

EXPLANATORY MEMORANDUM TO
THE CARE PLANNING AND CARE LEAVERS (AMENDMENT)
REGULATIONS 2014

2014 No. 1917

1. This explanatory memorandum has been prepared by the Department of Education and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 To require that a child's care plan must record whether the child is a victim, or there is reason to believe they may be a victim, of trafficking in human beings or is an unaccompanied asylum seeking child and provide that the assessment of that child's needs and the local authority review of the child's case must take into account that status. The instrument also amends the Care Leavers (England) Regulations 2010 to provide that a local authority's assessment of a child's needs under those Regulations must also take into account that status as should any review of the child's pathway plan. These children often have complex needs in addition to those faced by other looked after children.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 These Regulations are made under powers in section 22C(11), 23E(1B), (1C) and (2), 26(1) and (2), 31A(3) and 104(4) of and Paragraph 19B(7) of Schedule 2 to the Children Act 1989.
5. **Territorial Extent and Application**
 - 5.1 These regulations apply to England.
6. **European Convention on Human Rights**

As these regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.
7. **Policy background**
 - What is being done and why
 - 7.1 Unaccompanied asylum seeking children and child victims of human trafficking are some of the most vulnerable children in the country. Because of

the circumstances they have encountered, unaccompanied and trafficked children often have complex needs in addition to those faced by other looked after children. The local authority looking after them should ensure that these additional needs are taken into account in the care planning process.

7.2 The Care Planning, Placement and Case Review (England) Regulations 2010 set out how local authorities in England should assess, plan for and review the care and placement of looked after children. These amendments to those Regulations will require local authorities to record that a looked after child is an unaccompanied asylum seeking child or is a victim or potential victim, of trafficking. They will also require local authorities to take those circumstances into account when assessing the child's needs and in the care planning review processes. This will bring greater attention and focus to the particular needs of these children and will help ensure they receive from local authorities the specialist support and care that they need.

7.3 The Care Leavers (England) Regulations 2010 set out how local authorities should assess, plan and review support arrangements for children when they leave care. These amendments to those Regulations will require local authorities to take into account a care leaver's status as an unaccompanied asylum seeking child or a victim, or potential victim, of trafficking when assessing their needs as a care leaver, and when preparing and reviewing their pathway plan.

7.4 As at 31 March 2013, there were 1,860 unaccompanied asylum seeking children being looked after by local authorities in England. Data on the number of trafficked children in local authorities is not collected, but around 450 children were referred to the National Referral Mechanism (NRM) in 2013. Referrals are made to the NRM when there are grounds to believe a person is a victim of trafficking. While some trafficked children will also be unaccompanied asylum seeking children, others will be UK citizens trafficked within the UK.

- Consolidation

The Care Planning, Placement and Case Review (England) Regulations 2010

7.5 As this is only a small amendment to the Regulations consolidation is not considered appropriate at this time.

The Care Leavers (England) Regulations 2010

7.6 As this is only a small amendment to the Regulations consolidation is not considered appropriate at this time.

8. Consultation outcome

8.1 Draft Regulations and accompanying statutory guidance were published for public consultation between 28 January and 25 March 2014. The Government's response was published on 15 July 2014.

8.2 The consultation found widespread support for the proposed Regulations. Of a total of 39 responses to the question "Will the proposed regulations help identify in care planning arrangements, unaccompanied and trafficked children and help ensure they receive appropriate care?", 24 (62%) answered "yes" and 8 (21%) "no". The remainder were unsure.

8.3 A small number of consultation respondents suggested changes to some of the text of the Regulations. As drafted for consultation, the Regulations would apply to "potential victims of trafficking". One respondent suggested this was too high a threshold. The wording here has been changed so that the Regulations apply where there is "reason to believe" a child is a victim of trafficking. This is in line with the wording of the Modern Slavery Bill.

9. Guidance

9.1 Statutory guidance to accompany these Regulations was published on 17 July 2014.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is a requirement for local authorities to record in a child's care plan whether a looked after child is an unaccompanied asylum seeking or trafficked child, and if so to take any related needs into account in planning for and reviewing their care plan. Where the child is a relevant child for the purposes of the Care Leavers (England) Regulations 2010 the child's status must also be taken into account when carrying out an assessment of their needs.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Local authority children's social care services are inspected every three years by HM Chief Inspector for Standards in Education, Children's Services and Skills ("HMCI"). HMCI is independent of the Department for Education. These inspections include local authority practice in complying with the Care Planning, Placement and Case Review (England) Regulations 2010 and the

Care Leavers (England) Regulations 2010. HMCI publishes inspection reports of individual local authorities on its website The Department for Education will monitor these inspection reports alongside other feedback from the sector to assess the impact of the Regulations.

13. Contact

Tom Sutton at the Department for Education, Tel 0114 274 2072 or email: tom.sutton@education.gsi.gov.uk can answer any queries regarding this instrument.