

**Child Rights and Wellbeing
Impact Assessment (CRWIA)
for the provision of support for
Young Unaccompanied Asylum
Seekers and Children of Asylum
Seekers wishing to undertake
a course of Further or Higher
Education in Scotland**

1. Brief Summary

To extend **tuition fee support only** to Young Unaccompanied Asylum Seekers and Children of Asylum Seekers who are resident in Scotland on the relevant date and were under the age of 18 on the date when the application for asylum was made.

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

A provision already exists in both the Education (Fees) (Scotland) Regulations 2022 and the Student Support (Scotland) Regulations 2022 (together, “the 2022 Regulations”) to support this cohort of students but was specifically restricted to those students whose applications for asylum had been made prior to 1st December 2006. This exception was introduced at a time when the Home Office acknowledged an excessive backlog of asylum claims waiting to be heard and was introduced across the four UK nations. Although there has been no 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 accompanied 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 or higher education, but would typically be considered as international students by institutions for the purposes of fee assessments. There does exist an Asylum Scholarship scheme among some of the Universities (Dundee, Glasgow, Edinburgh and St Andrews) to allow Asylum Seekers to access higher education and there is no current barrier to institutions in both further or higher education providing fee waivers for these students, other than the financial impact of not receiving Scottish Government funding for the places they may choose to offer.

Start date of relevant proposal: August 2023

Start date of CRWIA process: April 2023

2. Which aspects of the relevant proposal currently affects or will affect children and young people up to the age of 18?

All aspects as it specifically relates to those seeking asylum under the age of 18 years or children of asylum seekers.

3. Which groups of children and young people are currently or will be affected by the relevant proposal?

Young Unaccompanied Asylum Seekers and Children of Asylum Seekers who wish to undertake a course of Further or Higher Education in Scotland.

4. Declaration

Is a Stage 2 Children's Rights and Wellbeing Impact Assessment required? (Tick relevant requirement) (Guidance Section 2.1)

CRWIA required No explanation required, please complete questions 5 and 6

CRWIA not required Please explain why below and contact the children's rights unit to discuss this decision crwia@gov.scot

5. Sign & Date

Policy Lead Signature & Date of Sign Off:

Nicola Nisbet 27/04/2023

CRWIA author, if different from policy lead, Signature & Date of Sign Off: as above

Deputy Director Signature & Date of Sign Off: Catherine Topley 25/05/2023

Date SGLD contacted: 03/05/2023

6. Preparation Phase if undertaking a CRWIA Evidence / Stakeholder Engagement / Research:

The Scottish Government carried out a public consultation using the Citizen Space website: [Scottish Government consultation - changes to student support residency criteria.](#)

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 ([Asylum and resettlement datasets - GOV.UK \(www.gov.uk\)](#)) and is not readily available broken down by those asylum seekers resident in Scotland.

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, 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 multiple years, at a time when what they are allowed to do is significantly curtailed. Those students who are continuing on from secondary education in Scotland as a result of this change will benefit from having parity with their peers in accessing home fee places.

CRWIA Stage 2 – Assessment of Impact and Compatibility

1. What evidence have you used to inform your assessment? Identify any gaps in the evidence base, and set out how you will address these.

Insufficient evidence to break down in terms of age although anecdotal evidence from the Scottish Refugee Council suggested there were several hundred young accompanied asylum seeking children currently residing in Scotland.

Data on asylum seekers is provided by the Home Office on a UK wide level ([Asylum and resettlement datasets - GOV.UK \(www.gov.uk\)](#)) and is not readily available broken down by those asylum seekers resident in Scotland.

HESA Data indicates that of all first degree entrants in Scottish Higher Education institutions, 41,220 were aged 16 – 24.

SFC Data indicates that of all FE students in Scottish colleges, 31,050 were aged 16 – 24.

In December 2022 it was confirmed that the Scottish Government has rehomed 7 asylum seekers for every 10,000 Scottish residents, working out to approximately between 3,500 and 4,000 based on Scottish population figures.

2. Evidence from stakeholders/Policy Colleagues

As noted above, the Scottish Government carried out a public consultation using the Citizen Space website: [Scottish Government consultation - changes to student support residency criteria.](#)

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, children of asylum seekers in continuing with their learner journey post- secondary education should their claim still be awaiting a decision.

The full analysis of the consultation exercise will be published shortly on the Scottish Government website ([www.gov.scot](#)) and Citizen Space ([www.consult.gov.scot](#))

3. Evidence from children and young people

It is unknown how many children and young people formally responded to the consultation; however policy officials did engage with some young unaccompanied asylum seekers to hear their lived experience.

4. Analysis of the evidence

4.1 How have the findings outlined in questions 1-3 influenced the development of the relevant proposal?

From the evidence gathered, it was apparent that the students in question are at 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 multiple years, at a time when what they are allowed to do is significantly curtailed. Those students who are continuing on from secondary education in Scotland as a result of this change will benefit from having parity with their peers in accessing home fee places.

4.2 Assessing for compatibility against the UNCRC requirements (Guidance Section 2.2)

UNCRC Articles

What impact does/will your relevant proposal have on children's rights (Please tick positive, negative or neutral)

| | Positive | Negative | Neutral |
|---|-------------------------------------|--------------------------|-------------------------------------|
| Article 1 Definition of the child | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 2 Non-discrimination | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Article 3 Best interests of the child | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Article 4 Implementation of the Convention | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Article 5 Parental guidance and a child's evolving capacities | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 6 Life, survival and development | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 7 Birth registration, name, nationality, care | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | | | |
|---|-------------------------------------|--------------------------|-------------------------------------|
| Article 8 Protection and preservation of identity | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 9 Separation from parents | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 10 Family reunification | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 11 Abduction and non-return of children | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 12 Respect for the views of the child | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 13 Freedom of expression | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 14 Freedom of thought, belief and religion | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 15 Freedom of association | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 16 Right to privacy | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 17 Access to information from the media | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 18 Parental responsibilities and state assistance | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 19 Protection from violence, abuse and neglect | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 20 Children unable to live with their family | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 21 Adoption | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 22 Refugee children | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Article 23 Children with a disability | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 24 Health and health services | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 25 Review of treatment in care | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 26 Social security | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 27 Adequate standard of living | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 28 Right to education | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Article 29 Goals of education | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Article 30 Children from minority or indigenous groups | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 31 Leisure, play and culture | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 32 Child labour | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 33 Drug abuse | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | | | |
|---|--------------------------|--------------------------|-------------------------------------|
| Article 34 Sexual exploitation | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 35 Abduction, sale and trafficking | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 36 Other forms of exploitation | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 37 Inhumane treatment and detention | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 38 War and armed conflicts | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 39 Recovery from trauma and reintegration | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 40 Juvenile justice | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 41 Respect for higher national standards | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 42 Knowledge of rights | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

First optional protocol

Positive | Negative | Neutral

| | | | |
|-----------|--------------------------|--------------------------|-------------------------------------|
| Article 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 5 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 6 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 7 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Second Optional Protocol

| | | | |
|------------|--------------------------|--------------------------|-------------------------------------|
| Article 1 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 2 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 6 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 7 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 8 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 9 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 10 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Article 11 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

5. Impact on children and young people

In relation to the UNCRC articles that you have ticked above, please explain how your relevant proposal will impact or currently impacts on individual or groups of children. Please give consideration to groups who may be considered at greatest risk of not having their right fulfilled.

Positive – This policy will have a positive impact in regards to right to education for young unaccompanied asylum seekers and children of asylum seekers who wish to enter Further or Higher Education in Scotland.

This will be of particular importance to those individuals who have entered the secondary education system in Scotland and wish to continue their learner journey alongside their peers whilst awaiting a decision on their asylum claim.

This policy will allow access to home fee status and tuition fee support only. Further analysis on the impact of living cost support for this group is required.

6. Negative Impact/Incompatibility

If negative impact is identified in Question 5 above, can you elaborate on this and explain why impact is or will be negative?

No negative impact was identified.

Are there any potential concerns about compatibility with the UNCRC requirements? Please explain these here.

No

7. Options for modification or mitigation of negative impact or incompatibility

N/A

8. Positive impact: Giving better or further effect to children's rights in Scotland

This policy will have a positive impact in regards to right to education for young unaccompanied asylum seekers and children of asylum seekers who wish to enter Further or Higher Education in Scotland.

This will be of particular importance to those individuals who have entered the secondary education system in Scotland and wish to continue their learner journey alongside their peers whilst awaiting a decision on their asylum claim.

This policy will allow access to home fee status and tuition fee support only. Further analysis on the impact of living cost support for this group is required.

9. Impact on Wellbeing: does or will the relevant proposal contribute to the wellbeing of children and young people in Scotland? (Guidance Section 2.2)

Please tick all of the wellbeing indicators that are relevant to your proposal.

| Wellbeing Indicator | Will there be an improvement in wellbeing in relation to this indicator: yes/no |
|--|---|
| Safe - Growing up in an environment where a child or young person feels secure, nurtured, listened to and enabled to develop to their full potential. This includes freedom from abuse or neglect. | Yes |
| Healthy - Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices. | No |
| Achieving - Being supported and guided in learning and in the development of skills, confidence and self-esteem, at home, in school and in the community. | Yes |
| Nurtured - Growing, developing and being cared for in an environment which provides the physical and emotional security, compassion and warmth necessary for healthy growth and to develop resilience and a positive identity. | No |
| Active - Having opportunities to take part in activities such as play, recreation and sport, which contribute to healthy growth and development, at home, in school and in the community. | No |
| Respected - Being involved in and having their voices heard in decisions that affect their life, with support where appropriate. | No |
| Responsible - Having opportunities and encouragement to play active and responsible roles at home, in school and in the community, and where necessary, having appropriate guidance and supervision. | No |
| Included - Having help to overcome inequalities and being accepted as part of their family, school and community. | Yes |

Post Assessment Review and sign-off

10. Communicating impact to children and young people (Guidance Section 2.2)

How will you communicate to children and young people the impact that the relevant proposal is having or will have on their rights?

Regulatory changes will be laid before the Scottish Parliament in May 2023.

Information on support available for this group will be available on the SAAS and Student Information Scotland websites.

Response to the public consultation will be published on the Scottish Government website (www.gov.scot) and via Citizen Space (www.consult.gov.scot)

Providing information to children and young people on how their rights are being or will be impacted helps to ensure that policy-development is transparent. Are you publishing a child-friendly or accessible CRWIA?

No – information and guidance will be provided on the SAAS / Student Information Scotland website.

11. Planning for the review of impact on child rights (Stage 3)

As SAAS / colleges gather statistical data on student applications, officials will be able to annually monitor the impact of the policy change on this group going forward.

Stage 3 will be completed after a sufficient period of time has lapsed to ensure the policy is bedded in/ trend analysis can be captured potentially in 2/ 3 years' time.

12. Compatibility sign off statement

This relevant proposal has been assessed against the UNCRC requirements and has been found to be compatible.

Policy Lead Signature & Date of Sign Off: Nicola Nisbet 27/04/2023

Deputy Director Signature & Date of Sign Off: Catherine Topley 25/05/2023

SGLD Sign Off: Yes No



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