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Access to Education for asylum seeking children within families

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# Background

1. All children seeking asylum are entitled to access education to the age of 18
2. This short briefing provides links and recommendations for partners to consider
3. Whilst this document cannot cover all available resources, it seeks to provide information that organisations might find useful
4. Migration Yorkshire will update and circulate this document on a regular basis

# Legislation & background:

Local authorities are responsible for arranging suitable full time education for children of compulsory school age.

In 2021, we received the following from the Department for Education, via the Home Office, and passed this to the LA migration leads.

*“Asylum seeker children have a right to access a school whilst in the UK. We are clear on* [*this website*](https://www.gov.uk/guidance/schools-admissions-applications-from-overseas-children) *that ‘school admission authorities must not refuse to admit a child on the basis of their nationality or immigration status’.*

*As soon as asylum-seeker children arrive in a local authority area, the local authority’s duties to safeguard them and promote their welfare are engaged.*

*Local authorities have duties under the Children Act 2004 to promote the welfare of children in their area. This will include providing them with access to education. Under the Education Act 1996 local authorities also have a duty to provide sufficient school places and suitable education for children in their area. If the child is an unaccompanied asylum-seeker the child becomes a ‘looked after child’ and automatically gains top priority for admission to state funded schools.*

*Local authorities have a duty under the School Standards and Framework Act 1998 to offer parents with advice on applying for a school. To ensure asylum-seeker children are able to access a suitable education, we would recommend that their parents are advised as to how to apply for a school place even when housed in temporary accommodation. When families move to more permanent accommodation, they can apply for an in-year move to another school which is more conveniently located for them.*

*Information on how to apply for a school can be found here:* [*https://www.gov.uk/schools-admissions*](https://www.gov.uk/schools-admissions)*. Asylum-seeker parents are likely to need some help with this, when they do not speak English.*

*The local authority for each address in England can be found here:* [*https://www.gov.uk/find-local-council*](https://www.gov.uk/find-local-council)

*Children should not be spending significant periods without a school place. The* [*School Admissions Code*](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf) *requires each local authority to operate an in-year fair access protocol to place children without a school place if they are refused admission to local schools.  They are specifically required to include asylum seekers within their protocol.”*

In February 2022, the following email was circulated from the Department for Education, with a note to say that although it explicitly refers to Ukrainian nationals, the same applies to all children from overseas regardless of immigration status:

[*The Secretary of State for Education wrote to all local authority Directors of Children’s Services and Chief Executive Officers today*](https://www.gov.uk/government/publications/secretary-of-state-letter-to-local-authorities-about-children-arriving-from-ukraine) *to outline the Department’s expectation that, if there are school places available in the local area, even if not in the immediate vicinity of the bridging hotel, the local authority will work with families arriving from Ukraine to enable the children to attend school as soon as possible*

*You should also look out for an update to our website on school access rights for foreign national students which will shortly be updated* [*https://www.gov.uk/guidance/schools-admissions-applications-from-overseas-children*](https://www.gov.uk/guidance/schools-admissions-applications-from-overseas-children)*.*

# Access to early years provision:

The NRPF network has produced guidance here - [Early education and childcare | NRPF (nrpfnetwork.org.uk)](https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/services-for-children-and-families/early-education-and-childcare)

Access to early education and children is not classed as a public fund, and therefore asylum seeking children are entitled to provision. There may, however, be difficulty in accessing some of the available funding for this provision.

# Applications & Fair Access protocol

Section 4.4.1.4b of the [AASC Statement of Requirements](https://data.parliament.uk/DepositedPapers/Files/DEP2018-1112/AASC_-_Schedule_2_-_Statement_of_Requirements.pdf) instructs the accommodation provider (Mears Housing) to provide:

*information to assist the Service User to register their children (where applicable) with appropriate schools in the area.*

Mears do not routinely support with the application process for school places, although many voluntary sector services will step into this role.

As outlined above, the [*School Admissions Code*](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)requires local authorities to include asylum seeking children within their fair access protocols if needed.

# ID & proof of address:

With regard to ID, [this link](https://www.gov.uk/guidance/schools-admissions-applications-from-overseas-children#other-categories-of-foreign-national-children-who-can-enter-the-uk-and-attend-a-school) contains the following:

*In addition, children who have been recognised as refugees and asylum seeking children (including dependent children of an asylum seeker) in the UK who are still awaiting a decision, are entitled to access a school-based education. The outcome of their claim will not affect their entitlement to attend school. They do not need to ‘prove’ their status as an asylum seeker or refugee to apply for a school: they have the same rights to a school place as any other children resident in the UK*

With regard to proof of address, the same link contains:

*Asylum seekers, some refugees, and migrants (including those from Afghanistan and Ukraine) may not have a permanent home address at the point they apply for a school. Local authorities and admission authorities must not refuse to process the application because the family does not have a permanent address. In such cases, they should use their temporary address as the home address for applying any admission arrangements*.

Parents/carers should always use the information on the home office documents, as this will prevent duplicate and ‘ghost children’ on systems. Any discrepancies with documentation should be addressed with the Home Office.

# Children missing in education:

The [statutory guidance for children missing in education](https://www.gov.uk/government/publications/children-missing-education) applies to asylum seeking children.

Officers should notify and pass the details of any children who are not in education the CME team in each LA. The CME team will be able to help with advice and support around how to secure school places in the new area, and respond to any issues, barriers or delays in the child accessing education

However, it is worth noting that accommodation for asylum seekers is on a no-choice basis and families can be moved to a different local authority. There is no legal or contractual obligation for families or the accommodation provider to notify schools that they are leaving the area, which may result in school places not being taken up or children ‘missing’ from education. The Home Office/Local Authority Safeguarding Group have identified this issue as a strategic priority for discussion and resolution.

# English as Additional Language (EAL) and Special Educational Needs and Disability (SEND):

The Bell Foundation has some excellent guidance and resources for schools supporting asylum seeking pupils with EAL and SEND needs - [EAL and SEND: Guidance for Integrated Provision in Schools - The Bell Foundation (bell-foundation.org.uk)](https://www.bell-foundation.org.uk/resources/guidance/schools-and-leaders/learners-with-special-educational-needs-or-disabilities/)

Every local authority has obligations to respond to EAL and SEND needs and as such will have specialist services who should be involved in providing suitable support.

# Free school meals & Holiday Activity and Food Programme:

The Department for Education have published new guidance on the provision of free school meals to children from families with no recourse to public funds. This has been updated to account for the extension of free school meal provision to this group permanently.

<https://www.gov.uk/government/publications/free-school-meals-guidance-for-schools-and-local-authorities/providing-free-school-meals-to-families-with-no-recourse-to-public-funds-nrpf>

While an application for free school meals is underway, Mears are able to provide packed lunches for those who reside in fully catered accommodation (Initial Accommodation and some contingency sites). This does not apply to those in self-catered accommodation including dispersed properties.

Children who are entitled to free school meals can also access the Holiday Activity and Food Programme - [Holiday activities and food programme 2023 - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/holiday-activities-and-food-programme/holiday-activities-and-food-programme-2023)

Schools and local authorities are not able to use the eligibility checking system (ECS) to confirm eligibility for these families as the family will not be in receipt of Universal Credit or legacy benefits.” [Providing free school meals to families with no recourse to public funds (NRPF) - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/free-school-meals-guidance-for-schools-and-local-authorities/providing-free-school-meals-to-families-with-no-recourse-to-public-funds-nrpf)  Because of this reason, asylum seeking children will not show up on the list as being entitled to the services, and it is therefore up to the decision of the individual providers of the various activities being run.

# Additional considerations:

* Transport to school – local policies should apply. Families may be able to access hardship funds through appeals processes. Some Local Authorities may provide children with a free bus pass depending on the distance between home and school. Additionally, 16 – 18 year olds in South Yorkshire are usually entitled to a 16 – 18 Zoom Travel pass which reduces the fare.
* School uniforms & sundry equipment – asylum seekers have very limited financial resources, so consideration should be given to supporting them access school uniforms and other sundries including bags and stationery. The voluntary sector may be able to support with this.

# Additional resources

* The Bell Foundation [Refugees and Asylum Seekers - The Bell Foundation (bell-foundation.org.uk)](https://www.bell-foundation.org.uk/resources/guidance/schools-and-leaders/refugees-and-asylum-seekers/)
* Schools of Sanctuary - [Home - Schools of Sanctuary (cityofsanctuary.org)](https://schools.cityofsanctuary.org/)

# About this briefing

This briefing was prepared by Vicky Mulhern in July 2024

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