

Change to the eligibility criteria for access to the home tuition fee rate and tuition fee support- young unaccompanied asylum seekers and children of asylum seekers

Equality Impact Assessment – Results

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1. Title of Policy

Change to the eligibility criteria for access to the home tuition fee rate and tuition fee support- young unaccompanied asylum seekers and children of asylum seekers.

2. Summary of aims and desired outcomes of Policy

Relevant National Outcome(s):

- We are well educated, skilled and able to contribute to society.
- We respect, protect and fulfil human rights and live free from discrimination.

This policy reviews the current residency criteria and eligibility for the home tuition fee rate and tuition fee support for young unaccompanied asylum seekers and children of asylum seekers. The desired outcome is to amend the current regulations, the Education (Fees) (Scotland) Regulations 2022 and the Student Support (Scotland) Regulations 2022, to enable individuals in this category to access the home tuition fee rate and tuition fee support for courses of further and higher education.

3. Directorate: Division: Team

Lifelong Learning and Skills Directorate

Learner Experience Division

Student Financial Support Team

4. Executive Summary

A Scottish Government consultation on proposed changes was carried out and a review of the current eligibility criteria was conducted, of which this EQIA forms a part.

The EQIA identified that extending access to the home tuition fee rate and tuition fee support to young unaccompanied asylum seekers and the children of asylum seekers would have both positive and negative impacts on the protected characteristic of Age. It is considered positive in the sense that students who were aged under 18 at the time of their asylum claim are being given access to an increased level of support and negative in the sense that students who were aged 18 or over at the time of their asylum claim are not able to access this support.

It is also considered that this change will have a positive impact on the protected characteristic of Race. The proposed change will address discrimination that young unaccompanied asylum seekers and the children of asylum seekers experience as young people who currently find themselves unable to access the same support to study in college or university as their school peers are able to do. Widening the

residency criteria to this group is also generally seen as a positive change as it will allow students who have been forced to relocate to Scotland with little control over their lives the opportunity to study courses of further and higher education and have access to the home tuition fee rate and tuition fee support while they study.

5. Background

The Education (Fees) (Scotland) Regulations 2022 and the Student Support (Scotland) Regulations 2022 already include a provision for this cohort of students but this is specifically restricted to those students whose asylum claim had been made prior to the 1 December 2006. This was first introduced into the regulations at a time when the home office acknowledged an excessive backlog of asylum claims waiting assessment and was introduced across the four nations of the UK. Although there has been no further official acknowledgement of a backlog by the home office at this time, through recent stakeholder engagement (including speaking to a small number of students who had recent experience of the application timescales) it would appear that students, particularly young unaccompanied asylum seekers, can be waiting a significant period of time for a decision to be made.

Currently young unaccompanied asylum seekers and children of asylum seekers can undertake courses of further and higher education, but could be considered as international students by institutions for fee assessment purposes.

The Scottish Government carried out a public consultation using the Citizen Space website: <https://consult.gov.scot/higher-education-and-science/changes-to-residency-criteria-for-access>

Within this consultation the Scottish Government posed the following question: “Should financial support beyond support already given through discretionary funds be extended to students who are currently ordinarily resident in Scotland and have sought asylum from the UK Home Office, but whose application is still pending?”

Of 131 respondents, 57 answered Yes, 50 answered No, 20 answered Don't Know, and 4 did not answer. Whilst there was not overwhelming support for an extension from this one question, there was detailed evidence from relevant stakeholder groups, previously impacted students on the barriers faced for young unaccompanied asylum seekers and children of asylum seekers in continuing with their learner journey post- secondary education should their claim still be awaiting a decision.

Their evidence highlighted that the students in question are in a particularly vulnerable point in their lives. These students will have had significant breaks in their education already and will reach the further or higher education stage only to have to freeze in place, potentially for several years, at a time when what they are allowed to do is significantly curtailed. Those students who are currently in secondary education, studying alongside their peers, experience discrimination in not being able to continue their learner journey on to tertiary education from secondary education. As a result of this change will benefit from having parity with their peers in accessing home fee places.

The aim of this policy is to review the current residency criteria and propose a change to the regulations that would allow young unaccompanied asylum seekers and the children of young asylum seekers to access the home tuition fee rate and tuition fee support for courses of further and higher education along with their peers from school.

This contributes to the following national outcomes:

- We are well educated, skilled and able to contribute to society.
- We respect, protect and fulfil human rights and live free from discrimination.

6. The Scope of the EQIA

The proposed policy change has relevance to the protected characteristics of Age and Race.

As the change to the residency criteria would open up opportunities and have a positive impact on any prospective students who meets this criteria, it is considered that a concise and focussed Equality Impact Assessment is proportionate in these circumstances.

A framing exercise was undertaken by Higher Education and Science Division to gather evidence and form this EQIA. Relevant sector stakeholders were identified and invited to respond to the consultation and meet with Scottish Government officials. It should be noted that identifying potential students affected by this change has been extremely challenging. Though anecdotally it is clear that these students exist from correspondence received by the Scottish Government and applications made to the Students Awards Agency Scotland (SAAS), the data on asylum seekers is provided by the Home Office on a UK wide level (<https://www.gov.uk/government/statistical-data-sets/asylum-and-resettlement-datasets>) and is not readily available broken down by those asylum seekers resident in Scotland.

7. Key Findings

We have identified both positive and negative impacts on the protected characteristic of Age as a result of the proposed policy change. It is considered positive in the sense that students who were aged under 18 at the time of the asylum claim would be eligible for an increased level of support and negative as those who were aged 18 and above at the time of the claim would not be able to access this support.

We have also identified a positive impact on the protected characteristic of Race. The proposed change will address discrimination that young unaccompanied asylum seekers and children of asylum seekers experience as young people who are unable to access Scottish Government support to study at college or university while their school peers are able to do so. Widening the residency criteria to these groups is generally seen as a positive change as it will allow those who have been forced to relocate to Scotland with little control over their lives the opportunity to study courses

of further and higher education and have access to tuition fee support while they study.

As indicated, asylum seekers who were aged 18 or over at the time of the application are not being included in this proposed change which could be considered indirect discrimination.

It is considered that any such discrimination is justified as:

- In addition to employment and volunteering opportunities that asylum seekers will be able to access, asylum seekers who receive a status from the home office will typically be eligible for support immediately upon receiving a positive decision on their asylum claim (either refugee status or another form of leave). While it is noted that the asylum system appears to be experiencing delays, in the majority of cases asylum decisions are being made within three years.
- The Scottish Government has committed to considering the uptake and effectiveness of this support and will therefore model the financial implications of extending support to adult asylum seekers. This is particularly relevant in the context of access to a limited number of funded places/credits and what implications this might have on the overall affordability of the student support budget and the increased level of competition amongst Scottish domiciled students for the available funded places/credits.
- The question relating to extending the support to adult asylum seekers is not closed. Following the consultation on residency changes, the Scottish Government will monitor uptake for this support over the coming academic year and consider whether there is justification for extending the support to adult asylum seekers. This will also allow the Scottish Government to model the financial implications of extending this support, particularly with regards to the number of funded places/credits assigned to asylum seekers and what this will mean for increased competition amongst Scottish domiciled students.
- The potential impact of any delays in the learner journey of young unaccompanied asylum seekers and the children of asylum seekers at a particularly vulnerable time is considered a key factor.

8. Recommendations and Conclusion

The EQIA has identified information gaps relating to the impact on the protected characteristics of young unaccompanied asylum seekers and children of asylum seekers. Issues have been highlighted regarding adult asylum seekers, however it is considered justified to take steps to support this subset of asylum seekers. This is because it would allow individuals to access tuition fee support to study courses of further and higher education and reflects the increased vulnerabilities of this group, as highlighted in the EQIA.

The development of the EQIA along with the analysis of the Scottish Government consultation responses and engagement with key sector stakeholders has helped to inform the detail of the final policy position.



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