

CEREDIGION COUNTY COUNCIL

Report to: Cabinet

Date of meeting: 22.02.22

Title: Mandatory National Transfer Scheme for Unaccompanied Asylum Seeking Children

Purpose of the report: To note the change in the National Transfer Scheme from a voluntary to a mandatory scheme and to agree the recommendation in the paper as to how the scheme will operate.

For: Decision

Cabinet Portfolio and Cabinet Member: Councillor Alun Williams, Porth Cynnal

Mandating the National Transfer Scheme for Unaccompanied Asylum Seeking Children

On December 14th 2021, the Home Office Minister for Safe and Legal Migration wrote on behalf of the Secretary of State to the Chief Executives, Directors of Children Services and Leaders of all local authorities across the UK with a formal notice to direct each local authority to comply with and participate in the National Transfer Scheme (NTS) under Section 72(5) of the Immigration Act 2016. This letter is included as a background paper

The NTS aims to ensure that Unaccompanied Asylum-Seeking Children (UASC) receive the support and accommodation they need whilst delivering a fairer and more equitable distribution of responsibility for UASC across the UK.

The Home Office provided initial indicative numbers of how many young people each local authority will be required to place over 4 cycles.

In the initial indicative figures provided by the Home Office, it is expected that Wales will accept transfers of 32 young people over 4 cycles (the timescale for the cycles has not been defined). The figures are calculated on the presumption of 652 young people transferring per 4 cycles across the UK.

The indicative figure for Ceredigion is 1 child or young person per cycle.

The Home Office will be revising the NTS Protocol to reflect the changes incurred with mandating the scheme.

The Home Office have noted that the duration of the mandatory scheme will be dictated by several factors including intake levels, how long it takes to end the use of hotels and being able to return to a voluntary scheme which works effectively. They will therefore keep the operation of the mandatory scheme under review.

Background

Following a consultation on the National Transfer Scheme (NTS) in September 2020, the Home Office launched the new voluntary scheme on the 26th July 2021. Wales was allocated a number of children to be transferred over a period of 12 months, with Wales to accommodate 30 children on a rota basis, with 4 anticipated runs of the rota per year.

Newport City Council and Cardiff Council agreed to scope a pilot project whereby they would accept all 30 referrals on behalf of the other 20 councils in Wales.

Due to unprecedented high numbers of arrivals at the port in Kent, the reality has been that the cycles ran at a much faster pace than was originally anticipated. The first 4 cycles of the NTS were completed in about 3 months.

To date, over 600 young people have been transferred out of Kent into local authority care across the UK.

In Wales, 28 young people have been transferred, and a further 3 young people are due to be transferred soon.

Although the original plan was for Newport and Cardiff Children's Services to support all referrals to Wales on behalf of other councils, due to the pace of cycles, placement sufficiency and social work availability, the Wales Strategic Migration Partnership (WSMP) has been working closely with the 4Cs – Children' Commissioning Consortium Cymru - to source placements from across Wales. Out of the 28 young people placed in Wales, 8 of them have been placed outside of Newport and Cardiff.

Options for Wales

The Home Office have indicated that they are open to Wales developing their own model for the mandated NTS as long as the commitment to accepting 32 young people over 4 cycles is met.

Welsh Government have acknowledged that the Home Office is seeking to adopt a UK-wide approach and have stated that they are committed to Wales playing a full-part. They have also noted that the existing National Transfer Scheme already provides the precedent for adopting different approaches in Wales, Scotland and Northern Ireland, if appropriate – as demonstrated by section 73(2) of the Immigration Act 2016 which says that “similar” but not necessarily identical provisions can be put in place outside England.

Welsh Government have highlighted the importance that the definition of a 'cycle' of the scheme is defined as a specific time period to ensure that local authorities understand how to plan and comply with the legal requirement. They recognise that periods of high intake of unaccompanied children have previously led to quicker than anticipated cycles; in the first seven cycles of the voluntary rota, Welsh local authorities could only place every referred child in two of these cycles. This was generally because there was insufficient time between cycles to plan effectively.

To date, the following options have been discussed by the All Wales Heads of Children Services with Welsh Government and WLGA officials.

- **Option 1**

Continue to operate the model that was developed under the voluntary scheme, whereby Newport and Cardiff Children's services continue to provide the placements and support for all the unaccompanied asylum-seeking children referred via the mandated NTS (on behalf of other Welsh councils), with support from the 4C's which is the Children' Commissioning body to source placements across Wales if there is no capacity in Newport and Cardiff.

- **Option 2**

Wales fully adopts the Home Office model, where the young people are placed in the individual local authorities as set out by the Home Office.

- **Option 3**

Local authorities in Wales work together to provide a regional approach to the mandated NTS, following a similar footprint to the 7 Local Health Boards.

In this option, each region in Wales would be expected to support a similar number of young people in every 4 cycle (under the voluntary scheme, 4 cycles take on average 10 weeks).

- **Option 4**

There are currently agreed long-standing asylum dispersal areas in Wales for adult and family asylum-seekers: Cardiff, Newport, Swansea and Wrexham and two new dispersal areas; Conwy and Caerphilly.

A regional rota could be established where referrals under the NTS are transferred to the regions of the 4 long-standing dispersal areas. The region would then work together with the asylum dispersal area as a hub for expertise and support. For example, this would mean that 2 young people are referred to each of those areas per cycle.

Conclusion and Recommendations

The recommended option from Ceredigion officers as discussed at Leadership Group is for Option 4 and Option 3 is also a preferable Option over Options 1 and 2. It is felt that that Option 4 has the greater potential to benefit the children and young people due to the established infrastructures of support and expertise in those areas and the greater likelihood of available and suitable placements.

It must be noted however that discussions are ongoing and a final all Wales position as regards how best to implement the now mandatory scheme is yet to be reached. There are significant challenges to overcome across Wales in terms of the pressures on placements for looked after children and the dispersal authorities named in Option 4 have not given agreement. If no agreement is reached on a Wales- wide basis, the default position of the Home office is to impose option 2 which is the

position described in their letter of December 14th 2021; the letter is included as a background paper.

It should also be noted that whilst funding will be made available by the Home Office for each child placed via the scheme, there are concerns that the funding formula requires further consideration to ensure that the resources are sufficient to operate a rota, ensure partnership working and to meet the support needs of each child or young person. All mandatory placements will now attract the higher rate of £143 per night, there are still financial shortfalls within the system. This shortfall will be heightened if the Home Office insists that every local authority provides placements rather than a more flexible Wales-wide model because there will inevitably be substantial training and recruitment costs which will need to be met.

Has an Integrated Impact Assessment been completed? If, not, please state why

Summary:

Long term: Not required

Collaboration: All Wales Heads of Children Services

Involvement: The National Transfer Scheme will involve all local authorities in Wales

Prevention: Prevention of harm to children

Integration: The National Transfer Scheme involves cross border collaboration with the Home Office, the 4Cs commissioning body for placements for looked after children and Welsh Government

Wellbeing of Future Generations:

Recommendation(s):

For Cabinet to:

1) note the change in the National Transfer Scheme for Unaccompanied Asylum Seeking Children from a voluntary scheme to a mandatory scheme.

2) approve support for Option 4 in discussions as to how the scheme will operate in Wales- Regional rota be established where referrals under the National Transfer Scheme are transferred to the regions of the 4 long-standing dispersal areas.

3) note that if no agreement is reached on a Wales wide basis, the default position imposed by the Home Office will be Option 2 which will mean that each local authority will be required to meet their individual allocation.

4) to authorise officers to collaborate with 4Cs -Children' Commissioning Consortium Cymru-which is the Commissioning for placements for looked after children

and the other Local Authorities in the region and across Wales in order to ensure the mandated and necessary compliance .

5) to agree the principle of the need for adequate funding for the scheme to operate effectively.

Reasons for decision: To ensure mandated compliance with statutory requirements.

Overview and Scrutiny:

Policy Framework: Healthier Communities Overview and Scrutiny Committee

Corporate Priorities:

Finance and Procurement implications: Need for adequate funding for the scheme to operate effectively.

Legal Implications: As outlined above

Staffing implications: None

Property / asset implications:

Risk(s):failure to Failure to comply with statutory requirements

Statutory Powers: National Transfer Scheme (NTS) under Section 72(5) of the Immigration Act 2016

Background Papers: National Transfer Scheme (NTS) Direction Letter

Appendices:

Corporate Lead Officer: Siân Howys

Reporting Officer:

Date: 01.02.21



Sent by email
HO Reference: NTS-representations

14 December 2021

Directors of Children's Services, Chief Executives, and Council Leaders,

Formal notice to direct your local authority to comply with the National Transfer Scheme (NTS) under Section 72(5) of the Immigration Act 2016

Following my letter of 23 November, I am writing again on behalf of the Secretary of State to confirm the Government is now directing your local authority to participate in the NTS from the date of this letter. This is pursuant to those powers set out under Section 72(3) of the Immigration Act 2016 (the 2016 Act) providing for the Home Secretary to direct local authorities to comply with the scheme. As stated in the notice letter of 23 November, the 2016 Act provisions were extended in 2018 to Wales, Scotland, and Northern Ireland.

I would like to express my gratitude for the support from many local authorities throughout the UK who have stepped up and provided crucial placements to vulnerable young asylum-seekers, including those who have done so since my previous letter. The Home Secretary shares my appreciation. It remains critical the NTS works effectively, ends the use of hotels for unaccompanied asylum-seeking children (UASC) as soon as possible, and ensures all children are transferred promptly to local authorities to be cared for under the relevant legislation.

Most local authorities did not make any representations in response to my letter of legal notice, while some provided positive responses about the new approach to the NTS which were very welcome. However, for the small number of local authorities who did make representations seeking an exemption from the NTS, or other complex representations, we continue to consider these and will be in contact with those local authorities in due course, once final decisions have been made. This period of consideration is not an indication of any decision as to whether these local authorities will be directed to participate with the NTS, or not.

What happens next?

From today my officials will begin referring young people for placements to local authorities receiving this letter legally directing their participation in the NTS. Young people who have already been referred under the NTS voluntary scheme, but who have not yet transferred, will not be re-referred but will be treated as referrals under the directed scheme.

As far as possible we propose to direct the transfer of children to their new local authorities within the operational framework established for the voluntary rota introduced in July. A new version of the protocol will be published alongside the first mandated transfers, although those local authorities who already participate in the NTS will see us continue to use familiar practices.

If your local authority is new to the NTS I recommend you engage directly with your regional Strategic Migration Partnership structure to gain a clear understanding of best practice on NTS transfers.

There continues to remain a significant number of UASC awaiting permanent placements with local authorities. These young people must be our priority. All local authorities receiving this letter can expect to receive referrals of children from this group in accordance with the allocation previously indicated.

When will final allocations be confirmed?

Modelling was undertaken to determine an effective mandatory scheme within the change plan framework already established for each region or devolved nation's allocation under the new NTS. In line with the principles of the national voluntary rota, the child population in each local authority, along with pressures relating to their child services and supported asylum populations have been taken into account to determine the proposed allocations for each local authority under the next four cycles of the rota. This approach supports our shared ambition of achieving a fair and equitable distribution of UASC across the UK.

Your local authority received an indicative number of transfers from the next 652 referrals into the NTS, and initial transfers will take place against this allocation, with any transfers completed since 23 November taken into account. However, once all the representations have been fully considered, and the most recent data has been considered, final allocations will be refreshed and any changes will be communicated.

The exact numbers of children to be allocated to your local authority over the course of the mandatory scheme will be dependent on numbers of UASC arriving in the UK and the length of time a mandatory scheme remains in place.

Local operational arrangements

I am aware some regions and nations of the UK are keen to consider making local arrangements which reflect existing ways of working. Any such arrangements must ensure local authorities directed to participate in the NTS are ultimately responsible for ensuring children are placed as directed. It cannot result in exemptions except where the Home Office has already considered a local authority exempt.

However, I recognise within a region or nation, local authorities may wish to make local arrangements about how they can work together to meet the overall allocation for their region or nation. Home Office officials are happy to discuss this with any region or nation, on the basis any local operational arrangements operate as part of the national framework in which all directed local authorities formally participate, even if local authorities agree between themselves to share allocations provided by the Home Office in a different way between them.

Funding arrangements

In June of this year, the Home Office announced changes to the additional funding provided to those local authorities supporting UASC and former UASC care leavers.

Local authorities supporting the greatest number of UASC relative to their child population continue to receive the higher rate of £143 per child per night for each UASC. This higher rate applies to local authorities supporting UASC totalling 0.07% or greater of their general child population.

All other local authorities will continue to receive £114 per person per night for each UASC in their care.

However, any local authority accepting responsibility for a UASC from another local authority via the NTS will receive the higher rate of £143 per child per night for each child.

The Home Office further increased the rate for all former UASC care leavers from £240 per person per week to £270 per person per week and will apply to each eligible former UASC care leaver. This represents an increase of 12.5% and follows a significant uplift in funding in June 2020.

The Home Office, the Department for Education and the Department for Levelling Up, Housing and Communities will consider further the feedback from local authorities during the representations process on funding provision, alongside other issues including how the threshold of 0.07% of child population is set, the speed of registration of non-port cases and age dispute cases in dispersal hotels and how they are treated with respect to the NTS.

I look forward to continuing to work with you and colleagues across government to ensure the NTS achieves our shared aims of ensuring vulnerable children are provided with crucial care placements and local authority support, where all local authorities with children's services play their part in this important national responsibility.

The duration of the mandatory scheme will be dictated by a range of factors including intake levels, how long it takes to end the use of hotels and being able to return to a voluntary NTS which works effectively and sustainably. We will therefore keep the operation of the mandatory scheme under review.

With my very best wishes.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Foster', with a flourish at the end.

Kevin Foster MP
Minister for Safe and Legal Migration