

<b>REPORT TO:</b>	<b>CABINET 16<sup>th</sup> AUGUST 2021</b>
<b>SUBJECT:</b>	<b>Update on actions to address the costs of care and support for unaccompanied asylum seeking children and young people in Croydon</b>
<b>LEAD OFFICER:</b>	<b>Debbie Jones, interim Executive Director, Children, Families and Education  Kerry Crichlow, interim Director Improvement and Quality, Children, Families and Education Department</b>
<b>CABINET MEMBER:</b>	<b>Alisa Flemming, Cabinet Member Children, Families and Learning</b>
<b>WARDS:</b>	<b>All</b>

**SUMMARY OF REPORT:**

This report provides an update on actions taken following the report to Cabinet on 7<sup>th</sup> June 2021 and the response from central government to representations from the council to address the disproportionate costs borne by Croydon residents.

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.

Detailed modelling to forecast the financial impact has been scrutinised by civil servants from the Department for Education (DfE), Home Office and Ministry of Housing, Communities and Local Government (MHCLG). The Improvement and Assurance Panel and the Scrutiny Children and Young People's Sub-Committee have also challenged the model. As a result the forecast budget gap for the council's care of unaccompanied children and young people has been refined to £2.357m in 2021-22 rising to £7.149m over 2021-24, the period of the council's Medium Term Financial Strategy.

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

The modelling indicates that if Croydon were to accept no new unaccompanied children into care the number of under 18's would still not naturally reduce to 0.07% (the national accepted level of care each council should provide) of its child population, i.e. 66 children, until 2023.

The new National Transfer Scheme Rota could provide the mechanism by which newly arrived children are transferred to the care of other councils. The success of the new arrangements depends upon sufficient councils agreeing to participate.

A number of meetings have been held with officials from the Home Office, DfE and MHCLG to secure practical and financial support for Croydon to relieve the acute financial pressures the council is carrying. Whilst these have been supportive, at the time of writing we are still waiting for formal feedback.

It is not possible for Croydon Council to continue to fund these costs on its own. Further savings in children's services in addition to the £9.433m already included in the Medium Term Financial Strategy would need to be made to meet the forecast budget gap.

The advice from the statutory Director of Children's Services is that the impact of this level of in-year reductions would be that the council is unable to discharge its statutory duties to all children and families in the borough and that services would be unsafe.

Croydon's position remains that:

- The council should provide care and support for unaccompanied children and young people up to 0.07% of the child population, the national expectation on all local authorities.
- Croydon should not be forced to accept any newly arrived children until the current numbers naturally reduce to the 0.07% threshold.
- Additional financial support is required from central government to address the disproportionate costs of care because of the location of Lunar House in the borough both in terms of managing the flow of children and young people into the borough for settlement and the ongoing costs of care leavers (over 18's) the borough will bear for a considerable time.

The Council also continues to support the collective London Councils' position that the National Transfer Scheme should be made mandatory and that government should provide local authorities with sufficient funding to cover the full costs of hosting unaccompanied children.

#### **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:**

The latest modelling of the net cost of unaccompanied children and care leavers to Croydon that takes into account the additional financial support from the Home Office and the actual number of children and young people in Croydon's care forecasts additional costs to the council of:

- £2.357m in 2021-22
- £7.149m over 2021-24

**KEY DECISION: N/A**

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

**RECOMMENDATIONS:**

Cabinet is recommended to:

- i. Note the actions taken since the June 2021 Cabinet meeting including the revised forecast budget gap of £2.357m in 2021-22 due to the disproportionate number of unaccompanied children and care leavers in Croydon's care, rising to £7.149m over the MTFS period, 2021-24.
- ii. Note the concerns raised by statutory Director of Children's Services, endorsed by the Improvement and Assurance Panel and the Chair of the Children's Continuous Improvement Board, of the damaging impact of further savings on the Council's children's services in the light of the existing MTFS savings plans across all council services.
- iii. Note the advice from the statutory Director of Children's Services on the safety of children's services if additional in-year savings are required to be made and instruct officers to draw up legal advice to Cabinet on all options to limit the council's exposure to financial risk.
- iv. As the council is still to hear from HM Government in regard to additional funding and the fact that the pre-election period begins on 30<sup>th</sup> August 2021, cabinet delegate authority to the Leader of the Council, the Cabinet Member for Children, Young People and Learning, the Chief Executive and the interim Executive Director, Children, Families and Education to take the necessary steps to address the in-year cost pressures set out in Table 1 of this report.
- v. Note that the Leader of the Council will write to the relevant Secretaries of State to underline the strength of Croydon's case for additional support due to its exceptional circumstances and to request an urgent meeting.

**1. Background**

- 1.1 Croydon Council continues to be proud of the support provided to unaccompanied asylum seeking children and young people that has enabled children to thrive and reach their potential. Social workers' expertise in meeting the needs of unaccompanied children has been recognised regionally and nationally.
- 1.2 The location of the Home Office Asylum Intake Unit at Lunar House makes Croydon a national point of entry for unaccompanied asylum seeking children. As a result over many years Croydon has cared for a disproportionate number of children and care leavers. Government grant funding does not meet the full costs of care, and it is clear that these disproportionate costs over a long period of time have contributed to the council's current financial challenges.

- 1.3 A capitalisation direction of £120m over 2020/22 has been secured from the Ministry of Housing, Communities and Local Government (MHCLG) to balance the budget. This is a loan to be repaid with interest and is conditional on delivering substantial savings over the next three years as set out in the council's Medium Term Financial Strategy (MTFS). An Improvement and Assurance Panel (IAP) has been appointed by MHCLG to monitor Croydon's progress in making the savings, reporting directly to the Secretary of State every quarter.
- 1.4 With the already intense pressure on Croydon's finances the council cannot continue to meet the costs of care and support for the high numbers of children and care leavers that has been the pattern for many years.
- 1.5 Cabinet considered a report on these issues on 7<sup>th</sup> June 2021 and made recommendations. This report provides an update on actions taken since then. The report advises on the outcomes of negotiations with central government departments on closing the budget gap for Croydon. It also provides advice from the interim Executive Director, Children, Families and Education and statutory Director of Children's Services on the implications for the safe delivery of services to all children in need of help, protection and care in Croydon should government support to cover the additional costs of Croydon's unaccompanied child population not be forthcoming.

## **2. Update on actions**

### **2.1 Scrutiny and challenge by the Improvement and Assurance Panel**

- 2.1.1 Given the significance of the forecast budget gap and the potential impact on the council's delivery of the MTFS the IAP identified this as an area for scrutiny. A detailed briefing was provided followed up with a review and challenge of the assumptions included in the modelling and a member of the panel acted as the lead for this workstream.
- 2.1.2 The review and challenge session resulted in an adjustment to the assumptions included in the model and an assessment of the expected costs of the equivalent of 0.07% of the child population, the national ceiling for councils, which Croydon should expect to meet in the same way as all other councils.
- 2.1.3 Following these revisions the IAP is satisfied that the forecast budget gap resulting from the care and support for children above the national 0.07% threshold and the large numbers of care leavers is a credible assessment of the additional costs to Croydon.
- 2.1.4 It should be noted that these current costs are based on a set of assumptions and scenarios which are outside the control of Croydon. There is therefore a risk that the costs could increase if:

- The numbers of unaccompanied children increase further and are not placed with other authorities under the National Transfer Scheme resulting in additional costs to Croydon.
- There are delays in the processing of individual cases by the Home Office resulting in unaccompanied children remaining in the care of Croydon for longer than expected.

2.1.5 It is therefore important that the situation is monitored carefully over the coming months.

## 2.2 Scrutiny Sub-Committee

2.2.1 The 7<sup>th</sup> June 2021 Cabinet recommended the report for review and challenge at the Scrutiny and Overview Committee. On 22<sup>nd</sup> June 2021 the Scrutiny Children and Young People Sub-Committee considered the report and recommended a sub-group be convened to scrutinise the underlying assumptions in the financial model and challenge areas where additional savings could be made in the provision of services to unaccompanied children.

2.2.2 The Chair of the Committee prepared a paper on specific areas of challenge which were then discussed at the sub-group on 28<sup>th</sup> July 2021 which was also attended by Margaret Lee from the IAP.

2.2.3 The sub group sought reassurance on the financial modelling, specifically that:

- the model is representative of actual costs to the council
- numbers in each category of child/young person are accurate
- funding from the government is being collected
- future trends are a reasonable base case

2.2.4 The sub-group's conclusions were:

- It was recognised that no model is perfect, but some are useful. This is a very useful one.
- Numbers of children are constantly changing. Current figures are believed to be accurate.
- Cost estimates are reasonable
- All figures need to be regularly updated. The monthly frequency proposal [to refresh the model and forecast] is endorsed.
- Future trends depend heavily on whether the (voluntary) National Transfer System delivers, especially if there is a surge of demand.

2.2.5 In addition the sub-group noted that further reassurance was required:

- Are we ensuring that young people over 18 are accessing their full entitlement to benefits funded by other government bodies as an alternative to relying on Council support.
- Are we supporting staff appropriately in dealing with the plan to reduce unaccompanied children.

2.2.6 The Scrutiny Committee will receive update reports to provide assurance on the above areas and to review the budget gap forecast that will be refreshed each month.

### 2.3 Meetings with central government

2.3.1 Since the June 2021 Cabinet meeting there have been eight meetings between officers and civil servants from the Department for Education (DFE) Home Office and MHCLG.

2.3.2 The Chief Executive called four meetings that were attended by Director Generals and Directors from the three government departments. The IAP lead attended three of these meetings as they followed on from the detailed IAP briefing referred to in paragraph 2.1.1 above.

2.3.3 Four working meetings took place in between the senior level meetings. Council officers worked with civil servants to:

- complete a line by line review of the care leavers included in the financial model
- agree to prioritise outcomes for children and young people waiting for decisions following initial immigration interviews
- agree to relocate virtual initial immigration interviews from Lunar House to Bernard Weatherill House during refurbishment at the Home Office building
- identify priority children and young people to attend the virtual interviews

2.3.4 In addition, officers were asked to model the potential impact on service delivery if new savings in addition to the MTFs needed to be made to address the forecast budget gap. This is set out in section 5 below.

2.3.5 The conditions placed on the council to balance the budget over the lifetime of the capitalisation direction loan places Croydon in a unique position nationally, with a disproportionate number of unaccompanied children and care leavers in its care as a result of the location of Lunar House in the borough. At the most recent meeting called by the Chief Executive, on 22nd July 2021, senior civil servants from all three government departments indicated that there was broad agreement with the financial modelling and the resulting forecast budget gap which the council is unable to close.

2.3.6 A further meeting with senior civil servants was planned for 3<sup>rd</sup> August however this was cancelled by the Departments. At the time of publication of this report no further response from central government has been received. Members will be advised if a response is received before the Cabinet meeting.

## 2.4 Refresh of the financial model and budget gap forecast

- 2.4.1 There have been a numbers of changes to the assumptions and numbers included in the financial model since it was first developed by officers In November 2020. An overview of the changes is summarised at appendix 1.
- 2.4.2 The position with regards to unaccompanied children and care leavers who were formerly unaccompanied children is dynamic and subject to frequent changes. For example, over 100 children will turn 18 in the next 12 months, moving in status from unaccompanied children to care leavers with Home Office grant funding reducing from £143 per day or £1,001 per week to £38.57 per day or £270 per week.
- 2.4.3 The immigration status of children and young people is also subject to continual change as decisions are made by the Home Office that impact on the council's claim for grant funding, particularly for care leavers. As a result of these decisions, young people can become eligible for public funding such as housing benefit and universal credit which reduces the council's funding gap.
- 2.4.4 The council welcomes the additional financial support from the Home Office to contribute to the duty service and subsistence for children and young people at Lunar House, and is proud of the recognition of the expert age-assessment team who will be seconded to the Home Office to work on a regional footing from August 2021. This additional financial support is agreed for one year in the first instance.
- 2.4.5 The review and challenge by the IAP, the review of care leavers' entitlement completed jointly by officers and DfE officials and the agreed transfers of care responsibility to other councils has amended the assumptions in the financial model:
- The transfer of 27 children to the care of other local authorities; the actual number agreed is lower than originally projected
  - Reduction of the numbers of care leavers not eligible for grant funding to 26
  - Re-profiled secondment of the age-assessment team to the Home Office to start from August 2021
  - An assessment of the costs of care for 0.07% of the child population modelled through into 18-25 year old care leavers and deducted from the forecast budget gap
- 2.4.6 Applying these revised assumptions and the continued commitment to the financial support the latest refresh of the model is set out in Table 1 below.

<b>Assuming:</b> • A reduction of 27 under 18s • no new entrants to care	<b>2021/22</b> <b>£'000s</b>	<b>2022/23</b> <b>£'000s</b>	<b>2023/24</b> <b>£'000s</b>	<b>Total</b> <b>£'000s</b>
➤ Number of children under 18	164	74	66	
➤ Number of young people over 18 - eligible for grant funding	358	373	274	
➤ Number of young people over 18 - not eligible for grant funding	26	36	45	
<b>Net cost £'000s</b>	<b>3,561</b>	<b>3,931</b>	<b>3,300</b>	<b>10,793</b>
Age Assessment Team	-261	-130	0	-391
Daily Home Office Duty	-204	-204	-204	-612
<b>Sub-total £'000:</b>	<b>3,096</b>	<b>3,597</b>	<b>3,096</b>	<b>9,790</b>
Cost of care for 0.07% children and young people £'000	-739	-884	-1,017	-2,604
<b>Net unfunded costs for unaccompanied CYP £'000s</b>	<b>2,357</b>	<b>2,713</b>	<b>2,079</b>	<b>7,149</b>

Table 1 July 2021

2.4.7 The forecast will be refreshed on a monthly basis to capture and track any changes and monitor the forecast budget gap.

2.4.8 Croydon continues to support the London Councils' position that given unaccompanied child placements are a national challenge, the full costs of supporting unaccompanied children should be reimbursed by Government. This would not only alleviate the financial impact on local authorities but also encourage more councils to join the NTS.

### 3. New National Transfer Scheme

3.1 Following consultation with all councils in the summer of 2020 the new National Transfer Scheme (NTS) voluntary rota was 'soft launched' on Monday 26<sup>th</sup> July 2021.

3.2 The rota was developed in partnership with local authority representatives, the Local Government Association and the Association of the Directors of Children's Services and builds on best practice in London and East of England who have successfully operated regional rotas for some time. In London the Pan-London rota (PLR) has operated for a number of years, transferring responsibility for 16-17 year olds arriving at Lunar House to participating London boroughs who are below a London regional threshold of 0.08% of the child population on a rota basis. For at least 15 years the PLR has been extremely supportive for Croydon in distributing the disproportionate responsibility for children presenting at Lunar House across the region.

3.3 The new NTS establishes a national rota in which regions will take it in turns as the duty receiving authority. The Home Office will allocate children to a regional coordinator who will then be responsible for allocating to a local authority within their region, under their own local arrangements.



- 3.4 Once a participating local authority has been allocated a child through the rota they will be responsible for identifying a placement so that the child will transfer within a maximum of 10 working days. Responsibility will move to the next region once the indicated number of unaccompanied children have been placed.
- 3.5 A weighting system for the regions has been applied to take wider pressures into consideration including:
- a. Child population. Regional contributions will be nationally weighted according to the regional child population in order to ensure proportionality.
  - b. Supported Asylum population. There is currently a disproportionate regional distribution of asylum seekers who are dispersed and supported under provisions of the Immigration and Asylum Act 1999.
  - c. London. London has offered to take a higher number as an interim arrangement, in recognition of the high numbers currently presenting within the capital.
- 3.6 The PLR will continue for 16 and 17 year olds arriving at Lunar House and transfers will contribute to London's NTS quota. All local authorities signing up to the NTS rota who are under the 0.07% threshold will start to get referrals as their region takes its turn on the rota.
- 3.7 Even at this early stage it is clear that there are significant risks to the new scheme, primarily because the NTS remains voluntary and the regional rota relies upon the majority of councils in each region signing up and taking their share of newly arrived children.
- 3.8 It remains the council's view (along with many others in the sector) that the NTS should be a mandatory scheme and that all councils play an equal part in providing care and support to vulnerable children, and that government should provide local authorities with sufficient funding to cover the full costs of this responsibility.
- 3.9 More than 800 unaccompanied asylum-seeking children have arrived on the south coast since June 2020 and Kent County Council's recent decision to again cease accepting new arrivals into its care has placed the NTS under extreme pressure. Councils with below the 0.07% threshold will be mindful that there are a number of children already waiting for placements and participation in the NTS will undoubtedly lead to referrals.
- 3.10 To relieve the pressure on the south coast adults and children have been dispersed with little or no consultation with receiving councils. Hotels in London are being commissioned by the Home Office to disperse and provide quarantine for newly arrived asylum seekers. Short age assessments are completed on arrival but young people challenging their assessment as adults may have to be brought into councils' care whilst their age disputes are resolved, by-passing the NTS and putting the new rota under immediate pressure.

- 3.11 The council is concerned at the risk that young adults dispersed to Croydon and disputing their age-assessments will lead to more requests to come into Croydon's care which the council does not have the capacity to meet, increasing the forecast budget gap.
- 3.12 It remains the council's view that the NTS should be a mandatory scheme if the extraordinary pressures on councils like Croydon are to be relieved and responsibility for care and support for vulnerable children shared fairly across all councils.
- 3.13 Officers are liaising closely with the London Regional Strategic Lead and with the London Directors' network to assess the impact of the new NTS Rota on the region and the resulting implications for Croydon. Agreement in principle has been given to join the new NTS with the proviso that this will be kept under review.

#### 4. Medium Term Financial Strategy

- 4.1 The capitalisation direction loan means Croydon has to deliver its MTFS and the necessary savings to bring the budget back into balance. If the Council fails in this work, MHCLG have reserved the right to review its decision regarding introducing commissioners to run the council.
- 4.2 Additional savings would need to be found on top of the existing, ambitious MTFS savings of £9.433m already agreed in Children, Families and Education in 2021-22. The full MTFS savings as reported to Cabinet in November 2020 are set out in Table 3 below.

Saving	2021-22	2022-23	2023-24
	£'000s	£'000s	£'000s
Reconfiguration of Early Help Services	424	185	-
Reconfiguration of Adolescent Services	1,608	-	-
Review of Children with Disabilities Care Packages	384	384	384
Reduction in spend for Children in Care	794	1,654	1,385
Reduce Support for Young People where Appeal Rights Exhausted	295	560	142
Improve Practice System Efficiency	1,065	1,450	385
Embed Systemic Practice Model	272	-	-
Full year effect of savings from 2020/21	1,462	-	-
Staffing Review	1,471	-	-
Review Children's Centres Delivery Model	660	240	-
Reduce Non-Statutory Education Functions	587	221	-
Early Learning Collaboration reduction	82	-	-
Reduce Family Group Conference Service	203	-	-
Croydon Music & Arts (CMA)	126	-	-
<b>Total savings</b>	<b>9,433</b>	<b>4,694</b>	<b>2,296</b>

Table 3

4.3 Progress on delivery of the MTFs is scrutinised by the Improvement and Assurance Panel and reported quarterly to the Secretary of State at MHCLG. At period 3 children's services is reporting a £1,317,000 pressure against the savings offset in part by holding staff vacancies of £554,000. Identification of further alternative areas to reduce spending is already required to balance this gap, and is extremely challenging.

## 5. Additional in-year savings

### Options for in-year savings to meet the budget gap in 2021-22

5.1 An additional saving of £2.357m in Children's Services could only be achieved by ending agency contracts and not recruiting to vacant posts. The lead times to release permanent staff or end third party contracts not already included in the savings programme mean that savings in these areas could not be delivered in-year.

5.2 There are currently 35.5 agency social workers in front line services. The savings from terminating these contracts would be:

- **Full year saving** **£2.272m**
- **September 2021 – March 2022** **£1.325m**

5.3 Table 2 below shows the impact on caseloads if these agency contracts were terminated:

Held by Case Workers (excluding newly qualified workers)						
Service Area	Number of Cases	All Staff (excl. NQSWs)		Staff excluding interim staff (excl. NQSWs)		Safe Operating Target
		Case Workers	Average Caseload	Case Workers	Average Caseload	
<b>All Services</b>	<b>3,315</b>	<b>199</b>	<b>16.7</b>	<b>163</b>	<b>20.3</b>	<b>17.0</b>
Adolescent Support	16	5	3.2	3	5.3	<b>16.0</b>
Children In Care	504	31	16.3	25.5	19.8	<b>16.0</b>
Croydon Supporting Families	702	31.5	22.3	16.5	42.5	<b>20.0</b>
Disabled Children's Service	401	27	14.9	26	15.4	<b>20.0</b>
Leaving Care	737	36.5	20.2	36.5	20.2	<b>25.0</b>
Social Work with Families	875	59	14.8	47	18.6	<b>16.0</b>
Social Work in Schools	43	5.5	7.8	5.5	7.8	
Miscellaneous	37	3	12.3	3	12.3	

Table 2

CRS caseload report as at 5<sup>th</sup> July 2021

5.4 In addition there are agency contracts for 16 full time equivalent staff across children's social care as follows:

1. 3 team managers
2. 2 assistant team managers
3. 7 Personal Advisers (care leavers service)
4. 1 child protection chair (contextual safeguarding)
5. 2 family assistants, Social work with families service
6. 1 key worker, early help service

- **Full year saving:** **£1.424m**
- **September 2021 – March 2022:** **£830,783**
  
- **Total possible in-year saving from 1st September** **£2.156m**

5.5 Terminating all agency contracts and not filling vacancies across children's social care and early from 1st September would not be sufficient to meet the forecast budget gap of £2.357m in 2021-22, as set out in table 1.

## **6. Advice from the interim Executive Director, Children Families and Education**

6.1 The impact of terminating agency contracts for frontline social works would be to increase caseloads to a level at which it is not possible to provide safe services to all children in Croydon. This is particularly evident in the estimated impact on average caseloads in the Croydon Supporting Families Service at the front door, and for our children in care including unaccompanied children.

6.2 Removing agency staff and creating unmanageable caseloads will inevitably result in the accelerated departure of permanent social workers. There is a clear risk that the substantial improvements made following the inadequate Ofsted judgement in 2017 will be lost as a result of this unfair financial burden.

6.3 As the statutory Director of Children's Services with responsibility for securing the provision of services which address the needs of all children and young people, including the most disadvantaged and vulnerable and their families, I cannot recommend this course of action to Cabinet.

## **7. Children's Continuous Improvement Board**

7.1 The Children's Continuous Improvement Board was set up in September 2020 to oversee the impact on children's services of the financial difficulties facing the Council, and to provide external scrutiny and assurance that the implications of cuts were understood and any risks were managed. The Board has identified services for unaccompanied children and care leavers as one of the priority

areas to keep under review given the financial challenge that the disproportionate number of children in Croydon's care poses.

- 7.2 The Chair of the Board has written to the Minister for Children and Families to express her concern that whilst the Board is confident that the steps that have been taken to date have achieved the required savings whilst the quality of practice has been maintained, the financial impact of unaccompanied children and young people is beyond this in scale and reasonableness given that Croydon is bearing these costs on behalf of the country.
- 7.3 The Chair expressed the view that if the costs this year have to be funded by further and extensive cuts to children's services in Croydon, the loss of front line social workers and other resources will be such that services will not be safe or the most vulnerable children safeguarded.

## **8. PRE-DECISION SCRUTINY**

- 8.1 The Cabinet report was presented for review and challenge at the Scrutiny Children and Young People Scrutiny Committee on 15<sup>th</sup> June 2021 which convened a sub-group which met on 28<sup>th</sup> July 2021.
- 8.2 The sub-committee concluded that whilst no model is perfect this is a very useful one. The committee noted that numbers of children are constantly changing and that current figures are believed to be accurate. It concluded that cost estimates are reasonable.

## **9. CONSULTATION**

- 9.1 Consultation and engagement has taken place with staff who provide support and care for unaccompanied children, including social work staff, independent reviewing officers and the fostering service.
- 9.2 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, should this be required.
- 9.3 The IAP identified unaccompanied children as an area for scrutiny given the significance of the forecast budget gap and the potential impact on the council's delivery of the MTFS. A detailed briefing was provided followed up with a review and challenge of the assumptions included in the modelling.

## **10. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 10.1 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.

- 10.2 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. These contributions were not factored into the Month 3 forecast report elsewhere on the agenda and explain in part the difference between the risk figure in the forecast and the cost to the Council in this report. The remaining differences relate to lower forecasted numbers of cases.
- 10.3 The cost of UASC above budget has not been factored into the MTFs for future years and will be an ongoing cost to the Council which will need to be met from service spend reductions either within the department or elsewhere in the Council.
- 10.4 Approved by: Chris Buss, Interim Director of Finance, Investment & Risk and S151 Officer.

## **11. LEGAL CONSIDERATIONS**

- 11.1 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.
- 11.2 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.

- 11.3 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.
- 11.4 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.
- 11.5 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.
- 11.6 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.
- 11.7 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.

- 11.8 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.
- 11.9 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.
- 11.10 Approved by Doutimi Aseh, Interim Director of Law and Governance & Interim Deputy Monitoring Officer.

## **12. HUMAN RESOURCES IMPACT**

- 12.1 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.
- 12.2 Approved by: Debbie Calliste, Head of HR for Children, Families and Education on behalf of the Director of Human Resources

## **13. EQUALITIES IMPACT**

- 13.1 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.
- 13.2 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.
- 13.3 Approved by Gavin Handford, Director of Policy, Strategy and Partnerships.



## **14. ENVIRONMENTAL IMPACT**

14.1 There is no environmental impact arising from this report.

## **15. CRIME AND DISORDER REDUCTION**

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

## **16. DATA PROTECTION IMPLICATIONS**

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

NO

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

**NO**

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

Approved by Debbie Jones, Executive Director

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**CONTACT OFFICER:** *Kerry Crichlow, interim Director, Improvement and Quality, Children Families and Education Department*

## **APPENDICES**

1. Summary of changes to the financial modelling to forecast the unfunded costs of unaccompanied children and young people – November 2020 - 21st July 2021

## **BACKGROUND DOCUMENTS – LOCAL GOVERNMENT ACT 1972**

1. Report to Cabinet, 7<sup>th</sup> June 2021  
<https://democracy.croydon.gov.uk/documents/b8804/Agenda%20Supplement%20-%20Item%207%20and%20Item%208%2007th-Jun-2021%2018.30%20Cabinet.pdf?T=9>
2. Scrutiny Children and Young People Sub-Committee sub-group meeting papers, 28<sup>th</sup> July 2021