Explaining UASC Leave

Establish needs of the client

- Has the young person attended their substantive interview?
- Has the young person received a decision on their asylum claim?
- Have they been granted UASC leave?

What is UASC leave?

- UASC leave is a form of temporary leave to remain, given when a child:
  - Has applied for leave in the UK but been refused refugee status and humanitarian protection
  - Is under the age of 17.5 years
  - Separated from both parents
  - Is not living in the care of family in the UK

What does this mean for you?

- Leave is granted for up to 2.5 years (30 months) or until you are 17.5 years old (whichever is shorter)

- It is not a route to staying forever - UASC leave means that you have been refused refugee status and humanitarian protection (you are no longer an asylum seeker) and have been granted limited leave to live in the UK

- It is very important that you get help from your legal representative (solicitor) if you receive a decision of UASC leave - you might be able to appeal the decision. Your solicitor and social worker should be able to support you throughout this process.

*This briefing should not be used to give legal advice and is for information and guidance only. For advice on individual cases, assistance should be sought from a regulated legal adviser*
What happens if you are granted UASC leave?

- A grant of UASC leave is **limited** and **not a positive** outcome to an asylum claim
- You **CAN** appeal a UASC Leave decision if you have any desire to remain in the UK or if you have any fear of returning to your home country
- You **MUST** submit your appeal **within 14 days of being granted UASC leave**
- There will usually (if not always) be good reason for you to appeal. **If you do not have a legal representative, ask your Social Worker to help you find a legal aid provider to present your appeal**
- Solicitors who systematically fail to lodge appeals for children granted UASC leave or withdraw on the grounds of merit are unlikely to be any good at representing children. You should discuss this with your social worker if you are unsure of anything

What happens if you are aged 17.5 years when the Home Office makes a decision?

- If you are **over 17.5 years but not yet 18**, the Home Office must treat you as a child when making a decision on your asylum claim
- If you are between the **age of 17.5 and 18 years** and are refused asylum and humanitarian protection you will not be granted UASC leave
- If the above happens, you will normally have the right to appeal (more about this will be discussed below)

What happens if you turn 18 before the Home Office has made a decision?

- Once you turn 18, child-policies and the process of decision-making changes

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For example, if you turn 18 before you have had your substantive interview, you will not be entitled to the same child-specific protections unless your solicitor has contacted the Home office and requested you receive child-specific protections.

If you have turned 18 at the time of your substantive interview and are no longer eligible for UASC leave, the Home Office will consider the risk of returning you to your home country on the basis of you returning as an adult, not as a child.

However, the Home Office should still consider the elements of an asylum claim on the basis that any exploitation or trauma that occurred was experienced when you were under the age of 18 and therefore a child.

Can you extend UASC leave?

If your UASC leave is soon to expire, it is very important that you apply for further leave. For those nearing the age of 17 ½ this would not be an application for an extension of UASC leave (as you would soon be an adult), but an application for an extension of leave to remain in the UK as a person who was refused asylum but given another type of permission to stay in the UK.

It is very difficult to renew UASC leave when it comes to an end as by that time you will nearly be an adult (18 years old). When your UASC leave ends you become an ‘Overstayer’ (a person who was allowed into the UK for a limited period but who has remained longer than the time allowed without permission).

Legal representation should be sourced if you are applying for further leave. This should happen 3-6 months before your UASC leave expires. This will allow a solicitor or immigration adviser to prepare the application for further leave properly and submit the application in time.

Remember to consult your solicitor at all stages - if you are unhappy with the support you are receiving you should speak to your social worker or someone you trust for further support.

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