

BASIC ASSESSMENT GUIDE FOR SOCIAL WORKERS WORKING WITH CHILDREN ON THE MOVE



Scalabrini
Centre of Cape Town

PURPOSE AND BACKGROUND

This basic assessment guide has been developed to assist and guide child protection workers on the best practices regarding procedures and approach when dealing with unaccompanied and separated foreign children. Early identification and thorough initial assessment of unaccompanied and separated children is fundamental as this informs proper pathway planning regarding the child's future, promotes and strengthens the child's rights realisation and ensures that the best interest of the child is upheld, both from a care and a protection perspective, which includes documentation. The guide will assist social workers

and other service providers within the child protection system to understand the particular challenges faced by foreign children in need of care and protection, and how to initiate a holistic care and protection intervention.

The Scalabrini Centre of Cape Town has been rendering care and protection services to children on the move in partnership with the Department of Social Development since 2006 through Lawrence House, a registered Child and youth care centre and, in addition, since 2018 through its Children's Rights Project housed at the Scalabrini Centre.

DEFINITIONS & DOCUMENTATION SAMPLES

It is important that the case assessor (for instance an intake social worker) is aware of and understands the meaning of the following significant terms; the glossary lists key terms that relate to the assessment of children on the move.

Unaccompanied Foreign Child

Children who have been separated from both parents and other relatives and are not being cared for by an adult, who by law or custom, is responsible for doing so" (UNICEF Definition)

- This refers to a foreign child who is in South Africa without the care of a parent, legal guardian or relatives who have a duty of care by law.

Separated Foreign Child

A child separated from both parents, or from their previous legal guardian or customary primary caregiver, but not necessarily from other relatives. (UNICEF Definition)

- This means a foreign child who is in South Africa, in the care of any other adult who is not their parent or legal guardian.

Foreign Child

A child born in another country to foreign parents who decide to migrate to South Africa or a child born in South Africa to foreign parents.

Migrant

A person who moves away from his or her usual place of residence, whether within the country or across an international border to seek better opportunities.

Permanent Resident

A foreign person who has been granted the right stay in the country permanently; a permanent resident can apply for a Green ID book, not the smartID.

Stateless Person

A stateless person is someone who is 'not considered as a national by any State under the operation of its laws'. Being stateless means that the person's most basic human right, the right to a nationality is infringed and is excluded from accessing social, economic or political rights.

DEFINITIONS & DOCUMENTATION SAMPLES

REPUBLIC OF SOUTH AFRICA
DEPARTMENT: HOME AFFAIRS

Section 22 of the Refugees Act No. 130 of 1998

ASYLUM SEEKER TEMPORARY VISA

REFERENCE NO: [REDACTED]

Person is hereby granted to the following person as holder of the permit to remain in the RSA of part thereof as determined in part B hereof

A. PERSONAL PARTICULARS OF HOLDER

SURNAME: [REDACTED] FIRSTNAME(S): [REDACTED]

RESIDENTIAL ADDRESS: [REDACTED]

DATE OF BIRTH: [REDACTED] GENDER: [REDACTED]

NATIONALITY: [REDACTED] COUNTRY OF ORIGIN: [REDACTED]

FILE NUMBER: [REDACTED] PLACE OF ISSUE: [REDACTED] ISSUED DATE: [REDACTED]

ALTERNATIVE FILE NUMBER: [REDACTED]

B. CONDITIONS

- The holder of the permit may reside temporarily in the Republic of South Africa for the purposes of applying for asylum in terms of the Refugees Act No. 130 of 1998.
- The permit holder shall, without prejudice to the status, leave the Republic as before such later date as shall be determined by a Refugee Status Determination Officer if his/her application for asylum has been rejected.
- The permit entitles the holder to: TO WORK OR STUDY
- Failure to comply with the conditions of this permit will be treated with in terms of Section 27 (b) and Section 22 (b) of the Refugees Act 1998.
- All permit holders are obliged to respect the laws of South Africa.
- This permit will lapse if the permit holder does not access in person an assigned Refugee Reception Office or if he/she departs from the Republic without prior authorisation from the Director General.
- All other permits issued prior to the issuance of this permit are automatically nullified.
- Other conditions: DETERMINED BY DHO

I agree to the conditions above and understand that a breach thereof will result in an offence in terms of Section 27 of the Refugees Act.

PLACE: Port Elizabeth DATE: [REDACTED]

CAPTURED BY: [REDACTED] PRINTED BY: [REDACTED] FINGER IMPRESSION: [REDACTED]

REFUGEE RECEPTION OFFICIAL NAME: [REDACTED]

APPOINTMENT FORCE NO: [REDACTED]

DATE: [REDACTED]

PLACE: [REDACTED]

ORIGINALLY ISSUED IN: Port Elizabeth NUMBER OF EXTENSIONS: 1 PERMIT EXPIRY DATE: [REDACTED]

PERMIT HOLDER SIGNATURE: [REDACTED] REFUGEE OFFICIAL SIGNATURE: [REDACTED]

For verification of this document, please contact DHA verification.perro@dha.gov.za

Asylum seeker

A person who fled their country due to conflict or persecution and has applied to be recognised as a refugee in terms of the Refugees Act of South Africa but whose request has not yet been assessed. The asylum seeker visa is usually valid to a maximum of one year at a time. Asylum seeker visa holders are allowed to work or study in South Africa. The permit is renewed online.

REPUBLIC OF SOUTH AFRICA
DEPARTMENT: HOME AFFAIRS

REFUGEES ACT 1998 (ACT 130 OF 1998)

FORMAL RECOGNITION OF REFUGEE STATUS IN THE RSA

PARTICULARS OF RECOGNISED REFUGEE IN THE RSA

NAME AND SURNAME: [REDACTED]

GENDER: [REDACTED]

DATE OF BIRTH: [REDACTED]

COUNTRY OF BIRTH: [REDACTED]

NATIONALITY: [REDACTED]

MARITAL STATUS: [REDACTED]

It is hereby certified that the person whose particulars appear above has, in terms of section 20 (2) (a) of the Refugees Act 1998 (Act 130 of 1998), been recognised as a refugee in the Republic of South Africa (RSA) from [REDACTED] on condition that this formal recognition shall become null if he/she departs permanently from the Republic. The Refugee shall within 10 days of receipt thereof apply for a Refugee Identity Document in the RSA. The holder of this certificate is entitled to socio-economic rights as provided for in Chapter 2 of the Constitution including work and study in RSA.

PP. DIRECTOR-GENERAL DATE: [REDACTED] ISSUING OFFICE: [REDACTED]

DEPARTMENT OF HOME AFFAIRS

PLACE: [REDACTED] DATE: [REDACTED]

CAPTURED BY: [REDACTED] PRINTED BY: [REDACTED] FINGER IMPRESSION: [REDACTED]

REFUGEE RECEPTION OFFICIAL NAME: [REDACTED]

APPOINTMENT FORCE NO: [REDACTED]

DATE: [REDACTED]

PLACE: [REDACTED]

ORIGINALLY ISSUED IN: Cape Town NUMBER OF EXTENSIONS: 6

REFUGEE SIGNATURE: [REDACTED] PERMIT HOLDER SIGNATURE: [REDACTED]

For verification of this document, please contact DHA verification.ctro@dha.gov.za

Refugee

A person who has been granted asylum and has been issued a Refugee Status permit in terms of the Refugees Act of South Africa. This is permit is usually valid to a maximum of four years at a time. The permit is renewed online.

HOW TO IDENTIFY AN UNACCOMPANIED OR SEPARATED FOREIGN CHILD

When assessing a child the below considerations can assist in assigning the child to the correct category.

- Is the child from another country? Ask the child which language he/she speaks; where he/she was born; where his/her parents were born/are from.
- Is there an adult looking after the child? Ask the child who he/she stays with; who that person is; query the word 'uncle' 'aunt' 'sister' 'brother' further; for example, culturally a good family friend is called uncle, an older cousin is called sister. Ask if the person is present regularly.
- These questions will allow to establish whether the person living with the child has a duty of care.
- Ask if the child is attending school or not. If yes, who accompanied the child to school? Who filled out the school forms? Which documents of the child and caregiver does the school have on file?
- Ask the child if he/she has any documents. If there are any adults present, ask them as well. Due to mistrust, the child and/or caregiver could be withholding documents. Ask the question over a period of time explaining that this information is important to best assist the child, not to verify the validity of a document.
- If at any point of your assessment you feel that the child's life is at risk or that the caregivers might be withholding information and act suspiciously, please consider whether the child could be a victim of trafficking. If so, remove the child and report the matter to police.



Child trafficking occurs when a child is taken away from safety and exploited through forced labour, sexual exploitation, forced marriage or recruitment into armed groups. If you suspect that the child could have been trafficked, remove the child and report the matter to the police. The following are some of the networks to contact for assistance:

- National Trafficking Network
- A21 Campaign organisation
- National Trafficking Hotline – which is administered by A21
- Western Cape Provincial Task Team on Trafficking – they have various experts within their task team



The Children's Act applies to ALL children irrespective of their nationality and documentation status!!

- The approach from a PROTECTION point of view should be the same as for any South African child
- The child may be identified by anyone – SAPS, NGOs, school teacher, social worker or member of the public
- The child should be brought to any designated child protection organisation by any of the above

YOU HAVE IDENTIFIED THAT THE CHILD IS AN UNACCOMPANIED OR SEPARATED CHILD MIGRANT CHILD: NEXT STEPS

What follows below are a series of possible question and consideration that should inform your investigation into the circumstance of the child, while interviewing the child directly or any persons involved in the matter.

Is the child an unaccompanied child? If yes, follow the steps below:

- An unaccompanied foreign child is deemed to be in need of care and protection
- The child is to be placed in safe care and a Children's Court Inquiry should be opened.
- Immediate removal can be done if the child's life is at risk
- Investigate the circumstances of the child:
 - What documentation or information does the child have? This could be a birth certificate from the country of origin, a passport, Id, school records, parents details, baptism card etc. This is important as the child's legal status in the country will inform which steps need to be taken to ensure his/her best interest is upheld.
 - Document and keep all records of all information attained including emails, contact numbers, details of people contacted. This is important if for instance you need to give evidence that you have attempted family reunification but that it was unsuccessful.
 - Explore family tracing and where possible, reunification. This must be pursued as soon as possible. The mobility of migrant and refugee people is high and therefore they move frequently and because of their unstable living circumstances often lose phones or are robbed. Phone numbers can change quickly, hence call any numbers immediately and conduct home visits as soon as possible.
 - Reconnecting with family should always be your first choice unless there is evidence of non-conducive circumstances within the family environment.
 - Make sure the child has access to basic services including access to education, health and psycho-social services. If the child has not been able to any

of these access, what were the challenges? Reach out to services providers and request assistance.

- Please note undocumented children have a right to access education in South Africa.

DOE Circular

<https://scalabrini.org.za/wp-content/uploads/2020/11/Department-of-education-circular-1-of-2020-undocumented-learners.pdf>

Is the child a Separated child? If yes, follow the steps below:

- The child is in whose care? What is the relationship between the child and caregiver?
- Is the Caregiver willing to continue to care for the child? If not, consider placement of the child in safe care as per scenario A described above.
- Is the Caregiver willing to continue to care for the child? If yes, the social worker must assess the circumstances of the caregiver and suitability to care for the child. Explore the opportunity of formalising the care arrangement.
- If the caregiver continues to care for the child, what documentation does the caregiver hold? And is the child able to acquire documents under the caregiver? If the child is undocumented and cannot be documented under the Caregiver, explore document options by contacting a legal service provider for guidance and advice.
- Has the child been able to access services such as education, health or psycho-social services, if not, what are the challenges? Reach out to services providers and request assistance.
- Has family tracing and reunification been explored? If not, what are the challenges?

WHAT TO CONSIDER WHEN RENDERING SERVICES TO UNDOCUMENTED UNACCOMPANIED AND/OR SEPARATED FOREIGN CHILDREN?

In the section that follows we share good practices and useful considerations to take into account when assisting undocumented children on the move.

Age assessment

When the child does not have any form of identity document, Age assessment through bone scan can be the starting point in order to have an accurate idea of the child's age. This is important because you gain clarity on the developmental stage of the child and on the remaining time before the child turns 18; it can help with school placement if no previous school reports are available. Please note: an age assessment does not confer any legal status to foreign children.

The journey to South Africa

It is important for your assessment of a foreign children to gather information on the circumstances of their migration from their country of origin to South Africa. Please remember that the journey can have been very traumatic for the child and that questions can trigger negative emotions. Use a therapeutic approach you are confident in when conducting these interviews to avoid secondary traumatising.

Also note that a foreign unaccompanied child, could have been born in South Africa and due to circumstances has become unaccompanied or separated. There could be no cross border migration journey.

These are some of the relevant questions you should ask when assessing an unaccompanied or separated child directly or when you interview any significant other:

- With whom did you travel to South Africa? Where you alone? Did you know the people around you? Where they kind? Did you know them from before leaving your home?
- Where is this person now?
- Ask questions as to ascertain why the child (and those who accompanied the child) migrated to South Africa. (Reasons, motivations, external factors such as war, climate catastrophe, etc.).
- Is there any indication that the child might qualify for refugee status? (This answer will follow from the reasons for migration). If so, expand the reasons.
- Do you remember who decided to leave your country? Who decided that the child should migrate? Were you excited/happy to leave? Or did it make you sad?
- Do you remember crossing the border into South Africa? Can you tell me if and how you remember that part of the journey? Did you see any people in uniforms? Did the child enter South Africa regularly or irregularly (with or without the requisite travel document)? If irregularly, how did the child enter South Africa: Was he/she assisted by anyone to enter the border?



The following considerations are some examples that can assist you in identifying whether the child might be a refugee or not:

- The child comes from a war zone and has fled his or her country due to lack of security
- The child has suffered persecution because they belong to a certain social group, for example, LGBTQIA+ or minority clan
- The child was forced to join an armed group or there was attempt to force him or her to join armed groups.
- The child has been forced into marriage or sexually violated.
- The child comes from a politically influential family, and has fled his or her country due to political persecution of the family.

Documentation status/citizenship- initiating a documentation pathway

The interventions under this section are very complex and will most likely require you to work in partnership with a legal service provider. The below list of questions serves the purpose to highlight the complexity of the matter and give you starting points for your intervention work with regards to documentation pathways.

- What are the circumstances around birth and birth registration? Where was the child born? Was the birth registered? What information does the birth certificate carry?
- Which country issued the birth certificate?
- If the birth was not registered, why not?
- If the child was born in South Africa, and the birth was not registered, why not?
- Was late birth registration attempted?
- What type of documentation does the child have? (List all - court age assessment, court placement order, ID, clinic card, birth certificate, passport, visa (type of visa?), asylum, refugee status, residency, any other form of identification. (More than one option possible)
- If the child has no documentation at all, what efforts have been made to secure documentation? (Including contacting DHA, embassies, consulates and organizations such as IOM, UNHCR, etc.). If unsuccessful, what were the challenges met in attempting to secure documents.
- If the child has no document, what has been the child's experience of life without a document?

Links to Country of Origin: The importance of Family Tracing and reunifications

Family tracing is key in finding durable solutions for unaccompanied and separated foreign children. It is advisable that family tracing is pursued as soon as the child is identified or placed in safety.

For children who are not refugees it is important that reunification is pursued to reunite them with family as soon as possible, both in South Africa or in their country of origin, if family has been traced and their circumstances found conducive.

The list of questions that follows is a suggestion of how to map out the child's family connections.

- What types of links does the child have with the country of origin (familial, cultural, linguistic)?
- Attempt reconstructing a family tree as well as a timeline of the child's stay with any family members before and once in South Africa.
- Are the mother and father alive?
- Are the mother and father's whereabouts known?
- Does the child have any siblings?
- What is the extent/frequency of contact between the child and his/her biological parent(s)?
- What is the extent of contact between the child and his/her siblings or extended family members?
- Besides for parent(s), is there anyone in the child's family who may have a customary duty of care?
- What have been the main challenges to maintaining family links?
- Is family reunification in South Africa in the best interest of the child?
- Is foster care in the best interest of the child?
- Is family reunification in the child's country of origin in the best interest of the child?

These service providers can be contacted to assist with Family Tracing:

- ISS – International Social Services
- International NGOs like IOM – (International Organisation for Migration), ICRC- the International Committee of the Red Cross and UNHCR
- Local NGO's like the Scalabrini Centre of Cape Town
- Embassies
- Community Leaders and churches

DOCUMENTATION OPTIONS FOR FOREIGN CHILDREN IN SOUTH AFRICA

The section that follows aims at giving an initial overview of the various documentation pathways that need to be followed and explored when assisting an unaccompanied or separated foreign child. If you want to find out more contact one of the legal service providers.

Birth Registration

- Every child in South Africa has the right to a name and nationality from birth, which means that every child born within South African borders should be issued a birth certificate.
- Temporary residents, asylum seekers and refugees, have the right to register the birth of children born in South Africa
- A child's birth is usually registered in the country where the child was born. In some circumstances, the child's birth can be registered at the country embassy or mission.
- Birth registration in South Africa must be done within 30 days of birth. Failing this, the parents have to apply for late birth registration and this process is onerous and can take years to be finalized.
- Foreign nationals are provided with a handwritten birth certificate, not a system printed one. This means that the birth of foreign children is not entered into South Africa's population register.
- Foundlings: Is a baby or infant who was abandoned by parents, has been found, and is being cared for by other people. The birth of such a child can be registered by a social worker providing a report on the circumstances of the child.



Currently undocumented mothers (South African and foreign) are unable to register the birth of their children. If you come across such a child, please reach out to one of the legal service providers for further consultation.



A birth certificate is key to accessing many services in South Africa

South African Citizenship

Children born in South Africa to foreign parents do not automatically acquire South African citizenship by birth. This is different to the system in the United States, for example, where any child born on US territory is a US citizen by birth.

Foreign children born in South Africa can apply for South African citizenship upon attaining majority age. The applicant must be in possession of the hand-written birth certificate issued to foreign children born in South Africa (sometimes printed) in order to qualify to apply for South Africa citizenship.

Documentation of Children under the Refugees Act

- **Family Joining:** Children of asylum seekers and refugees acquire asylum seeker visa or refugee status through a process informally called “joining family”. The child is added to the parent’s asylum or refugee file and the child is then issued the same kind of document the parent holds. If the parent holds an asylum seeker visa, the child will be issued an asylum seeker visa; if the parent holds Refugee status, the child be issued refugee status.
- **Asylum seeking children:** Unaccompanied foreign children who qualify to apply for asylum must be assisted by the social worker to apply for asylum. Children under the age of 18 cannot apply for asylum without a court order from the Children’s Court. The social worker must approach the Children’s Court and get a Court Order that will allow the child to apply for asylum.
- **Not all foreign children have asylum claims:** Please note that not all foreign children are refugee children. If a foreign child does not have a refugee claim, the child must be documented under the Immigration Act.

Documentation of Children under the Immigration Act

Some of the challenges with acquiring temporary visa under the Immigration Act is that the requirements for these visas require several documents, some of which are costly and difficult to obtain. In addition, some of these visas applications must be done in country of origin, not in South Africa. The visa and process costs are very high and most unaccompanied or separated children are not able to meet the requirements of these immigration visas.

Nonetheless, the following document options are available for migrant children under the Immigration Act of South Africa if in possession of a valid passport:

1. Study Visa: applies to children who are studying
2. Relatives Visa: applies to children accompanying their parents and are not studying
3. Visitor visa: applies to children who are in the Republic for visitation purposes
4. Permanent Residence Permit: children of permanent residence permit holders can also apply for permanent residence permits.

In summary, the document options for unaccompanied and separated foreign Children are:

1. If they are in possession of a passport and/or other documents the relevant immigration visa application may be applied for.
2. Children who qualify to apply for asylum can be assisted by the social worker to apply for asylum seeker visa or refugee documents.
3. If there is no option to document the child under the Refugees or Immigration Acts, an application may be submitted in terms of section 31(2)(b) of the Immigration Act.
4. This section of the Immigration Act gives the Minister of Home Affairs the ability to ‘grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which justify such a decision’.

It is advisable to contact legal experts for advice on documentation of unaccompanied and separated children.

Please also refer to the Department of Social Development, **GUIDELINES ON UNACCOMPANIED AND SEPARATED MIGRANT CHILDREN (USMC) IN SOUTH AFRICA AND SOUTH AFRICAN CHILDREN IN DISTRESS IN OTHER COUNTRIES** for more information.

LIST OF LEGAL SERVICE PROVIDERS

Gauteng

The Centre for Child Law (www.centreforchildlaw.co.za, 012 420 4502)

Action Support Centre (www.asc.org.za, 011 482 2453)

KwaZulu-Natal

Refugee Social Services (www.refugeesocialservices.co.za, 031 942 2759)

Limpopo

Future Families (www.futurefamilies.co.za, 073 378 7134)

Western Cape

The Scalabrini Centre of Cape Town in the Western Cape (www.scalabrini.org.za, 083 861 2377)

UCT Refugee Rights Clinic (<https://law.uct.ac.za/refugee-rights>, 021 650 5581) Nationally

Childline South Africa (www.childlinesa.org.za, 116 or 031 201 2059)

Lawyers for Human Rights (www.lhr.org.za)

UNICEF South Africa (www.unicef.org/southafrica)

UNHCR (www.unhcr.org/southafrica)

Save The Children (www.savethechildren.org.za).

ABOUT THE AUTHOR

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