

REPORT TO:	CABINET 7th JUNE 2021
SUBJECT:	Addressing the costs of care and support for unaccompanied asylum seeking children and young people in Croydon
LEAD OFFICER:	Debbie Jones, interim Executive Director, Children, Families and Education Kerry Crichlow, interim Director Improvement and Quality, Children, Families and Education Department
CABINET MEMBER:	Councillor Alisa Flemming, Cabinet Member Children, Families and Learning
WARDS:	All

SUMMARY OF REPORT:

Croydon Council is proud of the support provided to unaccompanied asylum seeking children and young people that has enabled them to thrive and reach their potential.

However the location of the Home Office Asylum Intake Unit at Lunar House makes Croydon a national point of entry for unaccompanied children and with that the majority bearer over many years of the nation's costs for safeguarding and caring for these vulnerable children and young people. This has created a sustained, substantial financial challenge for the council, estimated at £7.6 million in 2020-21.

With the intense pressure on Croydon's finances the council cannot continue to support and accommodate the high numbers of children and care leavers that has been the pattern for many years.

Under the National Transfer Scheme, administered by the Home Office, it is intended that unaccompanied children are transferred equitably to councils' care on arrival. Councils should only take care responsibility for 0.07% of their 0-17 child population. The NTS is voluntary and many councils do not take part, or do not accept children up to the 0.07% number. For Croydon's population that would mean the council would be responsible for 66 children. As at 30th April 2021 205 children, over three times that number, were in Croydon's care alongside 439 care leavers who were previously unaccompanied children, over 57% of the total cohort of 18-25 year olds.

A number of meetings have been held since December 2020 with officials from the Home Office, Department for Education and MHCLG to secure practical support for Croydon to relieve the acute financial pressures the council is carrying. Detailed modelling based on the children and young people currently in the council's care, assuming delivery of the actions agreed with central government departments, has indicated that if Croydon were to accept no new unaccompanied children into our care for a minimum of two years the number of under 18's would naturally reduce to 66 by 2023/24.

However as a consequence of the high numbers of unaccompanied children previously cared for who are now care leavers an estimated budget gap of over £4m a year would still fall to the council over 2021/22- 2023/24. Additional savings in addition to those in the Medium Term Financial Strategy would need to be made.

24 London Directors of Children's Services have agreed to extend the pan-London rota to children under-16 for three months as a window of opportunity for a long term, sustainable solution for Croydon to be agreed with central government. The impact on the council's ability to discharge its statutory duties to all children and families in the borough as a result of the disproportionate costs requires a unique solution that addresses the consequences of unfunded care for unaccompanied children over a number of years by the council.

POLICY CONTEXT:

This report aligns to the following Croydon Renewal Plan priorities:

- We will live within our means, balance the books and provide value for money for our residents.
- We will focus on providing the best quality core service we can afford. First and foremost, providing social care services that keep our most vulnerable residents safe and healthy.

FINANCIAL IMPACT:

Current modelling of the net cost of Asylum Seekers to Croydon over three financial years, from 2021/22 indicates a cost to the Council of over £13 million, taking into account both a reduction of the current number of unaccompanied asylum seeking children in our care and additional financial support offered by the Home Office.

KEY DECISION: NO: this is not a key decision

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out below:

1. RECOMMENDATIONS:

- 1.1 Note the actions to secure support from central government and from London boroughs to relieve the disproportionate costs of care and support for unaccompanied children and young people incurred by the residents of Croydon.
- 1.2 Note the significant budget gap of £13.278 million forecast over 2021-24 despite the above actions.
- 1.3 Note the additional impact this will have on the council's borrowing from the government, including additional interest.

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| 1.4 | Recommend this report for review and challenge at the Scrutiny and Overview Committee. |
| 1.5 | Note that the council reserves the right to take further action to address the issues set out in this report. |

2. Background

- 2.1 Croydon Council is proud of the support provided to unaccompanied asylum seeking children and young people. High quality social care services have enabled children to thrive and reach their potential. Staff expertise in meeting the needs of unaccompanied children has been recognised regionally and nationally.
- 2.2 The location of the Home Office Asylum Intake Unit (AIU) at Lunar House has made Croydon a national point of entry for asylum seekers including families and unaccompanied asylum seeking children (UASC). The AIU serves a national and regional role for unaccompanied children arriving to claim asylum in the United Kingdom. In effect, the people of this borough have had to take responsibility on behalf of the nation and the London region for the safeguarding and care costs of unaccompanied children and young people.
- 2.3 For many years Croydon has taken care responsibility for all children under the age of 16 years arriving at Lunar House. Through a well-established pan-London rota participating boroughs have supported Croydon by accepting new entrants aged 16 and 17, with the rota administered by Croydon's staff.
- 2.4 Under the National Transfer Scheme (NTS), administered by the Home Office, it is intended that unaccompanied children are transferred equitably to councils' care on arrival. Councils should only take care responsibility for 0.07% of their 0-17 child population. The NTS is voluntary although there was a national consultation in autumn 2020 on making the scheme mandatory which has yet to report. Nationally many councils do not take part, or do not accept children up to the 0.07% number. For Croydon's population that would mean the council would be responsible for 66 children. As at 30th April 2021 205 children, over three times that number, were in Croydon's care alongside 439 care leavers who were previously unaccompanied children, over 57% of the total cohort of 18-25 year olds.
- 2.5 Despite the effective lobbying led by Croydon over 2019 to uplift grant rates for councils with UASC rates at or above 0.07% of the child population in 2020-21 there was still a significant budget gap estimated at £7.475m between the grant income received from the Home Office and the actual expenditure on unaccompanied children and care leavers who were formerly UASC.
- 2.6 In October 2020 the council's external auditors published a Report in the Public Interest which was highly critical of the council's financial management

and governance. Particular concerns were raised with regard to the recurrent and substantial overspend on unaccompanied children and young people and the resulting damaging impact on the council's financial position over time.

- 2.7 The council has secured a capitalisation direction of £120m over 2020/22 to balance the budget. This is a loan to be repaid with interest and is conditional on delivering substantial savings across the council to keep spend within budget and retain the confidence of the Secretary of State through quarterly reports from the Improvement and Assurance Panel. If that is not maintained, the Ministry of Housing, Communities and Local Government (MHCLG) have reserved the right to appoint commissioners.
- 2.8 Both the historic and on-going underfunding of the costs of the disproportionate numbers of unaccompanied children and care leavers are a direct contributor to the Council's current financial difficulties.
- 2.9 Modelling estimates that almost £7.5m of additional costs were incurred in 2020/21 that will have been included in the £70m loan from central government for that year. The medium term financial strategy the Full Council recently agreed as part of the budget for 2021/22 includes these underfunded costs to 2024. This significantly contributes to the need to borrow the £150m the council has requested from MHCLG as a capitalisation direction. Cabinet will be aware that £120m has been agreed to date with the remaining monies to be discussed as part of the comprehensive spending review in the autumn of this year. Cabinet will also be aware that any funds that are used in the financial support from government carry an interest charge.
- 2.10 The context, modelling and conclusions set out in this report have twice been scrutinised and challenged by the MHCLG Improvement and Assurance Panel in recent months. The challenges posed by the Panel and the exploration of solutions to the budget pressures were particularly helpful in developing the recommendations.

3. Action to address the disproportionate costs to Croydon

- 3.1 A number of meetings have taken place since December 2020 with the Home Office, the Department for Education (DfE) and MHCLG to discuss long term solutions to the disproportionate financial demands on the borough. Financial modelling over 2020/24 based on the number of children and young people currently in Croydon's care has been shared with and scrutinised by central government officials.

Central government action

- 3.2 In March 2021 Croydon set out specific requests to the Home Office, MHCLG and DfE officials that resulted in the following agreements and actions:
 - 1. The Home Office have led negotiations with other councils where Croydon has placed children to transfer full care responsibility to the host borough.

Children will remain in their homes and schools, but financial and care responsibility will be transferred. Of the 86 children and young people currently placed out of borough, 76 are in London. As at 14th May 2021 21 transfers have been agreed in principle with work underway between the respective social work teams to support the children and their foster carers to take this forward.

2. Croydon staff to review children most recently accepted into Croydon's care to identify any who could be transferred to other local authorities under the NTS. Any move would be carefully assessed by social workers as in the child's best interests, as even in a short period of time children can become settled and secure. Since April 2021 with the support of the Home Office 5 children have transferred to councils outside London through the NTS.
3. Croydon's age-assessment team will be seconded to the Home Office and the team will operate on a regional footing. This will reduce revenue costs by approximately £390,600 per annum. The secondment is proposed for 12 months in the first instance.
4. The Home Office will fund the duty social work service at Lunar House together with the costs of drinks and snacks for children awaiting interviews. This will reduce revenue costs by approximately £204,000 per annum.
5. The Home Office will deliver virtual immigration interviews to address the bottleneck of decisions for children and young people in the council's care. This will enable social workers to better support young people to plan appropriately for their futures.

- 3.3 Central government colleagues have worked in close collaboration with officers from the council on these issues and we are grateful for their hard work and the decisions taken to date. However, there is much more to be done to secure a sustainable solution for the council.

Regional action

- 3.4 The interim Executive Director Children, Families and Education took a paper to the Association of London Directors of Children's Services (ALDCS) on 22nd March 2021 with the following requests:
- To be supportive of the approach from the Home Office NTS team to accept care responsibility for Croydon children placed in their area where there is capacity within the 0.07% of the local child population (0.08% in labour-controlled boroughs)
 - To extend the pan-London rota to offer same day placements to all newly arrived children at Lunar House for a period of three months, as an interim measure, whilst a longer term solution is agreed with central government
- 3.5 Concern was expressed that if the pan-London rota were extended to under-16s the London region, which already cares for over 30% of the nation's unaccompanied children, would be providing a solution that by rights should

be tackled by central government through the NTS to distribute care responsibilities fairly across the country.

- 3.6 To secure agreement to these requests the interim Executive Director Children, Families and Education wrote to all London DCS's formally requesting their support. The interim Chief Executive has also wrote to her London counterparts with the same request, and through the London Councils Leaders' network the Council Leader has raised the issue and had discussions with several of her peers.
- 3.7 24 London boroughs have confirmed they will be part of an extended rota for newly arrived children under 16 for a three month period, operational from 1st June 2021. This will be on the basis of same day transfer to a placement in a participating London borough as is already in place for 16-17 year olds, with the receiving borough assuming care responsibility for the child. Children will be supported throughout the transfer by the social work duty team at Lunar House.
- 3.8 This fixed period of extended, practical support from the London region is extremely welcome. The London Directors have been clear that this is a window of opportunity to enable a long term, sustainable solution for Croydon to be agreed with central government. After three months if no alternative is agreed Croydon will again become responsible for new unaccompanied under 16s.

4. Supporting children through change

- 4.1 To ensure that there is a strong focus on the child's best interest through any changes the Service Manager and his team have worked with the London UASC Strategic Lead to devise bespoke arrangements. For both options set out in section 2 above a detailed transfer proforma has been developed to be completed by the child's social worker that includes background information, health and education records, any risk assessments completed and details of the child's placement. Together with the child's care plan this forms the factual basis for a professional discussion between social care staff in Croydon and the receiving borough to support the child through change.
- 4.2 For the 21 children placed out of the borough by Croydon the child will stay in the same foster or semi-independent placement and attend the same school or college. In accepting full care responsibilities the receiving council will take over placement contracts. Where the child is placed with a Croydon in-house foster carer the fostering service has worked up a schedule of charges to cover full costs including the continued support for carers from their supervising social workers. Following transfer the child will then remain in the care of the receiving borough, taking into consideration the outcome of any application they have made to remain in the UK.
- 4.3 Independent reviewing officers (IROs) are allocated to all children in care with a role to ensure that the care plan for the child fully reflects the child's needs,

and that each child's wishes and feelings are given full and due consideration in their care plans and in the formal child looked (CLA) after reviews. The receiving borough will assign an IRO as well as a social worker to each child. The IROs from each borough are working together to ensure the best interests of the child are paramount. Where the child's needs are more complex or the CLA review coincides with the planned transfer of responsibility then this will be arranged with joint participation.

- 4.4 The temporary extension of the pan-London rota to under 16s will be administered by the duty social work team who will make direct contact with the receiving borough's operational team to arrange the transfer, which is usually arranged on the same day. The duty team will complete as much of the transfer form as possible and accompany the child to the receiving borough where it will be completed.

5. Updated financial modelling

- 5.1 The modelling and projections have been refreshed to reflect the impact of the actions outlined above. The following assumptions have been included in the refresh:

- Croydon takes no new arrivals into its care from this point onwards
- Reduced revenue costs of £390,600 per annum to reflect the secondment of the age-assessment team to the Home Office for the rest of this financial year from mid-June 2021
- Reduced revenue costs of £204,000 per annum to reflect the costs of the duty service and subsistence for children and young people
- An estimated reduction of 30 out of the 86 children placed out of borough (21 agreed as at 14th May 2021)
- An estimated reduction of 10 children already in Croydon's care through the NTS (5 have taken place as at 27th May 2021)

- 5.2 Applying these additional revenue contributions and assumptions to the financial modelling the following revised forecast has been prepared:

Scenario: reduction of 40 UASC and no new entrants	2021/22	2022/23	2023/24	Total
Cases:				
< 18	170	81	66	
> 18	476	522	509	
Net cost £'000:	5,246	5,652	5,507	16,405
Net effect of case reduction	-150	-732	-1,242	-2,124
Age Assessment Team*	-321	-69		-391
Daily Home Office Duty**	-204	-204	-204	-613
Net cost £'000:	4,571	4,646	4,061	13,278

Table 1

*1 year only agreed

**Team includes 4 FTE

- 5.3 As can be seen from Table 1:
- With no new arrivals the under-18 unaccompanied child population will reduce to 66 or 0.07% in 2023/24
 - An overall net cost of £13.278m over 2021-24 remains. The additional costs vary between £4.57-£4.06m per annum and are mainly due to the high numbers of care leavers who were formerly unaccompanied children. The grant rate for care leavers is £240 per week or £12,480 per annum. Modelling indicates an annual cost to Croydon of £23,179, a funding gap of £10,699 for every young person in our care.

6. The costs of care

- 6.1 The reduced infrastructure costs such as the age assessment and duty service have been factored into the refreshed modelling. The key issue for Croydon is volume, the number of children cared for as this drives the staffing costs of providing a statutory service to children in care and care leavers.
- 6.2 Both the MHCLG Rapid Review and the Improvement and Assurance Panel challenged the placement costs for unaccompanied children and young people, with the suggestion that Croydon pays too much for these placements. To test this the average weekly accommodation costs for unaccompanied and local children in Croydon's care over 2020-21 have been calculated:

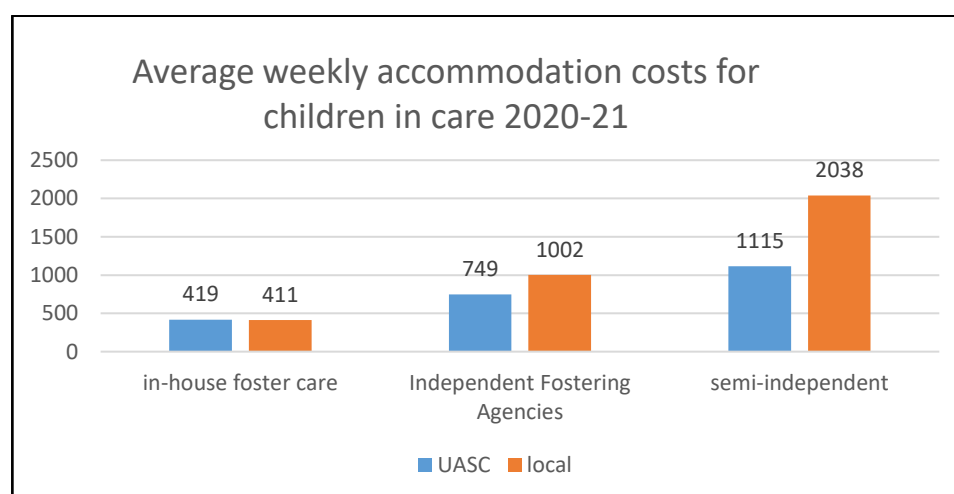


Table 2

- 6.3 As can be seen from Table 2 average in-house foster care costs are broadly the same per week for local and unaccompanied children respectively. The differential in average costs for external providers is more significant. The average weekly costs for both independent fostering agencies and semi-independent accommodation are lower for unaccompanied children than for local children.
- 6.4 Providers set the cost of placements based upon the level of support assessed as required to accommodate and care for a child or young person. Some evidence suggests that unaccompanied children present with less

complex placement needs and this is reflected in the prices charged by providers. Wrap-around support to meet individual children's additional needs may be commissioned separately.

- 6.5 As part of the MTFS saving to reduce spend on children in care an accommodation strategy is being implemented to reduce costs and improve value for money. Placements for all children in care including unaccompanied children and care leavers will benefit from this focused work. The savings for this workstream are £794,000 in 2021/22.

7. The consequences of unfunded care

- 7.1 The financial crisis means that Croydon cannot continue to accept new arrivals if the number of children cared for is to be reduced to 0.07% of the child population, the government's own threshold, within the timeframe of the capitalisation loan.
- 7.2 To put the consequences of this unfunded care in perspective, the projected budget gap of £4.6m in 2021/22 is the equivalent of over 70 social workers. Croydon Supporting Families Service which carries out all statutory child and family assessments following a referral to the council is made up of 40 social workers. The children looked after service, the biggest in London, currently has just over 70 case holding social workers including the UASC teams. To make savings of this magnitude every year for three years in addition to the MTFS savings already agreed would significantly impact on the council's ability to discharge its statutory duties to all children and families in Croydon; to provide help and protection to children in need and safe effective services to all children in care and care leavers and this is why these steps are being considered as a way forward.
- 7.3 The challenge to recruit and retain social workers is being felt across the care sector and is of particular concern in Croydon. There are currently a number of unfilled vacancies and caseloads in some services have begun to rise. The consequence of continuing to accept newly arrived children will put further pressure on the social care workforce.
- 7.4 At the meeting with central government officials in March 2021 the Home Office was asked to broker same-day placements for under-16's arriving at Lunar House through the NTS. The offer made is to include newly arrived under-16s on the NTS for placement, with Croydon retaining parental responsibility until children are transferred to the receiving borough. This still requires the council to provide social care support and a placement in foster care until transfer takes place, with these costs falling to the council. There is also the risk of judicial review to challenge moves from Croydon on to another council.
- 7.5 Whilst actions have been agreed to reduce the numbers of children under 18 in Croydon's care the revised modelling shows that the consequence of unfunded care costs will be borne for many years because of the high

numbers of unaccompanied children who then go on to become care leavers. Two transfers of out of borough placements for children nearly 18 have been declined. The low flat grant rate for care leavers appears to be a disincentive with the costs of the London housing market. Furthermore, young people are more likely to be settled in the borough, attending school in friendship groups and planning for further or higher education. Physical transfer to another borough is less likely to be in the young person's best interest given their prior experiences and journeys to the UK.

- 7.6 A different solution to the disproportionate financial strain relating to care leavers needs to be agreed which can only really be additional funding from government to move away from the low flat rate and properly support the full costs of care until Croydon's current cohort of care leavers are 25, as set out in table 1.

8. Future scenarios

- 8.1 The revised modelling of the trajectory of unaccompanied children in Croydon's care based on the current cohort of children assumes that no new children come into Croydon's care. There are two possible scenarios to achieve this:

<p>Scenario 1</p> <ul style="list-style-type: none"> • Under 16's transfer through the NTS • 16-17 year olds transfer through pan-London rota • Croydon accepts responsibility until NTS transfer completed • UASC numbers reduce to 0.07% by 2024 	<p>Consequences</p> <ul style="list-style-type: none"> • Croydon incurs costs for support and accommodation for under-16s until NTS transfer • Does not address additional costs of care leavers • Additional revenue costs not funded estimated at £13.1M over 2021/22 – 2023//24 plus the costs of short term care and accommodation (see table 1) • Capitalisation direction requirements in jeopardy; income does not cover expenditure • Unable to respond to the Report in the Public Interest effectively • Additional savings impact on the ability to provide safe services for all children and families in Croydon • Risk of judicial review of transfers via NTS if first accommodated in Croydon
<p>Scenario 2</p> <ul style="list-style-type: none"> • Croydon suspends statutory duties and accepts no new under-16s • 16-17 year olds transfer through pan-London rota • UASC numbers reduce to 0.07% by 2024 	<p>Consequences</p> <ul style="list-style-type: none"> • Does not address additional costs of care leavers • Additional revenue costs not funded estimated at £13.1M over 2021/22 – 2023//24 plus the costs of short term care and accommodation (see table 1)

	<ul style="list-style-type: none"> • Capitalisation direction requirements in jeopardy; income does not cover expenditure • Unable to respond to the Report in the Public Interest effectively • Additional savings impact on the ability to provide safe services for all children and families in Croydon • Risk of legal challenge to the suspension of statutory duties
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Table 3

- 8.2 It must be noted that transfers through the NTS are dependent on other councils' agreement to accept children. They cannot be guaranteed on the day of arrival. Croydon would remain responsible for the care and support of children pending transfer, and would also potentially be open to the risk of legal challenge to the transfer of these responsibilities.
- 8.3 As an illustration, over the summer of 2020 both Kent and Portsmouth councils suspended statutory duties in response to their rapidly changed circumstances. This meant that the additional staffing and accommodation costs of caring for children whilst waiting for transfer through the NTS were not met by the councils as they did not take care responsibility for the children and young people on arrival.
- 8.4 In both scenarios the consequence of many years of high numbers of unaccompanied children cared for by Croydon who become care leavers is laid bare. Over the lifetime of the capitalisation direction even if Croydon accepts no new children into its care the estimated deficit is almost £13.3m. With the stringent conditions placed on the capitalisation direction this is unaffordable and untenable. Unless this budget gap is closed savings will need to be made elsewhere to balance to budget. This will severely impact on the Council's ability to discharge its statutory responsibilities to all the children and families in need of help, support, protection and care in Croydon.

9. Next steps

- 9.1 Significant activity is underway between the Home Office, DfE, MHCLG and council officers to relieve the financial pressure on Croydon relating to unaccompanied children. The council has taken all reasonable steps to work constructively with the Home Office and DfE, responding to requests for additional assessments and engaging in individual negotiations with other councils to facilitate the transfer of care. However the combination of pressures facing Croydon are truly unique and require an equivalently unique solution. As can be seen from table 1 the actions agreed to date will not address the disproportionate costs of the council's care for a high number of children who are or will become care leavers.

9.2 The solutions Croydon urgently needs are:

- No new unaccompanied children coming into the council's care, allowing the number under 18 years old to reduce to the government agreed threshold of 0.07% of the child population by 2023-24. If suspension of statutory duties is to be avoided, full cost recovery of the actual additional costs incurred pending transfer through the voluntary NTS.
- For care leavers, a cohort which will grow in the short term and for whom the variance between income and actual costs is most acute, funding through a special grant arrangement to close the gap between the actual costs of care and the grant provided over 2021-24.
- A further review to establish through modelling when care leaver costs will reduce to a level commensurate with the London average if no new children under 16 years of age come into Croydon's care, and by March 2023 a clear plan to relieve these additional costs.

9.3 To enable Cabinet to make an informed decision on the scenarios set out in Table 3 it is recommended that this report and more detailed information be presented for challenge and oversight at the Scrutiny and Overview Committee.

9.4 Depending on the outcome of the discussion at Scrutiny and Overview Committee the council may decide to take further action to address the issues raised in this report.

10. PRE-DECISION SCRUTINY

10.1 It is proposed that this report be presented for review and challenge at the next Scrutiny and Overview Committee on 15th June 2021. In addition, GPAC received a presentation on the key issues and financial risks set out in this report at the committee meeting on 24th February 2021.

11. CONSULTATION

11.1 Consultation and engagement on the actions set out in section 2 of this report has commenced with staff who provide support and care for unaccompanied children, including social work staff, independent reviewing officers and the fostering service. Further sessions are planned with staff from the virtual school who support children's educational achievements.

11.2 The Children Looked After service will work with EMPIRE and the children in care council to ensure children's wishes and feelings inform and influence the approach to change.

12 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 12.1 Modelling of the net costs to Croydon of looking after Unaccompanied Asylum Seeking Children under 18 years of age and Care Leavers, aged 18 to 25 years old has been undertaken for the medium term of 2020-24. This modelling is based on the number of children and young people currently in Croydon's care and has been shared with and scrutinised by central government officials.
- 12.2 The estimated net cost to Croydon from 2021/22 to 2023/24 is contained in Section 3 of this report and also factors in the reduction in expenditure due to the additional contributions to Croydon from the Home Office in 2021/22 and 2022/23.
- 12.3 The modelling in section 3 assumes a corporate recharge of £1.694m in 2021/22 with a similar amount in both 2022/23 and 2023/24, all of which are included in the overall net costs of Asylum Seekers of £16.405m over the three year period.
- 12.4 Since the modelling has been completed, corporate recharges for 2021/22 have been confirmed at 0.738m and the accompanying budget to cover the recharges has been approved by Council. Therefore, consideration should be given to whether this cost is included in the overall net costs as, although it is a cost apportioned to the operation of the asylum seekers service, it does not represent a budget pressure as there is sufficient budget to cover this expenditure in 2021/22 and future years.

Approved by: Kate Bingham, (Interim) Head of Finance, Children, Families and Education.

13 LEGAL CONSIDERATIONS

- 13.1 An Unaccompanied Asylum Seeking Child (UASC) is a child who has applied for asylum in the United Kingdom and who, at the time of submitting the application for asylum, is under the age of 18, is not being cared for by an adult who has responsibility to do so, and is separated from both parents. This includes children who may have been relocated to the United Kingdom under a resettlement scheme (e.g. under section 67 of the Immigration Act 2016 ("the 2016 Act")), as well as those who arrive in the United Kingdom by other means. Unaccompanied asylum seeking children should ordinarily be granted temporary leave to remain for either a period of 30 months or until the child is 17 and a half years old, whichever is shorter, in any event in recognition that the child is unable to be returned to their home country until they reach adulthood.
- 13.2 On 1 July 2016 the Government implemented a National Transfer Scheme (NTS), underpinned by provisions in the Immigration Act 2016; with the aim of establishing a fairer and more equitable distribution of unaccompanied asylum seeking children across local authorities in the UK. At the same time as

implementing the NTS the Government increased the National Funding Rates for new unaccompanied asylum seeking children and Care Leavers, which brought the National Rates into line with the 'Gateway Authority' rates. The scheme is designed to ensure an even distribution of unaccompanied asylum seeking children across LAs nationally. Under the NTS, where an unaccompanied child first presents in a Local Authority which already has over 0.07% UASC to child population, the Local Authority is able to arrange for the transfer of the child. Despite earlier aspirations the NTS has not resulted in all local authorities sharing responsibility to help support and care for unaccompanied asylum seeking children.

- 13.3 Pursuant to the Children Act 1989 ("the 1989 Act") local authorities such as the Council are subject to various statutory duties to support children in need within their areas. This includes, inter alia, a duty under section 20(1) of the 1989 Act to accommodate children in need who appear to require accommodation as a result of:
- a. there being no person who has parental responsibility for them;
 - b. them being lost or having been abandoned; or
 - c. the person who has been caring for the child being prevented (for whatever reason) from providing him or her with suitable accommodation or care.
- 13.3 Section 20(3) of the 1989 Act further requires that local authorities must provide accommodation for any children in need who reach the age of 16 and whose welfare the local authority considers is likely to be seriously prejudiced if they are not provided with accommodation.
- 13.5 The immigration status of unaccompanied asylum seeking children means that local authorities such as the Council will ordinarily owe them a duty under section 20 of the 1989 Act, in addition to other children in need already resident in the local area, at least while their applications for asylum fall to be determined. The support provided will include, for example:
- a. accommodation, either in foster care (for under 16s) or shared accommodation (for 17 – 18 year olds);
 - b. allocation of social workers; and
 - c. assistance and admissions to local schools and colleges.
- 13.6 The legal duties of local authorities in respect of unaccompanied asylum seeking children also continue after they reach the age of 18. This means that whilst a number of children leave the children in care system each year, and therefore the Council receives less funding, they continue to be provided with services due to being formerly looked-after children.
- 13.7 If a decision is made to breach the Council's legal duties arising from the pressure being placed on the council's ability to discharge its statutory duties to all children and families in Croydon; to provide help and protection to children in need and safe effective services to all children in care and care leavers, then the role of the Monitoring Officer in such circumstances is set out in section 5 of the Local Government and Housing Act 1989. The Monitoring Officer is required under section 5(2) to prepare a report in

circumstances where an action, omission or decision leads to the Council operating outside its statutory duties.

- 13.8 In relation to any period of time that the Council operates outside its statutory duties, it will face legal risk, no matter how valid the reasons for its current circumstances. This is because the statutory duties are not optional and not transferable. Therefore, and there is no doubt that this period would need to be time limited.
- 13.9 In order for the Monitoring Officer to undertake a report to Council under S5, all legal opportunities should be exhausted before such report and any further legal diligence. Therefore, the Monitoring Officer will seek to ensure that the Council returns to lawfulness as quickly as possible and therefore any action will be time limited.

Approved by Doutimi Aseh, Interim Director of Law and Governance & Interim Deputy Monitoring Officer

14 HUMAN RESOURCES IMPACT

- 14.1 There are no direct human resource implications arising from this report. Whilst the reports sets out the Council's aim to reduce the number of unaccompanied children by 2023/24, which is likely to have an impact on the number of staff needed to deliver the service, it is a long term ambition that can be managed through natural attrition with no/minimal impact on permanent staff. Where relevant, the normal HR policies and procedures will be applied.

Approved by: Debbie Calliste, Head of HR for Children, Families and Education on behalf of the Director of Human Resources

15 EQUALITIES IMPACT

- 15.1 An Equalities Assessment has been undertaken to assess the impact on children with protected characteristics. Analysis of the current cohort indicates that 84% of the unaccompanied children currently in Croydon's care are male. All of the children are from black and minority ethnic backgrounds, with 25% of the cohort from Afghanistan, Albania and Vietnam respectively. The proposals are to transfer the care of newly arrived children under 16. These changes will have a disproportionate impact on children with these protected characteristics.
- 15.2 Working closely with the Home Office children's care will be transferred to other local authorities through the National Transfer Scheme, facilitated by the Home Office. This will ensure that the same standard of care as set out in statute is provided to children as it would be in Croydon.

Approved by Yvonne Okiyo, Equalities Manager

16 ENVIRONMENTAL IMPACT

16.1 There is no environmental impact arising from this report.

17 CRIME AND DISORDER REDUCTION

17.1 There is no crime and disorder impact arising from this report.

18 DATA PROTECTION IMPLICATIONS

18.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

18.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

18.3 The Director of Quality and Improvement comments that there are no data protection impacts arising from this report.

Approved by Debbie Jones, Executive Director

CONTACT OFFICER:

Kerry Crichlow, interim Director, Improvement and Quality, Children Families and Education Department

BACKGROUND DOCUMENTS: Presentation to General Purposes and Audit Committee, 24th February 2021