

**To:** Council

**On:** 13 May 2021

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**Report by:** Director of Children's Services

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**Heading:** The National Transfer Scheme and Unaccompanied Asylum Seeking Children

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## 1. **Summary**

- 1.1 The National Transfer Scheme is a mechanism established by the Immigration Act 2016 and subsequent regulations to allow for unaccompanied asylum seeking children to be transferred to the care of local authorities other than that which they first arrive in. It is intended to ease pressures on areas of high traffic (such as those with busy airports or direct travel links to and from the European mainland). Those who join the scheme can apply for children to be transferred from their care as well as accept children from other local authority areas.
  - 1.2 The Home Office provides direct funding to local authorities for the care and support of unaccompanied children. In certain circumstances, this funding can be provided up to the age of 25.
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## 2. **Recommendations**

- 2.1 It is recommended that elected members:

- Agree to Renfrewshire Council formally joining the National Transfer Scheme with a view to considering applications for the transfer of unaccompanied asylum seeking children to Renfrewshire.
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### **3. Background**

- 3.1 Over the last few years, unprecedented numbers of children and young people have been entering the UK as unaccompanied asylum seeking children (UASC). Many have fled conflict zones and travelled across Europe before making it to the UK, and the majority of new arrivals become known to immigration services and local authorities in the south east of England. This has placed considerable demand on services there for looked after children, since children come into the care of whichever local authority has responsibility for the point of entry. This demand has spilled over into neighbouring local authorities as some councils have to look further afield for suitable placements.
- 3.2 In 2016 a National Transfer Scheme for English councils was introduced to enable local authorities with high numbers of UASC to transfer them to the care of another council with fewer pressures on social work services; this was one of the elements of the broader 2016 Immigration Act. Joining the NTS has always been voluntary. Given the different legal framework which exists in Scotland, the NTS (England) did not allow for young people to transfer to the care of Scottish local authorities without breaking the law. Separate regulations to accompany the 2016 Immigration Act were required to enable Northern Ireland, Scotland and Wales to participate, and these were introduced in 2018. A separate Scottish protocol, to support Scottish local authorities with implementation, was developed by a small group of councils (including Renfrewshire) and COSLA.
- 3.3 Joining the scheme is voluntary and allows Scottish local authorities to transfer UASC not only to and from England but also to and from other Scottish local authority areas. Those participating in the NTS may transfer children out as well as in, depending on demand and capacity. The Home Office fund local authorities to provide care and support for UASC.
- 3.4 Renfrewshire Council did not sign up to the scheme in 2018, having recently accepted a number of child refugees through the Vulnerable Child Resettlement Scheme which reduced the availability of placements and specialist staff. However, Children's Services has identified some capacity which would allow it to support some additional UASC. In order to accept

transfers from Kent or other areas, the council needs to approve participation in the National Transfer Scheme.

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#### **4. How the National Transfer Scheme operates**

- 4.1 The National Transfer Scheme was created under Section 69 the Immigration Act 2016 but could only apply to England due to differences in legislation across the countries of the UK. Said Act contained provisions which allowed Sections 69 to 72 (which covered UASC) to be extended to Scotland, Wales and Northern Ireland by regulations, and these were enacted in 2018.
- 4.2 As noted above, joining the NTS has been voluntary since its inception but uptake has been relatively low amongst local authorities. By joining the NTS, local authorities can apply to transfer children to another area if current numbers exceed the quota or can accept children from another council area if required. These young people can be transferred from any council in England or Scotland provided that council is also a member of the scheme. In immigration law, a child is anyone under the age of 18.
- 4.3 For the purposes of the NTS, the UK is divided into 12 regions, with Scotland comprising a single region. Each region has a co-ordinating body to manage requests for placement and in Scotland this role is carried out by COSLA. The (NTS) uses a quota system based on the current child population in each region, though within each region the quota will also be applied to each local authority when requesting transfers. The quota works out the number of UASC and unaccompanied refugee children that each local authority area should have capacity to support and this is set at 0.07% of the local child population. For Renfrewshire Council, that quota would currently be 23, based on a 0-18 population of 33,389 in 2019.
- 4.4 Any council area seeking to place UASC elsewhere provide details to each of the regional co-ordinating bodies who will then share this information with member councils. Local authorities can specify the type of placements they are able to offer at any given time so there is no compulsion to accept a young person for whom a suitable placement is not available. It is anticipated that capacity in the Scottish care sector makes it likely that most Scottish local authorities will only be able to offer placements to 16- and 17-year olds. The receiving local authority is expected to meet the travel costs associated with transfer but Home Office funding moves with the individual and can be claimed by the receiving authority from the first day the individual is formally in their care.

4.5 In relation to the laws governing the care and welfare of children, there is no distinction between UASC and any other child in the care of the local authority; all rights and entitlements are the same but for UASC have the added dimension of navigating the immigration system. There may be a requirement for a Merton-compliant age assessment as part of this process in cases where there is some uncertainty about the age of a UASC; funding assumes that a person is a child in these circumstances unless an assessment determines otherwise.

## **5. Funding arrangements for UASC**

5.1 The Home Office provides direct funding to local authorities as reimbursement for the care and support of UASC. Following a review of funding, a new simplified funding model was implemented in June 2020. A daily rate up to a maximum of £114 per day can be claimed for each UASC aged under 18, unless the local authority has already exceeded the 0.07% of child population cap stipulated in the NTS, in which case they can claim up to a maximum of £143 per day.

5.2 There is no funding paid to any other public body which might provide a service to children and young people. Any children or young people living within Renfrewshire will require access to the primary care services such as GPs and may need specialist services for example, mental health; speech and language; physiotherapy etc. Discussions have taken place with the Renfrewshire Health and Social Care Partnership and we will work closely with other services to ensure that the health and care needs of any children and young people are met.

5.3 Once a young person turns 18, the local authority can apply for the reimbursement of costs up to £240 per week per young person. There are several conditions which apply, namely that they:

- have been a looked after child for at least 13 weeks;
- have leave to remain in the UK, whether indefinitely or because their asylum claim is still being heard;
- have not been granted citizenship of either the UK or any state which is a member of the European Economic Area;
- are not eligible for any other Home Office funding programme;
- are still actively receiving care and support from the local authority in which they reside.

5.4 Funding may continue for those aged 21 and over who are continuing in a programme of education and training. All funding ceases by the time a person reaches the age of 25. In Scotland, care experienced young people have a

right to aftercare from the local authority until their 26<sup>th</sup> birthday, regardless of whether they are in education or training. Consequently, there may be a small number of young people who continue to need the support of the local authority after Home Office funding ceases. The financial risk in this area is very small and will be contained within the child care budget.

- 5.5 The funding review introduced a provision whereby a person who is deemed to be Appeals Right Exhausted (i.e. their asylum claim has been rejected as have all subsequent appeals) may continue to receive funding for up to 3 months if the local authority has undertaken an assessment confirming that immediate removal of funds would breach a person's human rights under the provisions of the Nationality, Immigration and Asylum Act 2002.
- 5.6 Members should be aware that there is a risk in some exceptional circumstances that the funding offered by the Home Office will not cover the full care costs incurred by the council in caring for an unaccompanied asylum seeking child. These circumstances would only be where the authority was required to purchase external resources or possibly place a large sibling group together. To mitigate the risk Renfrewshire will only accept the transfer of a single unaccompanied asylum seeking child or a sibling group of 2 where we have capacity in our own internal resources. The UK Government does retain the right to settle children in a particular area on a non-voluntary basis where no local authorities agree to place a child or young person, but these powers have never been used.

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## Implications of the Report

1. **Financial** - The Home Office directly funds local authorities to provide care and support though there may be some financial cost associated with those entitled to aftercare under Scottish legislation but not fulfilling the funding criteria set for the Home Office for over 18s. These costs are identified as low.

There is a risk that the cost of caring for a large sibling group of unaccompanied asylum-seeking children would be higher than the funding provided by the Home Office. There may also be costs to other public bodies, such as the NHS. As an area we will mitigate the risk by only accepting individual unaccompanied asylum-seeking child or a sibling group of two.

2. **HR & Organisational Development** – none

3. **Community/Council Planning** – the recommendation in this report supports ‘Our Renfrewshire is fair’ and ‘Our Renfrewshire is safe’ given the potential for addressing inequalities and protecting the vulnerable.
4. **Legal** – Joining the National Transfer Scheme provides a legal basis to allow unaccompanied asylum seeking children to be cared for in a local authority other than the one in which they first become known to public services.
5. **Property/Assets** – none
6. **Information Technology** – none
7. **Equality & Human Rights** – Participating in the National Transfer Scheme may require the local authority to undertake human rights assessments in particular circumstances. Providing support to unaccompanied asylum seeking children can have a positive impact in terms of equality issues and human rights for a group who experience significant disadvantage.
8. **Health & Safety** – none
9. **Procurement** - none
10. **Risk** – Support for unaccompanied asylum seeking children, and the risk of having to manage spontaneous arrivals (particularly those from Glasgow Airport) is noted as a ‘business as usual’ risk on the council’s risk register and is considered a manageable risk.
11. **Privacy Impact** - none
12. **Cosla Policy Position** – COSLA supports the use of the National Transfer Scheme.
13. **Climate Change** - none

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### List of Background Papers

None

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