

Safeguarding Children from Abroad

Feb 2005

SAFEGUARDING CHILDREN FROM ABROAD

1 INTRODUCTION

- 1.1 Large numbers of children arrive into this country from overseas every day. Many of these children do so legally in the care of their parents and do not raise any concerns for statutory agencies. However, recent evidence indicates that many children are arriving into the UK
- in the care of adults who, whilst they may be their carers, have no parental responsibility for them
 - in the care of adults who have no documents to demonstrate a relationship with the child
 - alone
 - in the care of agents
- 1.2 Evidence shows that unaccompanied children or those accompanied by someone who is not their parent are particularly vulnerable. The children and many of their carers will need assistance to ensure that the child receives adequate care and accesses health and education services.
- 1.3 A small number of these children may be exposed to the additional risk of commercial, sexual or domestic exploitation.
- 1.4 Immigration legislation impacts significantly on work under the Children Act 1989 to safeguard and promote the welfare of children and young people from abroad. This guidance refers to the current legal framework but it is important to note that regulations and legislation in this area of work are complex and subject to constant change through legal challenge etc. The guidance intends only to reflect broadly the additional issues faced by families operating also within the context of immigration law. All practitioners need to be aware of this context to their contact with such families. Legal advice on individual cases will usually be required by Social Services.

2. PURPOSE

- 2.1. The purpose of this guidance is to assist staff in all agencies to:
- Understand the issues which can make children from abroad particularly vulnerable
 - Identify children from abroad who may be in need, including those who may be in need of protection
 - Know what action to take in accordance with their responsibilities.
- 2.2. As with any guidance, it is not intended to provide the answer to all situations. No practitioner or agency holds all of the knowledge; the

groups of children and families change and our knowledge of specific issues is developing.

3 PRINCIPLES

3.1. There are some key principles underpinning practice within all agencies in relation to unaccompanied children from abroad or those accompanied by someone who does not hold parental responsibility. These are:

- Never lose sight of the fact that children from abroad are children first – this can often be forgotten in the face of legal and cultural complexities.
- Children arriving from abroad who are unaccompanied or accompanied by someone who is not their parent should be assumed to be children in need unless assessment indicates that this is not the case. The assessment of need should include a separate discussion with the child in a setting where, as far as possible, they feel able to talk freely.
- Assessing the needs of these children is only possible if their legal status, background experiences and culture are understood, including the culture shock of arrival in this country
- Be prepared to actively seek out information from other sources. Beware of “interrogating” the child.

4. THE STATUS OF CHILDREN WHO ARRIVE FROM ABROAD AND LEGAL DUTIES TOWARDS THEM

4.1. **Children who arrive in the UK alone or who are left at a port of entry by an agent** invariably have no right of entry and are unlawfully present. They are likely to be in a position to claim asylum and this should be arranged as soon as possible if appropriate. They are the responsibility of the Social Services Department to support until they are 18 years of age, under section 17 or section 20 of the Children Act 1989 or section 23(6) of the Children (Leaving Care) Act 2000 (if they have been looked after for a minimum of 13 weeks). If their asylum claim is not resolved before they reach 18 years old, support after the age of 18 years is provided by Social Services.

4.2. **Children who arrive in the UK with or to be with carers without parental responsibility** may have leave to enter the country on visas or may be in the UK unlawfully. Social Services may have responsibilities towards them under the private fostering regulations. If the child is assessed to be in need, support can be provided by Social Services for the child, and for the family, if this is not excluded by section 54 of the National Immigration Act 2002. If the child is cared for by relatives, Private Fostering Regulations may not apply.

- 4.3. **Some children who arrive in the UK with their parents** belong to families of EEA nationals, including families from the A8 accession states, migrating into the UK. Such families are entitled to the full range of benefits, homeless/housing services, social services support if necessary, working family tax credit etc providing one of the adults is in employment. If neither adult is in employment, or they become unemployed, the family cannot be supported by Social Services except for the provision of return travel and associated temporary accommodation (as long as refusal to provide other support does not breach their Human Rights or European Treaty rights). If such families decide to stay and seek further help, Social Services still has responsibilities towards any child who is in need, including provision of accommodation for the child alone.

Dept of Work & Pensions (DWP) practice is to declare such families ordinarily resident after 12 months and to pay benefits. The test, however, is one of habitual residence for which people have to demonstrate that where they are located is their centre of residence and there is a clear intention to settle e.g. registering with a GP, enrolling children in school etc.

Housing Department practice is to consider housing after 12 months. Social Services remains in the position that services may only be provided direct to the child alone.

5. IDENTIFICATION AND INITIAL ACTION

- 5.1. Whenever any professional comes across a child who they believe has recently moved into this country the following basic information should be sought:

- Confirmation of the child's identity and immigration status
- Confirmation of the carer's relationship with the child and immigration status
- Confirmation of the child's health and education arrangements in this county.

This should be done in a way, which is as unthreatening to the child and carer as possible.

- 5.2. If this information indicates that the child has come from overseas and is being cared for by an unrelated adult or one whose relationship is uncertain, social services should be notified in order that an assessment can be undertaken.
- 5.3. The immigration status of a child and his/her family has implications for the statutory responsibilities towards the family. It governs what help, if any, can be provided to the family and how help can be offered to the child. Appendix 1 "Legal Status" provides information about the most relevant aspects of this legislation.

- 5.4. Where families are subject to Immigration legislation, which precludes support to the family (see Appendix 1 Legal Status), many will disappear into the community and wait until benefits can be awarded to them. During this interim period the children may suffer particular hardship – e.g. live in overcrowded and unsuitable conditions and with no access to health or educational services. They are particularly vulnerable to exploitation because of their circumstances.

6. ESTABLISHING THE CHILD'S IDENTITY AND AGE

- 6.1. Age is central to the assessment and affects the child's rights to services and the response by agencies. In addition it is important to establish age so that services are age (and developmentally) appropriate.
- 6.2. Citizens of EU countries will have passport or ID card (usually both). Unaccompanied children very rarely have possession of any documents to confirm their identity or even to substantiate that they are a child. Their physical appearance may not necessarily reflect his/her age.
- 6.3. The assessment of age is a complex task. The Home Office have produced an age assessment that is mandatory. The document must be completed by at least one qualified social worker, and it is recommended that it should be based on the assessment of 2 or 3 social workers, in order to minimise individual bias.. Such assessment may be compounded by issues of disability. Moreover, many societies do not place a high level of importance upon age and it may also be calculated in different ways. Some young people may genuinely not know their age and this can be misinterpreted as lack of co-operation. Levels of competence in some areas or tasks may exceed or fall short of our expectations of a child of the same age in this country. The advice of a paediatrician with experience in determining age may be needed to assist with this.

7. PARENTAL RESPONSIBILITY

- 7.1. The Children Act 1989 is built around the concept of "parental responsibility". This legal framework provides the starting point for considering who has established rights, responsibility and duties towards a child.
- 7.1. In some cultures child rearing is a shared responsibility between relatives and members of the community. Adults may bring children to this country whom they have cared for most of their lives, but who may be unrelated or "distantly" related.

- 7.2. An adult whose own immigration status is unresolved cannot apply for a residence order to secure a child for whom he/she is caring.
- 7.3. Children whose parents' whereabouts are not known have no access to their parents for consent when making important choices about their life. Whilst their parents still have parental responsibility they have no way of exercising it.
- 7.4. Children who do not have someone with parental responsibility caring for them can still attend school, and schools should be pragmatic in allowing the carer to make most decisions normally made by the parent.
- 7.5. Such children are entitled to health care and have a right to be registered with a GP. If there are difficulties in accessing a GP, the local Patient's Services should be contacted to assist.
- 7.6. Emergency life-saving treatment would be given if required. However, should the child need medical treatment such as surgery or invasive treatment in a non life-threatening situation, the need for consent would become an issue and legal advice would be required.
- 7.7. Social Services has statutory duties where the child is deemed privately fostered. See appendix 3.
- 7.8. Cares/parents are not eligible to claim benefits for their child unless they have both been granted some form of "leave to remain" in this country by the Home Office.

8. HOW TO SEEK INFORMATION FROM ABROAD

- 8.1 Seeking information from abroad should be a routine part of assessing the situation of an unaccompanied child. In order to gain as full a picture as possible, professionals from all key agencies – Health, Education, Social Services and the Police – should be prepared to request information from their equivalent agencies in the country(ies) in which a child has lived, having first consulted with the Red Cross to ensure it is safe to do so. It is necessary to be aware that parents and the wider family in the country of origin could be at risk of violent repercussions as a result of local schools, health services and police receiving information that a family has a child in the UK, particularly if they are claiming asylum.
- 8.2 It is worth noting that agencies abroad tend to respond quicker to e-mail requests/ faxed requests than by letter. Similarly, the Internet may provide a quick source of information to locate appropriate services abroad.
- 8.3 Appendix 2 contains contact numbers, which are possible sources of information, and local networks, which may be of use.

9. ASSESSMENT

- 9.1. Any unaccompanied child or child accompanied by someone who does not have parental responsibility should receive an initial assessment in order to determine whether they are a child in need of services, including the need for protection. See also appendix 3 regarding “private fostering” duties of Local Authorities.
- 9.2. Such children should be assessed as a matter of urgency as they may be geographically mobile and their vulnerabilities may be greater. All agencies should enable the child to be quickly linked into universal services, which can begin to address educational and health needs.

Education and Health services must be notified that a child has entered the area and be given details so that registrations, identification of resources/services and appropriate follow-up can be undertaken by those agencies.

- 9.3. The assessment of children from abroad can be challenging. It is helpful to use the DOH Assessment Framework, provided that it is recognised that the assessment has to address not only the barriers which arise from cultural, linguistic and religious differences, but also the particular sensitivities which come from the experiences of many such children and families.
- 9.4. The needs of the child have to be considered based on an account given by the child or family about a situation, which the professional has neither witnessed nor experienced. In addition it is often presented in a language, and about a culture and way of life with which the professional is totally unfamiliar or has only basic knowledge.
- 9.5. It is vital that the services of an interpreter are employed in the child’s first language and that care is taken to ensure that the interpreter knows the correct dialect. If that interpreter shares more than a common language, and is professionally trained, they can sometimes be a rich source of information about the traditions, politics and history of the area from which the child has arrived. They may be able to advise on issues like the interpretation of body language and emotional expression.
- 9.6. **The first contact with the child and carers is crucial** to the engagement with the family and the promotion of trust, which underpins future support, advice and services. Particular sensitivities which may be present include:
- **Concerns around immigration status.**
 - Fear of repatriation
 - Anxiety raised by yet another professional asking similar questions to ones previously asked.

- ❑ Lack of understanding of the separate role of social services, that it is not an extension of police.
- ❑ Lack of understanding of why an assessment needs to be carried out
- ❑ Previous experience of being asked questions under threat or torture, or seeing that happen to someone else.
- ❑ **Past Trauma**
- ❑ Past experiences can impact upon the child's mental and physical health. This experience can make concerns from the 'authorities' about minor injury or poor living conditions seem trivial and this mismatch may add to the fear and uncertainty
- ❑ The journey itself as well as the previous living situation may have been the source of trauma
- ❑ **The shock of Arrival**
- ❑ The alien culture, system and language can cause shock and uncertainty, and can affect mood, behaviour and presentation.

9.7. In such circumstances reluctance to divulge information, fear, confusion or memory loss can easily be mistaken for lack of co-operation, deliberate withholding of information or untruthfulness.

9.8. The first task of the initial contact is therefore engagement. If the "engagement" with the family is good there are more likely to be opportunities to expand on the initial contact, as trust is established Questions are most helpful if there is a clear emphasis on reassurance and simple explanations of the role and reasons for assessment.

Comment When English is a second language and in view of cultural differences, experience has shown that 'open' questions are not helpful. Children and young people do not know how to answer questions that give them either/or options – they respond best to clear, direct communication e.g. in relation to health matters, if asked 'are you well?' they will invariably answer 'yes', but if asked 'do you have a pain?' they will answer specifically. Similarly, they will answer questions like: 'are you sleeping through the night?' 'how many hours?' 'what do you like to eat?' 'how often do you eat?'

9.9. Within the first contact with the child and carer(s) it is also vital not to presume that the child's views are the same as their carer, or that the views and needs of each child are the same. Seeing each child alone is crucial, particularly to check out the stated relationships with the person accompanying them. (Someone allegedly from the same place of origin should have a similar knowledge of the place, for example). Clearly the professional is going to be seen as in "power" and as such a child may believe that they must "get it right" when they may not wholly understand the system or even the question.

9.10. If the engagement is good then there will be opportunities to expand on the initial contact. The ethnicity, culture customs and identity of this

child must be a focus whilst keeping this child central to the assessment. The interviewing of a child should aim to be at the pace appropriate to the child, although the need to ensure that the child is safe may become paramount in some circumstances. Some core questions to be addressed are included in appendix 4.

9.11 Child's developmental needs. Things to bear in mind include:

- Health, behaviour and social presentation can be affected by trauma and loss. Famine and poverty can have an impact upon development.
- Wider health needs may need to be considered, including HIV, Hepatitis B and C and TB. (applies to the parent/carer also)
- Education. What has school meant to this child?
- Self care skills. Not to judge competence by comparing with a child of the same age in this country. This child may have had to be very competent in looking after themselves on the journey but unable to do other basic tasks. In some countries some children will have been working or have been involved in armed conflict. Loss of a parent can enhance or deprive a child of certain skills. Having had to overcome extreme adversity can result in a child who is either deeply troubled or both resourceful and resilient.
- Identity. Who is this child? What is their sense of themselves, their family, community, tribe, race, history?
- Physical appearance. Life experience and trauma can affect this. Lack of nourishment may make the child present as younger or older.
- Perceptions of what constitutes disability are relative and attitudes towards disabled children may be very different
- The impact of racism on the child's self image and the particular issues currently faced by asylum seeking children and their families.

Comment 1 Almost all children arriving in the UK unaccompanied will have had to get used to using false names, false identity/family story. At the insistence of people smugglers, children may have been stripped of name, family, language, culture, past, clothes, possessions etc. resulting in loss of identity. On arrival these children will be frightened of providing information other than that which they have been coached to tell. Many deny any knowledge of spoken English, but do in fact have good comprehension. Some will insist that they only speak rare tribal languages, for which it is not possible to gain an interpretation service. However, it is sometimes the case that children will appear to learn English very rapidly, once workers have gained their confidence.

Comment 2 The fact that a child seems to have been given up by parents may not imply rejection, as the motive may have been to keep the child safe or seek better life chances for him/her.

However, many children and young people will carry the questions in their head: 'why was I not good enough?', 'why was I sent away?'. It must also be realised that they carry the added responsibility relating to family honour: families will have made enormous sacrifices for them e.g. sold farms or businesses to fund the child's journey and relocation. In addition, the child may be the only survivor, chosen by the family to be the one who is sent to safety.

9.12. Parenting Capacity. Things to bear in mind include:

- War, famine and persecution can make a family mobile. The family may have moved frequently in order to keep safe. The stability of the family unit might be more important to the child than stability of place. Judgements that mobility may equate with inability to provide secure parenting may be entirely wrong. In some countries regular migration to deal with exhaustion of the land is part of the culture.
- The fact that a child seems to have been given up by a parent may not imply rejection, as the motive may have been to keep the child safe or seek better life chances for him/her.
- Talking about parents/ family can be stressful and painful – as can not being given the chance to do so regularly.
- Importance of the extended family/community rather than an Eurocentric view of family.
- Not to presume that you cannot contact a parent who is living abroad unless you have established that this is the case by actively seeking to do so*.
- Lack of toys for a child may indicate poverty or different cultural norms rather than poor parenting capacity to provide stimulation
- The corrosive impact on parenting capacity of racism against asylum seekers
- The additional issues of parenting a child conceived through rape – either dealing with the negative response of the partner or with the stress of keeping it secret from him.

* **NB** Check with the Red Cross before attempting to contact a parent who is living abroad. It is safest to make all such contacts through the Red Cross 'letter' service. They have a policy of only delivering letters where it is known to be safe and when it is known that parents/family/community will not suffer repercussions.

9.13. Family and environmental Factors. The importance of economic and social hardship is apparent. In addition there may be issues such as:

- Family history and functioning may include the loss of previous high status as well as periods of destitution
- Different concepts of who are/have been important family members and what responsibility is normally assumed by the whole community, e.g. with whom a child should reasonably be left

- 9.14 Appendix 4 contains some questions, which it may be helpful to cover within initial assessment of the situation of a child in these circumstances.

10. CHILDREN IN NEED OF PROTECTION

- 10.1. Where assessment indicates that a child may be in need of protection and child protection procedures apply, additional factors need to be taken into account. These dilemmas include such things as:
- Perceptions of Authority, the role of the Police in particular, and the level of fear which may be generated
 - The additional implications for a family where deportation is a real threat as a consequence of a decision to prosecute
 - Balancing the impact on a child of separation with the likely history
 - Judgements about child care practices in the context of such different cultural backgrounds and experiences.

11. The Trafficking of Children

- 11.1. Trafficking is defined as: “The recruitment, transportation, transfer, harbouring or receipt of children by means of threat, force or coercion for the purpose of sexual or commercial exploitation or domestic servitude.” (AFRUCA/NSPCC) It is a rapidly growing global problem, which is more than a law and order concern; it is a violation of human rights, affecting all communities. Child protection procedures will always apply where there is suspicion that a child may be being trafficked. A trafficked child or young person is a victim of a serious crime.
- 11.2. A number of factors identified by the initial assessment may indicate that a child has been trafficked:
- The child may present as unaccompanied or semi accompanied
 - The child may go missing
 - Possession of a mobile phone (with no indication of bills to pay)
 - Lengthy telephone conversations in first language; receiving calls at same time day and night
 - Evidence of expensive possessions with no explanation
 - Child/young person providing own ‘interpreter’ (worker should always use an interpreter provided by an approved organisation)
 - The multi use of the same address may indicate that it is an “unsafe house” or that the house is being used as a sorting house
 - Contracts, consent and financial inducement with parents may become apparent
 - The child may hint at threats to family in their home country for non co-operation or disclosure

- There may be talk of financial bonds and the withholding of documents.
 - Befriending of the vulnerable child
 - False hopes of improvement in their lives (escaping war, famine, poverty or discrimination)
- 11.3. If it is identified that a child may be being trafficked for the purposes of sexual exploitation the Sexual Exploitation Protocol should be followed. As soon as suspicions are raised that a child is being trafficked, immediate action to safeguard the child is required. This includes urgent liaison with the police. Planning of the investigations should be within a strategy meeting, in order to ensure that both the safety of this individual child and the investigation of organised criminal activity are addressed.
- 11.4. Children are also trafficked for the purpose of domestic labour. These children may be less obvious, and their use to the family may be more likely to be picked up during a private fostering assessment, or because someone notices that they are living at a house, but not in school etc. Children who enter the country apparently as part of re-unification arrangements can be particularly vulnerable to domestic exploitation.

APPENDIX 1 LEGAL STATUS

The legal status of a child/family may be apparent from the documentation the family carries.

An unaccompanied child (under 18) with an asylum claim has no access to public funds. [However, the provisions of the Children Act 1989 will still apply.] Most unaccompanied children will be granted some form of leave to remain up until the age of eighteen. It is then necessary for them to make an application for an extension for leave to remain immediately before their eighteenth birthday. NASS will no longer take responsibility for former UASCs who have been granted no asylum status by the time they reach the age of eighteen years. [At the present time most local authorities are continuing to support these young people as care leavers as a result of the Hillingdon judgement. However, government guidance is awaited which might only be resolved by further judicial review]

Some children may arrive in the UK to be rejoined with their parents. If their parents have an outstanding asylum claim, the children can be recognised as 'dependants' and granted the same status as the principle applicant.

Dependants are those who:

- are related (as claimed on the Asylum application)
- or

- Were dependent on the principal applicant prior to arrival in the UK (even though unrelated)
or
- Had formed part of the pre-existing family unit abroad (again even though they may be unrelated).

If **indefinite** or **exceptional** leave to remain (ILR/ELR) or **Humanitarian Protection** has already been granted to the parent, the child's application is considered as one for 'family reunion' and not as a 'dependent'. In these circumstances the child must have formed part of the pre-existing family unit abroad.

Children who are dependent on asylum seeking parents may also claim asylum in their own right and their applications are then considered individually, irrespective of the outcome of their parents' claim. The claims must be registered with the Immigration and Nationality Directorate (IND).

Relevant pieces of legislation

Nationality Immigration and Asylum Act 2002 (NIA)

Section 54 is intended to discourage the concept of 'benefit shopping' within Europe. It is retrospective and applies to anyone who comes within the categories set out below. This is not dependent on the length of time they have been in the UK.

The Act has the effect of preventing local authorities from providing support under certain provisions, including section 21 of the National assistance Act and section 17 of the Children Act, to:

- Nationals of the European Economic Area (EEA) States (other than UK)
- Those with refugee status in another EEA state
- Persons unlawfully present in the UK who are not asylum seekers, including those who have overstayed visa entry limit and those without confirmation of ELR/ILR leave to remain
- Failed asylum seekers who refuse to cooperate with removal directions

Domestic Violence Concession

Attention should be given to the situation of children whose mother has separated from an abusive husband who is also the sponsor for her Spouse visa. Women in this position can apply under the Domestic Violence Concession for Indefinite Leave to Remain, but while the case is processed they have no recourse to public funds, so cannot claim Income Support, Child Benefit or Housing Benefit. Women's refuges will normally house up to 1 woman at a time in this position, rent free, but they are not able to provide living expenses, and the number of women usually exceeds the places available.

Previously such women were able to claim assistance under the National Assistance Act and Children Act. However, Section 54 could have the effect of precluding Social Services from giving support to women (but not children) under the Acts. Ongoing court cases make this a difficult legal area. The

approach should be to consider each individual case on its merits, for legal advice to be taken and for a decision-making Senior Manager, to examine whether help is needed/possible to avoid a breach of the family's human rights.

Section 55 applies to those who have made or are intending to make an asylum claim in the UK. It prevents NASS from providing asylum support unless the Secretary of State is satisfied that the person applied for asylum as soon as reasonably practicable after arrival in the UK. Families with dependent children will, however, receive asylum support even if they did not apply as soon as reasonably practicable.

Section 55 does not apply to unaccompanied minors.

Those who have not yet officially lodged an asylum claim can be offered assistance with accommodation (usually overnight) and travel to Immigration and Nationality Directorate Public Caller Unit (IND) by social services in order to register the claim with the Home Office. Family can then access NASS support via Refugee Action once IND has accepted the claim and provided written confirmation of this.

APPENDIX 2 SOURCES OF INFORMATION

1. Documentation held by the child/family

The child/family may have documentation from their previous country such as benefit letter, ID cards, GP or hospital letters, letters from other social services departments.

2. The Foreign and Commonwealth Office on 020-7008 1500

3. The appropriate Embassy or Consulate

The London Diplomatic List, ISBN 0 11 591772 1 can be obtained from the Stationery Office on 0870 – 600 –5522 or from FCO website www.fco.gov.uk. It contains information about all the Embassies based in London.

4. International directory enquires dial 155. Ask for main Town Hall number as they will have details of local offices. This can be useful where an address in a town abroad is known.

5. International Social Service of the UK

Cranmer House, (3rd Floor), 39 Brixton Road, London SW9 6DD
Tel No 020-7735 8941/4. Fax 020-7582 0696

6 British Red Cross (South Yorks)

53 Clarke Grove Road, Sheffield S10 2HN
0114 2660656 Fax 0114 2683696

APPENDIX 3 PRIVATE FOSTERING

Under section 67 of the Children Act 1989 a local authority is under a duty to satisfy itself that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted and to secure that such advice is given to those caring for them as appears to the authority to be needed.

'A privately fostered child' means a child who is under the age of sixteen (eighteen if disabled) and who is cared for, and provided with accommodation in their own home by, someone other than:

- (i) a parent of his;
- (ii) a person who is not a parent of his but who has parental responsibility for him; or
- (iii) a relative of his.

A child is not a privately fostered child if the person caring for and accommodating him:

- (a) has done so for a period of less than 28 days; and
- (b) does not intend to do so for any longer period.

A child is not a privately fostered child while:

- (a) he is being looked after by a local authority;
- (b) he is in the care of any person in premises in which any
 - (i) parent of his;
 - (ii) person who is not a parent of his but who has parental responsibility for him; or
 - (iii) person who is a relative of his and who has assumed responsibility for his care,

is for the time being living;

- (c) he is in accommodation provided by or on behalf of any voluntary organisation;
- (d) in any school in which he is receiving full-time education;
- (e) in any health service hospital;
- (f) in any care home or independent hospital;
- (g) in any home or institution not specified above but provided, equipped and maintained by the Secretary of State.

(c) to (g) do not apply where the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the establishment mentioned in the paragraph in question.

- (h) in the care of any person in compliance with an order under section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000; or a supervision requirement within the meaning of Part II of the Children (Scotland) Act 1995.
- (j) he is liable to be detained, or subject to guardianship, under the Mental Health Act 1983.
- (k) he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency or he is a protected child.

A child who is a pupil at a school, and lives at the school during the holidays for more than two weeks, is under 16 and none of the above exemptions apply is regarded as a private foster child during that time.

The usual fostering limit applies to private fostering.

A carer, who is disqualified from being a private foster carer or who lives with someone else who is disqualified, cannot privately foster without the consent of the local authority. There is a right of appeal against the refusal of consent.

A local authority is empowered to prohibit a carer from being a private foster carer if they are of the opinion that:

- (a) the carer is not a suitable person to foster a child; or
- (b) the premises in which the child is, or will be accommodated, are not suitable; or
- (c) it would be prejudicial to the welfare of the child to be, or continue to be, accommodated by that carer in those premises.

A prohibition may prevent the carer fostering anywhere in the area, restrict fostering to specific premises, or restrict fostering a particular child in those premises. There is a right of appeal against the imposition of a condition.

The local authority may also impose requirements on a carer affecting

- (a) the number, age and sex of the children to be fostered;
- (b) the standard of accommodation and equipment;
- (c) health and safety arrangements;
- (d) specific arrangements for the children to be fostered.

The local authority must be given notice of the placement by both the parent and the carer and any other person involved in its arrangement.

The local authority must be satisfied as to the suitability of each arrangement notified to it.

Regulations prescribe the frequency that a privately fostered child should be visited.

Where a local authority is not satisfied that the welfare of a privately fostered child is being satisfactorily safeguarded or promoted it must take such steps as are reasonably practicable to secure the care of the child is undertaken by a parent, a holder of parental responsibility, or a relative (unless not in the interests of the child to do so) and consider exercising its functions under the Children Act 1989.

APPENDIX 4 Guidance on Questions to Ask Potential Carers of Children From Abroad who do not clearly have Parental Responsibility

It is important that the questions are rephrased for each interview so that the interview does not become interrogatory in tone.

- Speak to the child on their own (**with interpreter**) in order to establish child's own views and consistency between child and adult's account of circumstances.
 - Establish carers ID and immigration status.
 - **Establish any previous contact with this or other local authorities/agencies in UK and abroad.**
1. How do you know the child? Friend/relative
 2. What is your relationship and through which parent are you related to the child?
 3. How long have you personally known the child/family?
 4. Please give details/names about individual family members?
 5. Which town or city does the child in your care come from?
 6. Please describe their family home/surroundings/environment?
 7. If you have never seen this child before – how do you know this child belongs to your relative?
 8. Can you tell me why the child has come to this country?
 9. Did the child have any contact with you prior to their arrival in this country?

10. Has the child stayed with anyone else, or in another area in this country, or on the way to Britain?
11. Are the child's parents alive or dead?
12. If alive, where are the child's parents?
13. Do you know why the parents sent their child to Britain and to you?
14. Did the parents ask you to look after the child and do you have anything in writing?
15. Are the parents aware that the child is with you?
16. Are you in contact with the child's parents and if so by what means?
17. Would it be possible for us to contact the child's parents?
18. Who brought the child into the country?
19. Who paid for their passage?
20. By which route/transport did they arrive?
21. Do they have any other friends or relatives in this country?
22. Are you in contact with other friends or relative, if yes please provide their details?
23. If yes, why did they not stay with them?
24. Which documentation does the child have pertaining to their identity and nationality?
25. Do you have a letter from Home Office stating that you are the carer/guardian?
26. How did the Home Office decide that you should be the guardian/carer?
27. Do you have a partner/husband/wife, if yes, is he/she happy to continue to care for this child?
28. Do you have any children? If yes what are their ages and gender?
29. How do you think caring for another child for will impact on your own family/finances?
30. Does the child have his own bedroom?

31. What responsibility are you willing to take for the child - i.e. basic essentials/ carer's role/legal responsibility?

32. How long are you able to commit yourself to this responsibility?
