

**ADCS and LGA
National Transfer Scheme consultation questionnaire response**

1. What is your feedback on the proposal outlined at Annex A?

About the Association of Directors of Children's Services (ADCS) and the Local Government Association (LGA)

The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) appointed under the provisions of the Children Act (2004), and their senior teams. The DCS acts as a single point of professional leadership and accountability for services for children and young people in a local area, including children's social care and education.

The Local Government Association (LGA) is the national voice of local government. We are a politically led, cross-party membership organisation, representing councils from England and Wales. Our role is to support, promote and improve local government, and raise national awareness of the work of councils. Our ultimate ambition is to support councils to deliver local solutions to national problems.

2a. It remains our clear preference that participation in the NTS is on a voluntary basis. How likely is it that your local authority would participate in a rota based NTS as outlined at Annex A?

Councils have a strong track record in welcoming asylum-seeking children, working with central government, national partners and regional bodies. We welcome the current consultation on the future of the scheme as an opportunity to discuss how all new arrivals can receive the care and support they need.

Councils want to continue to work with Government to ensure there is a sustainable and equitable system that operates across the UK in the best interests of newly arrived children. We welcome the commitment shown by the Government to try to address issues in partnership with councils in order to reduce pressures on specific authorities and regions

We also welcome the engagement activity with councils and the commitment to engage with children and young people as part of the consultation process to ensure that their views shape any future system. The consultation reflects the increasingly positive working relationships across central and local government on support for unaccompanied children, as well as other issues around asylum, migration and refugees.

The suggested rota system allows for greater flexibility within regions to design the system that works best for them and greater clarity than allows for better planning, underpinned by transparent data. If there is widespread support for this option, it must be implemented as a matter of urgency.

2b. If unlikely, please explain why not and what barriers to participation remain.

Many councils have continued to raise concerns that the main barrier to participation is insufficient funding for the costs of supporting UASC and UASC care leavers. As detailed in our joint response to the 2017 funding review, many of the costs incurred are specific to this group.

Whilst numbers of arrivals across the UK dropped during the pandemic, there had been [sharp increases in the UASC caseload](#). The number of UASC (under 18) rose from 2,060 in 2014 to 5,070 in 2019 – a rise of 146 per cent in 5 years. The number of 19-21-year olds being funded as UASC care leavers rose from 3,520 in 2017 to 5,970 in 2019 – a rise of 69.6 per cent in 2 years.

This has had a significant impact on budgets, even with increases in funding for both children and care leavers. Councils spent almost £176 million on supporting UASC in [2018/19](#) – a rise of 85 per cent on the £95 million spent in 2013/14.

Using data provided by dozens of responding local authorities, a [report](#) from ADCS indicated that the grant funding provided by the Home Office covers on average 50 per cent of the costs of caring for a UASC. A subsequent [report](#) by East Midlands Councils identified that the average cost to a council in the region of supporting a former UASC is £16,602 per care leaver per year, compared to the then £10,485 received in Government funding.

Since these reports were published, the Government has provided a welcome funding [increase](#) for lone children and care leavers. which has helped to reduce the funding gap between what councils pay to support children and care leavers and what they receive from the Government. whilst we welcomed the recognition of the costs incurred by local authorities which led to the increase in funding, the current rate of funding remains inadequate and requires an uplift.

This should be seen in the context of the pressures caused by rising demand and [pressures within the care system as a whole](#). Councils do not have the resources to divert spend from support for other vulnerable children in their care to cover any shortfall in the costs.

Councils will want to use the consultation on the NTS to stress the need for some funding anomalies in the current system to be addressed. This would support transfers from Kent in the short term, and the revised transfer scheme in the long run.

- Councils receive a higher rate if they are over the 0.07 per cent threshold: £143 per child per night rather than £114. Whilst this is a welcome recognition of the cost pressures facing those supporting large numbers of children, all councils who receive UASC on transfer from councils with larger numbers should receive the same rate.
- Unaccompanied children are highly likely to become care leavers, as opposed to being reunified with family or achieve permanence through another means. Councils receive funding to support UASC care leavers up to age 21, and then up to 25 if they remain in education or training. Care leavers also get access to a personal adviser until they are aged 25. Councils should receive funding to meet all their ongoing statutory responsibilities.

The Home Office has stressed that grant funding has never been provided on a full-cost recovery basis. Given the barriers to participation however, government needs to go further, and fully fund the cost of supporting UASC and former UASC leaving care. We are calling for any remaining funding gaps to be addressed in the upcoming Spending Review.

When the NTS was established, it was assumed it would require regular review, including of funding levels and testing its effectiveness. This must be a key and visible component of any revised system. We recognise we need a shared understanding of the funding gap for both asylum seekers and care leavers. This must build on the UASC funding and care leavers reviews. This needs to involve a sharing of cost assumptions behind recent increases in funding and an analysis of any increase in participation these led to.

Councils also will wish to minimise potential cohesion issues around real or perceived impacts on access to support and services that could be felt within communities if supporting unaccompanied children means diverting funding from children already being supported in local communities, or other local services.

It is also important that councils and their local partners are adequately resourced to provide UASC with access to the services that are specific to their needs: therapeutic services, places to learn English, legal advice, community-based support and translation services. We need a conversation across Whitehall and with other partners on understanding levels of need, ensuring access and funding for these and on meeting the true cost of councils' role in supporting this group.

Many local authorities have reported issues with building the capacity needed to make the NTS work, as the grant funding levels does not allow for the building of local capacity. If this is not to be part of grant funding, funding sources for building foster care, supporting victims of trafficking appropriate housing and social worker capacity and expertise, are crucial.

In addition to supporting unaccompanied children seeking asylum in the UK, councils support children in destitute families at the end of the asylum process. There should be greater alignment of, and sustainable funding for, all the ways in which councils support children arriving in the UK, including those with [no recourse to public funds](#).

Whatever the new process for lone children being resettled from Europe, councils' responsibilities for providing support for new families on low income or when any new arrangements break down will also need full funding.

Councils also directly support children within families through resettlement programmes. Resettlement programmes have highlighted the willingness of local authorities to play their part on a voluntary basis when programmes are developed and delivered jointly with councils, are adequately financed, are based on transparent and real time data; and have a clear, long term approach.

3. Should efforts to increase participation on a voluntary basis fail, it may be necessary to exercise the provisions of the Immigration Act 2016 to mandate transfers under the NTS. This could operate either as a permanent replacement to the voluntary NTS as the primary mechanism for transfers or deployed only when required by exceptional circumstances. While a mandatory scheme is not our preference, we would be grateful for your views on a potential mandatory approach to transfers if participation in the voluntary scheme does not achieve a more equal distribution of UASC?

Our view is that for most programmes that councils are involved in 'local is best'. We recognise the need for solutions to current and ongoing challenges within the National Transfer Scheme. It has been our view that a social work led, regionally operated, rota-based scheme, jointly owned across local and central government, is the best route to achieve both a more equal distribution of UASC and to meet the best interests of children in or leaving care. It is the most effective way to recognise both the diversity of local areas and of children and young peoples' needs. Rota systems in London and the East of England demonstrate its effectiveness where there is collective commitment to make it work in place, and this sector led response has been the basis for the consultation proposals.

We are keenly aware of the need to bring about both urgent and sustainable solutions. We are also aware as membership organisations that there is a growing strength of feeling supporting a mandated response in England, particularly given the current crisis, and our position will need to reflect the responses to the consultation. An alternative for councils to a voluntary system, particularly those with large numbers, might be to secure involvement from across the system via mandation.

Given the acute concerns around the funding pressures as outlined above, some councils increasingly believe that mandation may be the only route to get full cost recovery. This is based on reasoning that it would trigger a new burdens assessment that would identify and then fully meet the costs incurred to councils of their support for both unaccompanied children and care leavers.

However, there are a complex range of considerations which would have to be worked through before a mandated approach could be seen as an alternative to a voluntary system:

- Further clarification of what mandation means operationally: whether it entails directing individual authorities to take some children, a whole system or 'hybrid' approach with some flexibility within regions; and whether it is a response to the current (or future) crisis or a long-term approach.
- A timeline for implementation
- How the sector would be involved in both design and delivery in order to ensure any mandated system works for children and for councils.
- How this could work across the UK given councils in devolved administrations take different views
- Mandation in the dispersal system for adults and families would also have to be introduced in recognition of the parallel unsustainable and underfunded pressures also placed on other councils and regions

- A more formal working through of the risks to councils in terms of reducing control on one of their largest areas of spend, potential increase community tensions, and a 'top down' system that reduces local flexibility and leadership
- Ensuring that areas that had previously taken no or low numbers of children could be quickly enabled to provide that support, building a flexible system that minimises the risks of children going missing if they are placed in area they expressed a wish not to be moved to
- Working through why mandation would be a better fundamental shift in the way children are supported rather than other fundamental changes such as changes to statutory roles and responsibilities or using other countries' less community-based models.

There is not universal support for mandation as a solution currently. If changes suggested by the consultation are not introduced quickly and effectively after the deadline however, it may increasingly be seen as the only remaining next step.

It also must be noted that councils' response to this question will be affected by the context in which the consultation is taking place. Transfers between regions ceased in 2018, with pressures on certain councils and regions remaining. There only recently been ad hoc arrangements in place in response to the Kent crisis. These are not new challenges; the pressures faced by Kent included legacy of the 2015 crisis.

There have been ongoing and unresolved issues with the National Transfer Scheme (NTS) including funding, increasing numbers of care leavers, transfer delays with children not willing to move or going missing and on ensuring access to wider services. This has led to decreasing good will. Whilst the consultation launch was understandably delayed due to the pandemic, it has been in train for a while. This also reflects the long timelines for the UASC and leaving care reviews, work on age assessment and the protocol underpinning the process. The consultation on the NTS is effectively occurring after it had reached 'breaking point'.

Councils' capacity to invest time and resources into thinking about and then making a rota work are impacted by well recognised ongoing resource constraints, the ongoing response to the pandemic and workforce pressures. Whilst we welcome the engagement with councils, it also comes at a time of specific pressures in children's services with return to school. It is also landing a time of well recognised and growing pressures in the asylum dispersal system for adults and families, which continue to impact on capacity - and willingness - to participate.

It may appear to councils that local government is the part of the system being asked again to make the transfer system work and bear the risks, without fundamental barriers around funding being addressed.

Councils are a crucial part of the NTS but they are just one partner in a national system. There is learning from the response to the crisis in Kent that sufficient and dedicated resource across government and prompt, ambitious and innovative responses to barriers can deliver an increase in placements. Whatever the outcome of the consultation, councils need assurance that this active commitment to making the NTS work from government will be sustained. This must include a commitment to regular transparent review, with a willingness to identify and act on joint issues and solutions identified. This must be at a strategic and operational level and must be across Departments.

4. The threshold at which a Local Authority can make referrals to the NTS is currently reached when it is supporting UASC at, or above, 0.07% of their general child population. This threshold is also used to determine the rate for additional Home Office funding to Local Authorities for UASC in their care.

What are your views on the current threshold? For example, should the 0.07% also include the number of former UASC care leavers within a local authority or be adjusted in some other way?

Councils need a shared understanding of how the 0.07% threshold was set and whether it remains the right ratio to use.

The majority of arrivals are in the 16/17 age group, so councils are seeing increased demand for support for those leaving care. Weighting for care leavers should be included in the current threshold to recognise this.

We also need a joint and detailed understanding of how the data supporting the consultation was reached for both children and the wider dispersal system. The latter must include support provided under sections 95 and 4.

5. Who do you think is best placed to run a voluntary rota based NTS? The Home Office (as now) or someone else? Please give details.

The joint lead with the Department of Education in designing and delivering a system for children's social care and in any governance and oversight arrangements is welcomed. Ensuring social work expertise in any operational arrangements is imperative

6. Do you have any other suggestions on how the NTS could be improved?

Access to data and information

We have welcomed the commitment to the development of real time data that reflects challenges across the system. This must be shared more widely in order to ensure a shared understanding of pressures across asylum and resettlement programmes. It also enables councils to ensure there is sufficient capacity for new arrivals and plan effectively in the long-term and assure themselves that there isn't unsustainable pressure on local services being created in specific localities. Ensuring better information on the needs of the child in advance of transfer would also help inform the assessment process and resettlement in the UK.

Decision making

We recognise this is a complex area as exemplified by the many different pieces of legislation, guidance and resources, both in relation to immigration and in support for children, Earlier this year, the government announced its intention to hold a care review led by an independent person. For understandable reasons the review has not yet commenced. It will be important for the review to have in scope specific considerations in relation to UASC in care and former UASC who become care leavers, and the support, services and care they are entitled to.

Quick and accurate decision making is vital. Getting an asylum decision granting leave to remain is problematic and fraught with delay. Some councils report delays of two years before care leavers have their status confirmed.

The time taken by the Home Office to regularise a young person's right to remain means that the council unnecessarily incurs costs due to delays in the decision-making system. If achieving early decisions quickly was a key principle behind the NTS, this would reduce both costs and also allow for those working with children to be able to discuss their future with more certainty, and plan accordingly.

The asylum decision-making process may result in an unaccompanied child approaching the age of 18 without a final asylum decision, with all that means for the impacts on children's wellbeing and the risk of going missing. Children should be given clarity on their status as soon as possible and before the age of 18 when they become care leavers, as it is very important that they know if their future will be in the UK or not.

It would also be helpful to look at capacity within the legal advice sector, given the responsibilities local authorities will have in ensuring children in their care have access to good legal advice. Local authorities report that in many parts of the country the legal advice infrastructure has yet to develop and securing this will be key to making the National Transfer Scheme work. Addressing this will require the Home Office to lead work across government.

Given around half of all asylum [applications](#) resulted in some form of grant of leave to remain in the UK, there may need to be more support for social workers, foster carers and others working with children with a clearer process for those whose future may not be in the UK.

Effective age assessment

There also needs to be a clear and effective age assessment process and a willingness to share – and underwrite - the risks around legal challenge. Age assessment is complex, time-consuming and can be expensive. Social workers need to be trained to undertake case law compliant age assessments. The costs of age assessment and contested age assessments should be minimised. We would welcome a discussion on possible national, social work-based solutions to this. This could include utilising the social work capacity placed in Kent to assist with age assessment more nationally. We are aware of ongoing Home Office work to look at age assessment and this must be concluded rapidly

Support for the process

Services that provide support for mental and emotional health of children need to be built in areas new to supporting unaccompanied children. Unaccompanied children wishing to dispute the outcome of a decision, appeal or an age assessment need access to expert legal advice and representation as do councils if disputed cases go to Judicial Review.

Oversight

Governance arrangements at a local, regional and national level that will facilitate transparent arrangements for joint working at a strategic, formal and senior level that can provide oversight over the next stages of the funding review.

Sharing the learning

There is growing learning around what should be put in place to support new arrivals after transfer from both local authorities and the community and voluntary sector which should be collated and disseminated centrally.

Existing regional structures - both for improvement and in asylum - should be funded support the sharing of good practice into scope may assist with issues around the exchange of good practice, possible sharing of costs and any cost efficiencies gained by working at scale.

In areas of the country that have less experience of supporting unaccompanied children, it is possible that new teams or upskilling of existing teams with specialist knowledge or expertise will be necessary, particularly around age assessment and immigration advice. It is possible that the costs of establishing such teams could be shared across more than one local authority.

As part of this, councils would welcome joint work with government and other partners to minimise the possible risks of absconding,

Links with the dispersal system

Any reform to the NTS must be aligned to join work on sustainable solutions to pressures in the asylum dispersal system, particularly around hotel use. A whole system approach is needed to relieve pressures caused by an unequal distribution of asylum-seeking children and adults in different parts of the UK. It is helpful Government has included the proportions of asylum-seeking adults and families in its proposals around the weighting underpinning the rota system as part of the revised National Transfer Scheme.