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Argyll and Bute Council **Comhairle Earra-Ghàidheal Agus Bhòid**

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3 December 2021

SUPPLEMENTARY PACK 1

**POLICY AND RESOURCES COMMITTEE - BY MICROSOFT TEAMS on THURSDAY, 9
DECEMBER 2021 at 10:30 AM**

I enclose herewith **item 13 (UNACCOMPANIED ASYLUM SEEKING CHILDREN - NATIONAL TRANSFER SCHEME)** which was marked to follow on the Agenda for the above meeting.

Douglas Hendry
Executive Director

ITEM TO FOLLOW

13. UNACCOMPANIED ASYLUM SEEKING CHILDREN - NATIONAL TRANSFER SCHEME (Pages 3 - 8)

Report by Executive Director with responsibility for Resettlement

Policy and Resources Committee

Councillor Rory Colville
Councillor Mary-Jean Devon
Councillor Kieron Green
Councillor Audrey Forrest
Councillor David Kinniburgh
Councillor Aileen Morton
Councillor Douglas Philand
Councillor Elaine Robertson

Councillor Robin Currie (Chair)
Councillor Bobby Good
Councillor Jim Findlay
Councillor Jim Lynch
Councillor Yvonne McNeilly
Councillor Gary Mulvaney (Vice-Chair)
Councillor Alastair Redman
Councillor Richard Trail

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ARGYLL AND BUTE COUNCIL**POLICY AND RESOURCES COMMITTEE****DIRECTORATE /HSCP****9 DECEMBER 2021**

Unaccompanied Asylum Seeking Children – National Transfer Scheme

1.0 INTRODUCTION

- 1.1 As members will be aware the number of young unaccompanied asylum seeking children (UASCs) reaching the UK continues to rise. On arrival in the UK asylum seeking children become the responsibility of the local authority in which they initially present. This means that many local authorities in the South of England are supporting massively disproportionate numbers of children and as a result care arrangements are frequently inappropriate. This has been a prominent media issue for many months.
- 1.2 Through the Immigration Act 2016, the UK Government introduced the ability for local authorities to transfer legal responsibility for unaccompanied children in their care to another local authority through a scheme operated by the Home Office. This was intended to address the significant pressure faced by authorities, such as Kent, whom have become legally responsible for the very high numbers of spontaneous arrivals of UASCs under the relevant children's legislation. The 2016 Act also gives the UK Government powers to introduce a mandatory transfer scheme.
- 1.3 Currently UASCs arriving in the south east of England, are moved to other areas of the UK through the National Transfer Scheme (NTS), this arrangement is coordinated in Scotland by COSLA. The NTS achieved initial successes in facilitating transfers to local authorities that agreed to participate in the scheme on a voluntary basis, however there were issues with the design of the scheme which have resulted in many more children requiring to be transferred than places being offered by Local Authorities.
- 1.4 To address those challenges the Home Office consulted on changes to the NTS in September 2020. The scheme was re-launched on 26 July 2021 with all English regions and Wales participating in a national rota system. Scottish local authorities had agreed to sign up to the revised scheme at the meeting of COSLA leaders in August 2021.
- 1.5 However the issues for local authorities in the south of England are becoming more critical and on 23 November 2021, with UASC numbers in the UK rising, the UK Government served notice on Councils across the UK of their intention to issue a direction requiring local authorities to participate in the NTS for UASCs. Argyll and Bute Council, like the other Scottish local authorities participating in the scheme, had been making plans to accept UASCs under the voluntary NTS.

- 1.6 This paper updates elected members on the change from a voluntary to mandatory scheme, outlines the implications and risks and, provides an overview on the proposed model of care and support for UASCs transferred to the authority through the NTS.

RECOMENDATIONS

2.0 It is recommended that the Policy and Resources Committee:

- a) Notes that on 23 November 2021 the UK Government served notice on Councils across the UK of their intention to issue a direction requiring local authorities to participate in the National Transfer Scheme for unaccompanied asylum-seeking children (UASC).
- b) Notes the plans to provide appropriate care for UASCs transferred to the authority in a partnership between the HSCP and the Council.
- c) Notes the risks outlined in paras 3.14 to 3.21 below
- d) Accepts that the costs of UASCs are funded by the NTS funding package from the Home Office. However depending on the level of need, funding may not cover all of the support costs, and any such under funding will introduce a cost pressure.

3.0 DETAIL

Legal position

- 3.1 Upon accepting an unaccompanied asylum seeking child the receiving Scottish local authority becomes legally responsible for the young person. They then need to comply with obligations under the Looked After Children (Scotland) Regulations 2009 and have responsibility for all health, educational and other needs and the Council accepts Corporate Parenting responsibilities for that child.
- 3.2 We are awaiting confirmation from the Scottish Government that UASCs are considered to be looked after children under the Children (Scotland) Act 1995. If this is the case this would mean that UASCs would have the same rights as all other children in care. This would include duties to provide Continuing Care up to the age of 21yrs and After Care up to the age of 26yrs; which means support to the young person would continue beyond 18yrs if the young person is permitted by the Home Office to remain in the UK.
- 3.3 On 23rd November 2021 Argyll and Bute Council was served Notice under Section 72(5) of the Immigration Act 2016 of the Home Secretary's intention to direct the local authority to comply with the National Transfer Scheme (NTS). The notice stated the Secretary of State's intention to direct the Council to comply with the National Transfer Scheme for unaccompanied asylum-seeking children on a temporary basis.
- 3.4 In accordance with the legislation and the correspondence from the Minister, individual local authorities have 14 days until 6 December 2021 to make representations regarding their allocations. Local authorities can also make representations after the 14 days if there is a material change in their circumstances at a later date. However, the Minister has been clear that there is a high bar for any allocations being revised down as the expectation is that all local authorities will participate on the proportionate level that has been set out unless there are exceptional circumstances.

- 3.5 Officers from across Council and HSCP are looking to respond to UK government confirming that Argyll and Bute Council remain firmly committed to participating in the National Transfer Scheme and offering the best service we can to young people who are deemed to be Unaccompanied Asylum Seeking Children (UASC). We are establishing a support service which ensures that we can safely meet the needs of UASCs. We will make the point to the Minister that careful planning is required to ensure young people are not disadvantaged by being placed with us given the significant potential distance from support structures and legal advisors.

Argyll and Bute model of support

- 3.6 Officers from Council and HSCP have been working together to develop plans which will deliver the appropriate care and support to the UASCs arriving in the authority. Knowledge and experience has been drawn from the successful resettlement programme for Syrian refugees on Bute and social work's experience of supporting UASCs. There have been four unannounced arrivals within recent years and two UASCs were accepted through the National Transfer Scheme late in 2020. Two are currently in receipt of aftercare support, 3 currently in care and 1 is living independently and no longer in receipt of support.
- 3.7 As a result of the good work outlined above Children and Families and the Resettlement Team have developed skills in working with vulnerable people who are fleeing conflict, exploitation and persecution. They also have an awareness of the indication of the risks, complexities and financial implications of caring for UASCs, across HSCP and Council services.
- 3.8 Informed by previous experience, and the UK Government's position, plans are now being made for a model of care for UASCs transferring to Argyll and Bute through the new NTS as early as December 2021. This support will be led by Children and Families with support from the Council's Resettlement Team.
- 3.9 UASCs initially arriving in Argyll and Bute will move into a children's house for assessment. Based on Children and Families core and cluster approach, the plans are that UASCs will once assessed be supported to live as independently as possible in a flat which will be operated on an outreach basis from our nearest children's house.
- 3.10 Care will be provided initially for two individuals sharing a property in Rothesay. With support, advice and guidance provided largely by care staff recruited on Bute and with additional support and management provided on an outreach from Dunclutha children's house in Dunoon. The exact care arrangements will be developed to reflect specific individual needs consistent with our responsibilities to meet National Care Standards. This approach may also offer employment opportunities to refugee families.
- 3.11 We are intending to settle UASCs who speak Arabic. The Council employs Arabic speaking support workers in the Resettlement Team in Rothesay who have the capacity to provide interpretation for UASCs in addition to the support they provide to refugees and will provide to Afghan families. There is also a small community of Arabic speaking resettled refugees in Rothesay who are welcoming to all who move to the island and who will offer peer support and positive role models.
- 3.12 One of the primary motivators for UASCs to seek asylum in UK is to learn English. The English language is seen as one of opportunity and education and the learning of language is of considerable importance and a priority. Total immersion in school with a bespoke timetable, supported by an English as an Additional Language (EAL)

additional support needs worker and with a plan prepared by and overseen by the principal teacher of EAL at Rothesay Joint Campus has the best educational outcomes for both refugees and UASCs. The counseling support in place and the experience of staff at Rothesay Academy can also provide support to recover from any trauma.

- 3.13 The education costs of resettlement of UASCs will be covered, in the first instance, by the resettlement budgets as these resources are already in place. However if refugee numbers increase due to participation in other schemes, such as the ARAP scheme (Afghan) there will be a requirement to provide additional resource.

Funding and risks

- 3.14 Participation in the NTS scheme introduces a financial risk to the Council and HSCP. The COSLA assessment of Home Office funding and costs of from other authorities indicates that: a) the funding provided for supporting under 18yrs UASCs is not always sufficient to meet their needs; and b) the funding for those over 18yrs does not fully recognise the Council's continuing statutory obligations for that group. From our own experiences in Argyll and Bute we would concur with this.
- 3.15 The NTS funding from the Home Office will have to cover all staffing costs, rent, utilities, Council tax, furniture, decoration, and food and travel for our UASCs in the core and cluster model. Although initial costing of that model has been undertaken, there are very significant risks that costs could significantly outstrip funding.
- 3.16 Home office funding is provided for each NTS child at a rate of £143 per night (£1,001 per week) up to the age of 18yrs at which point it drops to £270 a week and continues up to the age of 25 years. The final cost of care cannot accurately be predicted and will ultimately be dependent on the level of needs of the young people involved and the level of service required.
- 3.17 UASCs who make their own way to the UK must submit a claim for asylum before they are recognised as refugees or granted humanitarian protection. Most will be granted discretionary leave until they become 18, at which point their case will be reviewed and their leave to remain in the UK may be withdrawn. The Council is also required to assist UASCs to access legal support to make their asylum claim.
- 3.18 Should the young person not be granted asylum / leave to remain and if their appeal rights are exhausted after the age of 18yrs, the Immigration Act 2016 requires local authorities to withdraw any support as the young person will have no recourse to public funds. However, in accordance with para 3.2, should the Scottish Government confirm that UASCs are considered to be looked after children under the Children (Scotland) Act 1995, they may be eligible for services including continuing care up to 21yrs and aftercare up to 26yrs.
- 3.19 There are a significant number of unknowns when caring for UASCs and they can leave at will from our authority moving to another part of the UK with their care costs still requiring to be met by Argyll and Bute HSCP under sec 25 of the Children (Scotland) Act 1995.
- 3.20 Plans have been developed on the basis of receiving 16-18yr olds who can be supported to live independently. Should we be required to receive children under 16yrs, or initial assessment confirms that they are not able to live semi independently, this would require continued care within a children's house. This would mean a funding shortfall where funds would not cover the costs. In addition

this would have an impact on Children and Families and wider social work services and on plans to return children to Argyll and Bute from out of Council placements.

- 3.21 The risks that support costs will not be fully covered by the available funding will be in part mitigated by engagement with the UK Government and COSLA, careful planning and the additional support in the form of interpretation support provided by the resettlement programme on Bute which is fully funded. An additional risk is that UASCs could chose to leave the authority and under Social Work legislation will still remain under the care of HSCP.
- 3.22 UASC NTS budgets will be managed by the Council's Business Improvement Manager and all costs in relation to UASCs, irrespective of where they arise in either Council or HSCP managed services will be coded to that budget.

4.0 CONCLUSION

- 4.1 Argyll and Bute Council had been developing a model of care and support for UASCs transferring to the authority from elsewhere in the UK. Whilst these plans were being developed, a notice has been served on the Council by the UK Government that they intend to issue a direction requiring us and all other Councils to participate in the NTS for UASCs in a timescale earlier than we were planning for.
- 4.2 Argyll and Bute Council have formally responded to the UK Government, within the fourteen day period, outlining our concerns around the timing and preparation for bringing these plans forward and hope for a degree of reasonableness from the UK government to some of the unique challenges for resettlement in Argyll and Bute.
- 4.3 The model of care and support will be delivered in partnership by Children and Families social work and the Council's resettlement team however it is not without risk to both organisations. All support for UASCs will be covered by the funding from the Home Office, and all costs incurred in respect of UASCs in Argyll and Bute will be dealt with as per para 3.22 above.

5.0 IMPLICATIONS

- 5.1 Policy - none
- 5.2 Financial – There is Home Office funding that accompanies UASCs transferring under the NTS. However there is a significant risk that the funding does not cover all of the costs associated with care and support.
- 5.3 Legal – Argyll and Bute is making plans to resettle UASCs under Section 72 of the Immigration Act 2016. The support in place for UASCs needs to comply with the Looked After Children (Scotland) Regulations 2009.
- 5.4 HR – New posts will be created to provide support. The model of care may also offer employment opportunities for resettled refugees.
- 5.5 Fairer Scotland Duty:
 - 5.5.1 Equalities - protected characteristics - All staff working with UASCs will receive Equalities training.

- 5.5.2 Socio-economic Duty – no implications
- 5.5.3 Islands – no implications
- 5.6 Risk – There is a significant risk that participation in the NTS will introduce a cost pressure to the HSCP.
- 5.7 Customer Service - Translating material and access to interpreter will be an important consideration to ensure UASCs can access information and use local services.

Douglas Hendry
Executive Director with responsibility for Resettlement

David Gibson
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Policy Lead – Cllr Robin Currie, Council Leader

30th November 2021

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