration bail, Immigration Enforcement will circulate the parents as absconders and any children in the family unit will be circulated on the parents’ PNC markers.

One of the issues experienced, is that Immigration Enforcement Case Owners do not always notify the police when the family are back in contact with the Home Office. This can lead to the police continuing a missing person investigation when the family has been located. It is therefore recommended that regular checks are made with Immigration Enforcement, and they are reminded of the importance of updating the police if the family are back in contact.

Another issue experienced is that if the Asylum Support Team or local authority rehouse a family, they do not always notify each other. This can lead to unnecessary reports being made to the police. Before taking a report of a missing family, the police should therefore check with both Asylum Support and the relevant local authority to ensure neither are aware of the current location of the family.

### ***Visa Applications for Children – UKVI***

Some children apply for a visa to enable them to arrive in the UK by legitimate means and temporarily stay in the UK legally, for example via a student visa or a visa to join family members. Some children then do not arrive as expected or subsequently disappear after arrival. UKVI do not routinely check that people have arrived, have joined their family, have attended the educational establishment, or have left the UK in accordance with their visa requirements. However, other agencies may become aware of a child who should have arrived in the UK but has not turned up as expected. Enquiries should then be made with the family of the child, or the agency who facilitated the child's application for a visa, to establish whether the child left their country of origin, subsequently arrived in the UK, or has since returned to their country of origin. In the case of children who have applied for student visas, the relevant college would be expected to make these enquiries. In respect of children who have applied to join their family in the UK, the family would be expected to bring the matter to the attention of the authorities if their child did not arrive as expected. If there are reasonable grounds to believe the child has arrived in the UK but has then disappeared, and the circumstances indicate the child is at risk of significant harm or may have been brought into the UK for the purpose of modern slavery or criminal exploitation, then the child should be reported as a missing child to the police.

### ***Fraudulent Visa Applications for Children – UKVI***

Where UKVI or Home Office Intelligence suspects visa fraud after it has been confirmed that a child has entered the UK with a visa, this will be referred to Immigration Enforcement for investigation through their casework intelligence function. During these investigations, it is sometimes established, by checking UK entry and exit data, that children who have applied for a visa have entered the country but have subsequently failed to depart. This can lead to an investigation into an organised crime group smuggling children and potentially modern slavery. Where the police are notified that a child has

been in the UK but has then disappeared, and not returned to their country of origin, the police should take a missing person report and consider a joint investigation into organised crime group activity.

### ***EU Settlement Scheme – UKVI – Applications from Children***

Some EU nationals living in the UK can apply to maintain their right to remain in the UK. Although the deadline for most people to apply to the EU Settlement Scheme was 30<sup>th</sup> June 2021, some individuals can still apply if they or a family member were living in the UK by 31<sup>st</sup> December 2020, or the individual had pre-settled status<sup>7</sup>.

The EU Settlement Scheme was designed as a sole application route which means applications are also considered individually from children, outside a family group. Problems arise when UKVI are unable to contact the child applicant or their sponsor by email, text, or letter at the address they have provided. UKVI will then make a referral to the relevant local authority. The Local Authority may then visit the property or provide details of the family to UKVI if the family is known to the Local Authority.

The Local Authority, not UKVI, will then decide whether to report the child as missing to the police. Each case should be considered on its own merits. Some children who have applied under the EU Settlement Scheme never actually travel to the UK and the address that they provided on the application may be false so when the address is visited, no child lives at that address. Other children may have been in the UK but have since returned to their country of origin.

In some cases, the relationship between the child and their sponsor is found to be fraudulent and this has created concerns about who the child may be staying with. UKVI work closely with local authorities to locate children who have made an application. Where the child cannot be located and there are reasonable grounds to believe the child has been in the UK, has not returned to their country of origin, and there are genuine concerns that the child may have been trafficked, or is currently at risk of modern slavery or other criminal exploitation, it will be appropriate for the local authority to report the child missing to the local police force and for the local police to record the child as a missing person and commence an investigation. However, there ought to be some corroboration that the child has arrived in the UK and enquiries should also be made before contacting the police to see if the child has travelled back to their own country.

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<sup>7</sup> <https://www.gov.uk/settled-status-eu-citizens-families>



## Procedure when a Missing Migrant Child is Found

### ***If a Child Self-Presents in another Local Authority***

If a migrant child presents themselves to a local authority or another agency, checks should be made with the police to see if the child is currently reported missing. There have been several cases where a migrant child has presented themselves to a local authority or another agency, claimed asylum, and has then been accommodated by the local authority where the child presented but no one has checked whether they are currently circulated as missing. In some cases, it later transpired that the child was already circulated as missing from a Home Office hotel or accommodation provided by another local authority.

### ***If a Missing Migrant Child is located by the Police***

When a missing migrant child is located, the police should notify the National Command and Control Unit (NCCU) that the child has been located. The NCCU operates 24/7 and can be contacted on 03000 134 999 or [commandandcontrolunit@homeoffice.gov.uk](mailto:commandandcontrolunit@homeoffice.gov.uk).

There may also be instances of the Police identifying an unaccompanied child who may have entered the UK using a legitimate visa and is not therefore currently reported as missing, but if the police have any suspicions that the visa was obtained fraudulently, and the child has entered the UK through deception on arrival, those suspicions should also be reported to the NCCU.

If a missing migrant child is located in another force area, the police force where the child was located is not only responsible for ensuring the child is taken to a safe location, but they are also responsible for completing a prevention interview and investigating whether any criminal offences have been committed against the child. If the child has presented themselves to the police, local authority, or other agency, there is still a requirement to complete a prevention interview. It should not be assumed that just because they self-presented, that they have been safe whilst missing.

It is important to establish at the earliest opportunity the circumstances of the child going missing.

- Did someone encourage them to leave?
- Did someone assist them to leave?
- Did they meet up with relatives or friends?
- Did they meet up with individuals who facilitated their travel into the UK?
- Where did they go and where were they seeking to go?
- Where did they stay between the time they went missing and the time that they were located?

- Did they disclose that they suffered harm?
- Are there any indications that they suffered harm?
- Are there any indications that they are a victim of coercive and controlling behaviour?
- What were their intentions and what are their future intentions?

It is important it is to get these conversations right (identifying a translator if needed). Conversations should be sensitive, go at the child's pace, and should acknowledge that the child may have experienced trauma.

The finding force should also share the information from the Prevention Interview with the force who recorded the child as missing.

### **Responsibilities of the Local Authority for the area where located**

The Home Office has notified local authorities that if a migrant child goes missing from a Home Office operated hotel where they were being temporarily located pending their transfer to a permanent placement in the care of a local authority under the National Transfer Scheme, and the child is located in another local authority area, the child should not be returned to the hotel where they were staying. When a migrant child who has gone missing from the hotel is located in another area or has been missing for an extended period of time, the local authority for the area that the child is located should initially secure the use of emergency overnight accommodation and contact the Home Office the next business day to report that the child has been located. This local authority should also arrange for an independent return home interview to be conducted within 72 hours in the same way that they would have arranged such an interview had the child been living in their area prior to going missing.

## **When a Missing Migrant Child Turns 18**

When a missing migrant child turns 18, some forces are reviewing their missing status and, in some cases, changing their status from 'missing' to 'absconder' or 'out of contact' and then notifying Immigration of this change of status so that Immigration can take primacy for locating the individual. This issue has been discussed extensively and the following principles have been developed.

- Policies that state that the status of a missing migrant child should automatically be changed from 'missing' to 'wanted' on their 18<sup>th</sup> birthday are difficult to justify as each case should be considered on its own merits and this automatic practice is likely to result in missing migrant children being treated differently to missing UK children. It is not standard practice that all missing UK children have their 'missing' status cancelled when they turn 18. A useful question to ask is '*would we cancel the missing status of a UK child in similar circumstances?*'

- Where there is concern that the missing migrant child may have suffered serious harm, it is recommended that the young person remains circulated as missing.
- Where there are suspicious circumstances and concern that a missing migrant child may have been a victim of a serious crime (including human trafficking and modern slavery) and may still be being coerced or controlled by an organised crime group or criminal exploiter, it is recommended that the young person remains circulated as missing.
- Reaching the age of 18 does not affect a young person's vulnerability. Some 18-year-old young people are more vulnerable than some 17-year-old children. Children are entitled to leave home without their parent's permission when they reach the age of 16, but most 16-year-old children would need some support to become independent. Children aged 16 and 17 face challenges around obtaining employment, benefits, and accommodation. Very few British children will be able to live independently without support from families, the welfare system or from social care. Migrant children may face additional challenges as they will find it even more difficult to access resources and support. However, the age that a young person becomes capable of independent living will vary. Decisions should not therefore be based solely on the chronological age of the young person, but their vulnerability and maturity to safely live independently should also be considered on a case-by-case basis.
- Where the circumstances and investigation indicate that the missing migrant child may have left to avoid immigration procedures and may be staying with relatives in the UK or is capable of independent living, it may be justifiable to change the individual's status from 'missing' to 'absconder' or 'out of contact' and notify the National Command and Control Unit (03000 134 999) of that decision. The most similar comparison is where a missing UK child is also wanted for a criminal offence. On some occasions, their status is changed from missing to wanted, but on other occasions, their level of vulnerability or concerning circumstances of their disappearance justify continuing to investigate them as a missing person.

Consider the case studies below.

### **Case Study**

A 14-year-old migrant child who arrived by clandestine means was placed in local authority care. He was placed with foster carers and over the next three years thrived at school. He entered sixth form and was doing well. When he was 17, he was informed that his asylum claim was likely to be rejected and he may be repatriated to his country of origin. He informed the teachers at his school that he was concerned about deportation. He then went missing from his foster placement. When he was 18, his

missing status was reconsidered on the basis that had he already been 18 when he went missing, he would have been categorised as an 'out of contact', not a missing person.

### **Case Study**

A migrant child arrived in the UK when he was 17. He was referred into the NRM due to threats he had received stating he had to work to pay off the debts he owed to those who had facilitated his travel into the UK. He appeared settled in local authority accommodation, and then unexpectedly went missing. When he was 18, the police continued to investigate as a missing person due to concerns that he may have been coerced to leave and was a victim of debt bondage.

### **Case Study**

A migrant child went missing when aged 17. He was placed in local authority accommodation. The police missing person investigation established that he was in regular contact with his mother in his country of origin. She did not want him to be located as she did not want him to be deported from the UK. Other relatives were known to be already in the UK illegally, but their location was not known. When he was 18, his missing status was reconsidered on the basis that the circumstances suggested he had left to join his family.

### **Case Study**

A migrant child was pregnant when she arrived in the UK at the age of 16. She went missing two months before the child was due. When she turned 18, the police continued to investigate as a missing person due to concerns that there was no information to suggest why she had left, where she had gone, and whether she had had the child and the child was safe.

### **Case Study**

A 15-year-old migrant arrived in the UK and was placed in the care of the local authority. He was referred into the NRM because of concerns of human trafficking and modern slavery. He had a reasonable grounds decision. He was doing well and there were no concerns as he had settled well in the UK. When he was 17-years and 4 months, he managed to make contact with family members in the UK through social media. They encouraged him to join them. This caused some tension between himself and his carers. A month later, he packed his possessions and left his supported accommodation. When he was 18, his missing status was reconsidered on the basis that the circumstances suggested he had left to join his family.

## **Decisions on Recording a Migrant as Missing, Absconder, or Out of Contact**

This is an operational decision based on the circumstances of the incident and the identified level of risk. These decisions are often not straightforward, and the operational decision maker will need to decide in conditions of uncertainty. The College of Policing Risk Principles should be considered (<https://www.app.college.police.uk/app-content/risk-2/risk/>).

The willingness to make decisions in conditions of uncertainty is a core professional requirement of all members of the police service. Harm can never be totally prevented. Risk decisions should therefore be judged on the quality of the decision making, not by the outcome. Decision makers should not be risk averse but should consider whether officers or staff of a similar rank, specialism and experience would have made a similar decision in those circumstances.

## Appendix A - Common Law and Statutory Duties

### *European Convention on Human Rights*

#### **Article 2 European Convention on Human Rights**

Article 2 imposes a general positive duty on the State to have a system to protect life. Public authorities have a legal duty to protect people against a risk of a real and immediate threat to life or serious injury when the public authority knows, or ought to know that risk exists.

#### **Article 3 European Convention on Human Rights**

Public authorities have a legal duty to protect a person or persons against a risk of a real and immediate threat of torture, inhuman or degrading treatment or punishment when the public authority knows, or ought to know that risk exists.

#### **Article 4 European Convention on Human Rights**

Public authorities have a legal duty to protect a person from a real and immediate threat of slavery, servitude and forced or compulsory labour when the public authority knows, or ought to know that risk exists.

European case law has stated that Article 4 extends to human trafficking<sup>8</sup> providing the three constituent elements are present: an action, the means, and an exploitive purpose<sup>9</sup>.

### **Statutes**

When an unaccompanied migrant child presents or is found, a referral should be made to the local authority Children's Social Care Department that covers that area. This section describes the various statutory duties which require local authorities to take responsibility for assessing the needs of unaccompanied migrant children found in their area and for accommodating them.

#### **Children's Act 1989**

Section 17 creates a duty on local authorities in England to safeguard and promote the welfare of children within their area who are in need.

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<sup>8</sup> Rantsev v Cyprus and Russia 2010

<sup>9</sup> S.M. v Croatia 2020

Section 20 creates a duty on local authorities in England to provide accommodation for any child in need who appears to require accommodation as a result of there being no-one who has parental responsibility, the child being lost or abandoned, or the person who has been caring for the child is prevented, whether or not permanently and for whatever reason, from providing suitable accommodation or care.

Section 47 creates a duty on local authorities in England and Wales to investigate if they have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm to enable them to decide whether they should take any action to safeguard or promote the child's welfare.

Section 47(9) creates a duty on other specified agencies in England and Wales (which includes the police) to assist the Local Authority with their investigations. The duty to investigate under the Children Act is therefore upon the local authority, whereas the duty on the police and other specified agencies is to assist the local authority to investigate.

Section 46 provides an emergency power to the police in England and Wales, but not a duty, to intervene in emergency cases to remove and accommodate children where there is reasonable cause to believe a child would, if not removed, suffer significant harm.

### **Working Together to Safeguard Children 2018**

This applies to England and is a guide to inter-agency working to safeguard and promote the welfare of children.<sup>10</sup>

### **Children and Social Work Act 2017**

S16 creates a duty on the safeguarding partners for a local authority area in England to work together in exercising their functions for the purpose of safeguarding and promoting the welfare of children, including making arrangements to identify and respond to the needs of children in the area.

### **Children Act 2004**

S11 creates a duty on local authorities in England to safeguard and promote the welfare of children when carrying out their functions.

S28 creates a duty on local authorities in Wales to safeguard and promote the welfare of children when carrying out their functions.

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<sup>10</sup> [Working Together to Safeguard Children 2018 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/62626/working-together-to-safeguard-children-2018.pdf)

### **Social Services and Well-being (Wales) Act 2014**

S21 creates a duty on local authorities in Wales to assess the care and support needs of a child where it appears a child may need care and support.

S37 creates a duty on local authorities in Wales to meet a child's needs for care and support if the child is in the local authority's area and it is necessary to protect the child from abuse or neglect, or a risk of abuse or neglect, or other harm or a risk of such harm.

S75 creates a duty on local authorities in Wales to provide accommodation to a child in their area to meet their needs if the child is looked after, or if it is consistent with their well-being.

### **Working together to Safeguard People: Code of Safeguarding Practice 2022**

This applies to Wales and sets out the Welsh Government expectations in relation to safeguarding arrangements. Individuals, groups, and organisations offering activities or services are expected to follow this advice.<sup>11</sup>

### **Children (Scotland) Act 1995**

S22 creates a duty on local authorities in Scotland to safeguard and promote the welfare of children in their area who are in need.

S25 creates a duty on local authorities in Scotland to provide accommodation to any child who, residing or having been found within their area, appears to them to require such provision because no-one has parental responsibility, the child is lost or abandoned, or the person who has been caring for the child is prevented, whether or not permanently and for whatever reason, from providing suitable accommodation or care.

### **Children's Hearing (Scotland) Act 2011**

S56 creates a provides an emergency power to the police in Scotland to remove a child to a place of safety and keep the child there if the child is suffering or is likely to suffer significant harm or neglect and the removal of the child is necessary to prevent that harm.

### **National Guidance for Child Protection in Scotland 2021**

This guidance describes the responsibilities and expectations of all involved in protecting children and supports the care and protection of children.<sup>12</sup>

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<sup>11</sup> <https://www.gov.wales/working-together-safeguard-people-code-safeguarding-practice>

<sup>12</sup> <https://www.gov.scot/publications/national-guidance-child-protection-scotland-2021/>



## The Children (Northern Ireland) Order 1995

Section 18 creates a duty on local authorities in Northern Ireland to safeguard and promote the welfare of children within its area who are in need.

Section 21 creates a duty on local authorities in Northern Ireland to provide accommodation for any child in need within its area who appears to require such provision because no-one has parental responsibility, the child is lost or abandoned, or the person who has been caring for the child is prevented, whether or not permanently and for whatever reason, from providing suitable accommodation or care.

S65 creates a provides an emergency power to the police in Northern Ireland to remove a child to suitable accommodation and keep the child there if the constable has reasonable cause to believe that a child would otherwise be likely to suffer significant harm.

## Co-operating to Safeguard Children and Young People in Northern Ireland

This provides the overarching policy framework for safeguarding children and young people in the statutory, private, independent, community, voluntary and faith sectors.<sup>13</sup>

## S52 Modern Slavery Act 2015

In England and Wales, public authorities have a statutory duty to notify the Secretary of State when they have reasonable grounds to believe a child may be a victim of slavery or human trafficking.

This duty is discharged by referring a potential child victim into the National Referral Mechanism (NRM).

NRM is not designed to identify and refer a child **who might be vulnerable** to modern slavery, but to identify and refer those **where there is a credible belief based on reasonable grounds** that they may be held in slavery or servitude, be required to perform forced and compulsory labour, or are trafficked with the objective of holding them in slavery, servitude, or requiring them to perform forced and compulsory labour, sexually or criminally exploiting them, or harvesting their organs.”

Both a referral and a notification can be made through the Modern Slavery Portal. The portal can be accessed at: <https://www.modernslavery.gov.uk/start>.

Similar provisions are set out, but are not yet in force, in [section 38 of the Human Trafficking and Exploitation \(Scotland\) Act 2015](#) and in Northern Ireland, these provisions are in section 13 of

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<sup>13</sup> <https://www.health-ni.gov.uk/publications/co-operating-safeguard-children-and-young-people-northern-ireland>

the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#).

### **Immigration and Asylum Act 1999**

Section 95 creates a duty on the Home Office to arrange accommodation for asylum seekers in the United Kingdom who would otherwise be destitute.

### **Borders, Citizenship and Immigration Act 2009**

Section 55 creates a duty on the Home Office to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK.

## ***Common Law***

### **Core Police Duties under the Common Law**

The police have core duties under the common law:

- To protect life and property.
- To prevent and detect crime.
- To keep the Queen's peace.

### **Duty of Care under the Common Law**

Public authorities do not owe a private duty of care towards individual members of the public to protect them from harm. Where the public authority omits to act, it is unlikely that they will be held to have breached a duty of care<sup>14</sup>.

However, there are recognised exceptions to this general lack of a duty of care. Public authorities do owe a duty of care to avoid negligent acts. Therefore, if a positive act by a public authority creates a risk of foreseeable harm, then the public authority has a duty of care to protect individuals from that foreseeable harm.

Public authorities may also assume a duty of care where they assume responsibility for a person or persons. For example:

- where the public authority has taken a person into detention or custody,

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<sup>14</sup> Robinson v CC of WYP [2018] UKSC 4

- where a public authority has accepted responsibility to care for a person in a health and care setting,
- where a public authority uses informants.

If a Home Office Immigration Team has detained a migrant child, provided accommodation, or has provided care, they will have created a legal duty of care to protect that individual from foreseeable harm that arises because of that detention, accommodation or care provided.

The Police do not owe a general duty of care to prevent migrant children from suffering harm. However, if the police agree to record a migrant child as a missing person and agree to search for them, then they will have created a legal duty of care if other agencies or individuals rely on that undertaking.

### ***The Extent of Legal Duties***

The less obvious and less immediate the risk to the person is, the less likely it is that the state will have a duty to act.

Where a duty exists, the state is under a duty to take reasonable steps to mitigate the risk. An assessment of reasonableness will likely consider what is known about the threat and whether obvious and proportionate lines of enquiry have been followed.

### **Paragraph 116 of Osman<sup>15</sup>**

*“Taking into account, the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities.*

*In the opinion of the court where there is an allegation that the authorities have violated their positive obligation to protect the right to life... it must be established that the authorities knew, or ought to have known, at the time, of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.”*

As a result of Osman, the key principles are that the State (which includes the police) will breach their Article 2 duty if:

- the State knew or ought to have known of a real and immediate risk to life/ serious harm,

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<sup>15</sup> Osman v UK [2] 1998

- and the State failed to take measures that were reasonably expected to avoid that risk.

However:

- the State is not expected to undertake an unduly burdensome obligation, and
- state agencies need to consider which is the most appropriate state agency to take responsibility for mitigating a risk.

## Appendix B – Links to Useful Online Documents

### ***Home Office Guidance on Absconders***

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/679981/non-compliance-and-absconder-process-v8.0ext.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679981/non-compliance-and-absconder-process-v8.0ext.pdf)

### ***Home Office Identifying People at Risk Guidance***

[identifying-people-at-risk- enforcement -v2.0\\_ext.pdf \(publishing.service.gov.uk\)](#)

### ***Home Office Guidance on Age Assessment***

[Assessing age \(publishing.service.gov.uk\)](#)

### ***Police Legal Duties to Investigate Missing Persons***

[Police Legal Duty to Investigate Missing Persons - Forum - Missing Persons Group - Knowledge Hub](#)