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Local Authority Support for Unaccompanied Asylum Seeking Children (UASC) and the National Transfer Scheme (NTS)

Ward(s) All

Portfolios: Cllr R Burley - Portfolio Holder for Education and Children's Services

Executive Summary:

This report provides an overview of current work being undertaken in Walsall with regards to Unaccompanied Asylum Seeking Children (UASC).

Reason for Scrutiny:

The report was requested by Members of the Education and Children's Services Scrutiny Committee to give them a current overview of the work with Unaccompanied Asylum Seeking Children in Walsall.

The report enables the Committee to challenge the Council's work in relation to UASCs and seek assurance that Partners are collaborating well, high quality provision is in place and good outcomes are being delivered for UASC.

Recommendations:

That:

Scrutiny notes and supports the contents of the report and the current activity for Unaccompanied Asylum Seeking Children in Walsall.

Scrutiny provide challenge on the context of their report to assure themselves that good practice is in place in Walsall.

Background papers:

The following reports provide an overview:

- National Transfer Protocol for Unaccompanied Asylum Seeking Children – Department of Education, July 2016.
- What is a Suitable Placement for Unaccompanied Asylum Seeking Children – Department of Education
- Funding: Unaccompanied Asylum Seeking Children – Home Office, October 2016
- Report to Cabinet National transfer scheme for Unaccompanied Asylum Seeking Children (UASC), 26 October 2016

Resource and legal considerations:

Responding to UASC is a statutory duty placed on Local Authority Chief Executives, Directors of Children's Services, LSCB Chairs and senior managers within organisations who commission and provide services for children, young people and families. This includes social workers, professionals from health services, adult services, the Police, academy trusts, education and voluntary and community sector that have contact with children, young people and families.

The resources required to respond to this statutory requirement will come from within the existing resources across the Partnership of organisations working in Walsall to protect vulnerable children and those at risk of harm.

Citizen impact:

The effective delivery of high quality services to accommodate UASC has a direct impact on the welfare and well being of the children and young people. Walsall will be the Corporate Parent and must undertake that role well. It directly links to the Corporate Priority to improve Health and Wellbeing and the Children's Services priority that all children/young people in Walsall are safe, protected and supported.

Environmental impact:

There is no environmental impact.

Performance management:

Walsall Safeguarding Children Board and the Children and Young People's Board both actively monitor the performance of the Partnership in successfully identifying and supporting children and young people who are Looked After. All UASC's have Looked After Child status.

Equality Implications:

All relevant equality opportunity and impact assessments are in place to support UASCs.

There is no statutory duty at this stage to accept UASCs however, in offering to do so, the Council will be exercising a public function and will therefore be subject to s149 of the Equalities Act 2010.

Consultation:

The West Midlands Strategic Migration Partnership Working Group provides governance arrangement to the reception of UASC dispersed by the National Transfer scheme and has an overview of the total population of refugees and UASC's within the West Midlands and Walsall Borough.

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Report

1. Introduction

- 1.1 The National Transfer Scheme (NTS) was established in July 2016 to ensure a fairer distribution of Unaccompanied Asylum Seeking Children (UASC's) across all Local Authorities and all regions across the UK. It is intended to ensure that any one Local Authority does not face an unmanageable responsibility in accommodating and looking after unaccompanied children simply by virtue of being the point of arrival of a disproportionate number of unaccompanied children. At this stage involvement is on a voluntary basis however under the Immigration Act 2016 there is the option to mandate Local Authority compliance with the scheme.
- 1.2 The recent report to Cabinet in October 2016 recommended Walsall voluntarily takes part in the NTS for USAC's and that the reception of new children into Walsall is done in a measured and planned way. Cabinet agreed the proposed approach for Walsall to accept 15 UASC over a period of 3 years, commencing in April 2017.
- 1.3 There have now been further developments following the closure of the Calais camp and the Government agreement to accommodate UASC into the UK from the holding unit in Calais.
- 1.4 This report outlines how the different schemes work and highlights the cost implications for Walsall Council and the potential impact on other statutory and voluntary agencies.

2. Definition and Background

- 2.1 An unaccompanied asylum seeking child
 - Is under 18 years of age when the asylum application is submitted.
 - Is applying for asylum in their own right.
 - Is separated from both parents.

 - Is not being cared for by an adult who in law or by custom has responsibility to do so.
- 2.2 Unaccompanied Asylum Seeking Children are all treated as Looked After Children and have the rights and protection afforded them under parts 3, 4, and 5 of the Children Act 1989 or equivalent legislation in Scotland, Wales and Northern Ireland. Based on Government information, UASCs are usually male between the ages of 16-18, the majority originate from Afghanistan, Syria and Eritrea. The National Transfer Scheme for UASCs has been created to enable the safe transfer of unaccompanied children from one UK Local Authority (the entry authority from which the unaccompanied child transfers) to another UK Local Authority (the receiving authority). Currently dispersal is primarily from Kent and it has recently been announced from the migrant camp in Calais. The week commencing 17.10.16, saw the first arrival of UASC from Calais to be presented at the Home Office in Croydon for registration and planned settlement with family members

already residing in the UK. From the week commencing 31.10.16, there is the arrival of UASC from the Calais camp that have no family connections in the UK. Local Authorities nationally will be notified by the Home Office each week as to the number of children arriving in their region requiring accommodating.

- 2.3 The Local Government Association considers it to be reasonable to expect no Local Authority to exceed 0.07% UASC as a proportion of the total child population in their area. These figures must take account of existing UASC population in each area. For Walsall this could mean 45 UASC in total. Currently we are responsible for 10 UASC who have presented themselves to Walsall (an increased over the summer from 6 to 10). Therefore Walsall could be asked to support up to a further 35 UASC. However as this is a voluntary scheme, in order to allow for appropriate planning and resourcing of support, Cabinet has agreed to a further 15 UASC being supported over the next 3 years from April 2017.

3. National Transfer Scheme

- 3.1 The National Transfer Scheme (NTS) focuses on children from Kent in the first instance, however the Government has commenced the transfer of children from the migrant camp in Calais to a) family in the UK and b) to become LAC to LA's. It is vital that for the children being resettled with family, we ensure the care giver is an appropriate person to look after the child. Where it is not possible to conduct these checks before the child arrives in the UK, as the Home Office will provide 48hrs notice, it may be necessary to arrange short-term care (for example, a temporary foster placement). It will be important to ensure relevant support and ensure access to appropriate services. If a child under 16 is being reunified with extended family members then this would constitute a private fostering arrangement and relevant assessment would be undertaken and ongoing support would be put in place by Children's Services. These checks and assessments will be undertaken by the Initial Response Service in the first instance. If the family need the ongoing support of a social worker this would be via the Safeguarding Family Support Service.
- 3.2 The cost of providing a foster placement, residential care and supported accommodation would need to be met by an allowance set out by the Home Office. This has seen an increase from the previous financial year but would not fully cover the current and ongoing support for a Looked After Child. It is currently considered that UASC will place additional budget pressures on the Council over and above the national transfer rates and that these are such that they would place significant challenges and un-budgeted cost pressures on the Council.

4. Legal context & Requirements

- 4.1 The Immigration Act 2016 received royal assent in May 2016 and covers a range of areas including:
- Part 5 of the Immigration Act contains provisions for the transfer of responsibility for unaccompanied asylum seeking and refugee children in England. Key provisions within Part 5 include:
 - Section 69 creates a mechanism to transfer responsibility for caring for unaccompanied asylum seeking and refugee children from one Local Authority to another.
 - Section 70 enables the Secretary of State to direct Local Authorities to provide information about the support and accommodation provided to children in their

care. This will inform arrangements made for the transfer of unaccompanied children from one Local Authority to another.

- Section 71 enables the Secretary of State to direct the provision of written reasons as to why a Local Authority refuses to comply with a request to accept responsibility for an unaccompanied migrant child from another Local Authority.
- Section 72 enables the Secretary of State to require Local Authorities to cooperate in the transfer of unaccompanied migrant children if they are unwilling to do so on a voluntary basis, by creating a scheme for the transfer of the functions of one local authority to another local authority in accordance with arrangements under section 69 and directing the relevant Local Authorities to comply with the scheme.
- Section 73 enables the Secretary of State to make regulations to extend any provisions made by sections 69 to 72 to Wales, Scotland and Northern Ireland. These regulations will be subject to the draft affirmative procedure.

4.2 The Council is empowered to take the recommended action under Section 1 of the Localism Act 2011 and can be compelled to assist under Sections 100 and 101 of the Immigration and Asylum Act 1999.

4.3 Article 3 of the United Nations Convention on the Rights of the Child provides that in all actions taken concerning children, the best interests of the child shall be a primary consideration.

4.4 UASC, are supported by local authorities in accordance with duties to children under the Children Act 1989. All Directors of Children's Social Services in England have been requested to provide urgent support under Section 27 of the Children Act 1989. Section 27 (2) states:

"An authority whose help is so requested shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions".

4.5 Section 20 of the Children Act 1989 (amended by the Children and Young Persons Act 2008) contains a specific, mandatory duty to provide accommodation to a child who meets certain criteria. The criteria are that a child requires accommodation because there is no one with parental responsibility for them, because they are lost, abandoned or because the person who has been caring for them is prevented from providing them with suitable accommodation or care. Section 22 of the Children Act 1989 (amended by the Children and Young Persons Act 2008) places a general duty on Local Authorities to secure, so far as reasonably practicable, sufficient accommodation within the authority's area which meets the needs of children that the Local Authority are looking after, and whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the Local Authority's area.

4.6 The Dublin III Regulation provides the legal basis for establishing the criteria and mechanism for determining the member state responsible for examining an asylum application lodged in one of the member states by a third country national or a stateless person. This mechanism is known as the *Dublin procedure*. The Dublin III Regulation applies to 32 countries which include the EU member states, Iceland, Norway, Liechtenstein and Switzerland.

4.7 Lord Alf Dubs' amendment Nov 2016 of Amendment 115 of the Immigration Bill, allows unaccompanied children to be offered safe refuge in the UK. The amendment no longer specifies how many unaccompanied children will be

resettled in the UK. That figure will instead be determined by individual Local Authorities.

5. Financial

5.1 From 1 July new national rates for Local Authorities looking after unaccompanied asylum seeking and refugee children will be:

- £41,610 per child per year for children under the age of 16;
- £33,215 per child per year for children aged 16 and 17;
- £200 per child per week for UASCs who qualify for leaving care support.

5.2 These rates represent an increase of between 20 and 33 per cent when compared to the national rates for 2015.

5.3 This financial summary is based on the following assumptions:

- Support is provided to a further 15 UASC (5 per year 2017/18 to 2019/20) - of which 1 each year is complex (at an assumed cost for support in line with that for an external residential placements) and the remaining 4 each year are not complex (at an assumed cost for support each year in line with that for an external foster care placement)
- Assuming that the complex placement is made on the 1st April each year and other 4 non-complex are spread over remainder of year (with support beginning every 2/3 mths)
- Assume all are 18+ years of age (Care Leavers), therefore any financial support from the Home Office is limited to £200 per week (Home Office rates for support are set out below)
- It is assumed each UASC will be supported to the age of 22 due to the complexities around each child's needs and period of required transition

5.4 It is currently considered that UASC will place additional budget pressures on the Council over and above the National Transfer Rates and that these are such that they would place significant challenges and un-budgeted cost pressures on the Council.

Financial Summary			
Financial Year	2017/18	2018/19	2019/20
Modelled Net Cost In Year	£0.194m	£0.454m	£0.722m
Modelled Cumulative Net Cost	£0.194m	£0.648m	£1.370m

6. Resources

In Walsall all UASC are managed within the Looked After Children's service where they receive an allocated social worker. They are subject to the same care planning processes and support that all Looked After Children receive and this is overseen by an Independent Reviewing Officer. As with any Looked After Child it is important to ensure their health and education needs are met and as LAC children they will be priority for school places. In addition there is additional support to help them with their asylum claim. If their immigration status has not been resolved by the age of 18 they receive on going after care support via the Leaving Care Team. Health, Social Care and Education need to provide an integrated approach and that will involve

- Holistic health assessment which will include not only their physical health but also their mental health, with ongoing support
- Building a community resilience network
- Consideration of Prevent referrals
- Interpreting service
- Advocacy
- ESOL provision for years 12/13 (16/17 year olds)
- Legal representation
- Communication with UK Visa & Immigration (UKVI) representatives

7. Current Walsall UASC

7.1 Walsall currently has 10 UASC, they are all male aged between 15 years and 17 years and this is in line with the national picture. They are currently residing in the following type of accommodation:

- Supported housing = 3 UASC placed
- Internal Fostering = 1 UASC placed
- Independent Fostering Agency = 6 UASC placed

8. Conclusion

8.1 Walsall's position is in line with Council priorities and supports Children, in this instance unaccompanied asylum seeker children, to remain safe from harm by ensuring the right help and support is provided and that they are resilient and able to achieve their full potential. Failing to participate in the National Transfer Scheme could increase the chances of the Home Office mandating the Local Authority to accept the dispersal of UASC. In such circumstances, the Council is likely to have less influence over the timescales, frequency and number of UASC arriving in Walsall with a limited notice period.

8.2 The Council and Partners have responded very positively in preparations to receive UASCs with the priority, care and support they deserve. A multi-agency group has been established and planning processes are in place to meet their needs.