

**Private and Confidential**  
**Unaccompanied Asylum Seeking Children Update**

**Summary and Recommendations**

The paper updates the Board on various activities relating to Unaccompanied Asylum Seeking Children (UASC) and the potential impacts on local authorities and their delivery of services to children.

This paper invites the Board to:

- i. Note the UASC Short Life Working Group Scoping Report at Appendix A
- ii. Agree that COSLA officers engage with the various forums across children's services who are already considering the challenges facing Local Government and partners, to mainstream the conversations to work to resolve the challenges highlighted in the scoping report.
- iii. Note the changes highlighted in relation to the implementation of the Illegal Migration Act and the National Age Assessment Board

**References**

Previous reports on [topic / include URL if available]:

- 23-02-17 CWB Board Item 6.1 Unaccompanied Asylum Seeking Children
- 22-09- 22 CWB Board Item 5.2 Humanitarian Protection Programmes
- 21-06-18 CWB Board Item 6.1 Immigration Policy and Humanitarian Protection Update

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**Private and Confidential**  
**Unaccompanied Asylum Seeking Children - Update**

**Purpose**

1. To provide the Board with an update on various activities relating to Unaccompanied Asylum Seeking Children (UASC) and the potential impacts on local authorities and their delivery of services to children.

**Current COSLA Position**

2. Over the last year Scottish Government and COSLA officers have been regularly working together to seek to understand and address the challenges local authorities, across the UK, are facing in relation to the National Transfer Scheme (NTS) and spontaneous arrivals of unaccompanied asylum seeking children and young people.
3. This work has included coming to shared positions on regional reception centres, participating in national UK Government forums to discuss the future of the NTS rota, the Illegal Migration Act and the challenges of children presenting in asylum hotels alongside representing the needs of Scottish local authorities and the young people arriving here.

*UASC SLWG Scoping Exercise and report*

4. On behalf of the Scottish Government and COSLA UASC Short Life Working Group (SLWG), a scoping exercise was undertaken between October and December 2023. The purpose was to better understand the number of UASC currently within our care services in Scotland, the types of support provision offered, and the resource and financial pressures that caring for this group of children was placing on local authorities. The exercise also provided the opportunity to enhance our understanding of different models of care.

*National Age Assessment Board (NAAB)*

5. The Nationality and Borders Act 2022 includes the establishment of a National Age Assessment Board (NAAB). The principal role of the NAAB, established through the Act, is to conduct legally compliant age assessments upon referral from a local authority in England, Wales, Scotland and Northern Ireland, or from the Home Office.
6. The NAAB is a team of qualified social workers employed by the Home Office with the original intention that it conducts a significant proportion of those age assessments currently conducted by councils. Currently the NAAB can support local authorities with assessments of some children in local authority care upon a referral which must meet referral criteria. Assessment outcomes are binding on the local authority and the Home Office. The legislation also allows NAAB to conduct an assessment where the Home Secretary doubts the local authority's conclusion as to a young person's age, with the board's verdict being final. The assessment would no longer be binding if it was overturned by way of judicial review or appeal. NAAB will also retain the responsibility over the age assessment of cases if it was appealed or examined in court.

7. The 2022 Act also allows the UK government to introduce “scientific” methods of assessment such as x-rays and MRI scans, but only once these have been given approval by UK Government’s Scientific Advisers and the services are available, which currently is not the case. Therefore initially, NAAB social workers will carry out legally compliant age assessments not using scientific methods.

#### *Illegal Migration Act*

8. In July 2023 the Illegal Migration Act (IMA) was given Royal Assent and therefore has changed the law to make it unambiguously clear that, if someone enters the UK illegally, they should not be able to remain in the UK. Instead, they will be detained and removed either to their home country or to a safe country where any asylum claim will be considered. In the case of most of young people, they will be subject to removal from their 18<sup>th</sup> birthday. The Act introduced changes that directly affect children and young people, including powers to place or remove children from care of local authorities, powers to detain and deport young people and changes to appeal process of age assessments.
9. As previously reported to the Board the measures under IMA 2023 are incompatible with Children (Scotland) Act 1995 and raises questions on whether it breaches the 1951 Refugee Convention and United Nations Convention on the Rights of the Child (1989).

#### **What is changing?**

#### *UASC SLWG Scoping Exercise and report*

10. The report is at Appendix A of the paper and comprises of two parts:
  - Analysis Report of the qualitative and quantitative data found in section 3
  - Data Report drawn directly from the responses found in section 4.
11. Together, they provide a detailed picture of practice, pressures, and resources in place to support UASC and a strong contextual base for informing development of provision for their care in Scotland.
12. The main themes that came out of the exercise are well known to COSLA and local authorities and include: lack of appropriate funding to cover the cost of placements, shortage of placements and the barriers to increasing capacity; and staffing pressures. The report provides helpful analysis of costs of different types of placements evidencing that funding available for supporting UASC is insufficient to cover even the basic accommodation costs.
13. The report also reflects pressures relating to age disputes, trauma experiences and cultural needs, limited information available about children new to the country and how they all impact service delivery. Most of these challenges are not unique to supporting UASC but are reflected across services for looked after children and young people.

#### *National Age Assessment Board (NAAB)*

14. The Home Office has been piloting the NAAB in several local authorities in England. They are now expanding their operations and are looking to immediately start work in Scotland. The capacity of NAAB in devolved nations will be limited to conduct only 2 assessments at any given time so the NAAB is planning to engage with 2 or 3 local authorities in Scotland, The national roll out is expected in Autumn 2024 when all local authorities in the UK are going to be able to refer young people in, but the capacity of NAAB will remain limited and insufficient to meet substantial proportion of requests.

15. Professional associations such as the British Association of Social Workers and the Associations of Directors of Children Services have been outspoken about their concerns in relation to the NAAB, including in ability to be impartial and the proposed use of scientific methods. The Children's Commissioner Offices in both England and Scotland have voiced similar concerns. The Scottish Government also wrote to the UK Government on three separate occasions expressing their concerns regarding changes of immigration legislation introduced since 2022 that are affecting children and relate to new age assessment procedures.
16. Given the financial, staffing and legal pressures that local authorities are facing in relation to age assessment, as highlighted in the above report, the NAAB does have the potential to support local authorities in the age assessment process.

### *Illegal Migration Act*

17. The Home Office position is that the Illegal Migration Act is compatible with existing legislation but that there will be operational implication on UASC and local authority's duties if children will be subject to deportation from their 18<sup>th</sup> birthday.
18. However it remains unclear how the new IMA provisions relate to the Children (Scotland) Act 1995, which places duties on local authorities: to operate in the best interests of the child (and care leaver) and for the provision of safe and suitable accommodation. Similarly with United Nation Convention on the Rights of the Child (UNCRC) which requires authorities to: respect the rights of children, support refugee children and support recovery from trauma. COSLA officers also identified range of potential risks including young people going missing from local authority care, trafficking and exploitation, increased proportion of people with no recourse to public funds relying on support from local authorities.
19. UK Government have established a regular working group for local government associations (including COSLA) and the devolved administrations to discuss their current thinking about how the Illegal Migration Act will be implemented in relation to children who are affected by changes introduced by IMA.

### **Proposed COSLA Position**

#### *UASC SLWG Scoping Exercise and report*

20. The challenges that the scoping report sets out are significant and not unique to UASC. The Short Life Working Group has therefore proposed that work relating to these challenges for the placement of UASC is mainstreamed and the report is used to engage with the forum that already to consider challenges across children's services and facing Local Government and our partners.

In particular, it is recommended the report is presented to COSLA's Children and Young People's Board in May, and working with the CYP team, link in with work to Keep [The Promise](#), and in particular the development of [Plan 24 – 30](#), due to be published in June 2024. The report will also be considered by Scottish Government Ministers, Asylum and Refugee Partnership Board, Social Work Scotland CSWO Officers Group and the Social Work Scotland Children and Families Leaders Board.

#### *National Age Assessment Board (NAAB)*

21. COSLA officers will continue to liaise with the Home Office, the Scottish Government and other partners to inform local authorities about changes relating to legislation and practice of age assessments. COSLA officers will meet with Chief Social Work Officers

and give local authority officers the opportunity to learn more about the NAAB so they are equipped with the information they need to make that decision.

22. Given the diverse nature of UASC population and issues relating to age disputes across Scotland, each local authority will need to make an individual assessment as to whether they wish to engage with the NAAB as it is rolled out, weighing up the information that they receive.

*Illegal Migration Act*


23. COSLA officers will continue to engage with the UK Government and as decisions are made that impact local authorities reports will be bought to the relevant COSLA Board for consideration

**Next Steps**

24. COSLA officers will continue to work with the range of partners across local authorities, Scottish and UK Governments and other key partners and will provide reports to the relevant Boards as required.

**Date Considered:** 19/04/2024

**Contribution to agreed COSLA Plan and Verity House Agreement:**

<p><a href="#">COSLA Plan 22-27</a></p> 	<p><b>Priority Areas</b></p> <p>Strengthen Local Democracy <input type="checkbox"/></p> <p>Secure Sustainable Funding <input type="checkbox"/></p> <p>Improve the Wellbeing of Individuals, Families and Communities <input checked="" type="checkbox"/></p> <p>Enhance Education and Support for Children and Young People <input checked="" type="checkbox"/></p> <p>Deliver a Just Transition to a Net Zero Economy <input type="checkbox"/></p> <p>Support the Most Vulnerable in our Communities <input checked="" type="checkbox"/></p>
<p><a href="#">Verity House Agreement</a></p>	<p><b>Shared Priorities</b></p> <p>Tackling Poverty <input type="checkbox"/></p> <p>Just transition to net zero <input type="checkbox"/></p> <p>Sustainable Public Services <input checked="" type="checkbox"/></p>