

## EQUALITY IMPACT ASSESSMENT RECORD

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>Consideration of a change to the residency criteria for access to tuition fee and living cost support in Scotland.</b>	
<b>Minister</b>	<b>Minister for Higher Education, Further Education, Youth Employment and Training – Jamie Hepburn MSP.</b>	
<b>Lead official</b>	<b>David Mackay – Student Financial Support Team</b>	
<b>Officials involved in the EQIA</b>	<b>Name</b>	<b>team</b>
	<b>David Mackay</b>	<b>Student Financial Support</b>
<b>Directorate: Division: Team</b>	<b>Advanced Learning and Science: Higher Education and Science: Student Financial Support Team</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>Review of an existing policy.</b>	

### Screening

#### ***Policy Aim***

To review the residency criteria and eligibility for student support for Afghan nationals and their family members who are being relocated to the UK under the Afghan Relocation and Assistance Policy (ARAP) and the Afghan Citizens Resettlement Scheme (ACRS). The policy will consider how we can amend the current regulations to enable Afghan nationals and their family members who are settled in the UK under these scheme to access tuition fee and living cost support.

This contributes to the following national outcome:

- We are well educated, skilled and able to contribute to society.

The current criteria to access tuition fee and living cost support in Scotland require students to meet certain residency rules which are laid out in legislation. They generally require students to:

- Be ordinarily resident in Scotland on the relevant date (the relevant date is the first day of the course; ordinary residence can be described as habitual or normal residence, by choice, over a period of time in one place and does not include residence solely for the purposes of education);
- Have been ordinarily resident in the UK and Islands for 3 years immediately prior to the relevant date;
- Be settled in the UK within the meaning of the Immigration Act 1971 (for example, be a UK national or otherwise have a right to stay in the UK without time restriction, for example, 'Indefinite Leave to Remain'). Or be:
  - Under the age of 18 and have lived in the UK throughout the seven-year period preceding the relevant date; or
  - Aged 18 years old or above and, preceding the relevant date, has lived in the UK throughout either half his or her life or a period of twenty years.

### *Afghan Relocation and Assistance Policy (ARAP)*

Under the terms of the current regulations, those entering the UK under the terms of the ARAP are not eligible for tuition fee or living cost support as they do not have settled status under the terms of the Immigration Act 1971, and they have not lived in the UK for 3 years prior to the relevant date. They also do not meet any of the exceptions to the general residency criteria i.e. they have not been granted refugee status, humanitarian protection or another form of leave as a result of a failed asylum/refugee claim.

The ARAP was designed to offer relocation or other assistance to current and former locally employed staff in Afghanistan who are assessed to be at serious risk of threat to life.

## *Afghan Citizens Resettlement Scheme (ACRS)*

Those entering the UK under the terms of the ACRS are not eligible for tuition fee or living cost support as they do not have settled status under the terms of the Immigration Act 1971 and they have not lived in the UK for the 3 years prior to the relevant date. They also do not meet any of the exceptions to the general residency criteria i.e. they have not been granted refugee status, humanitarian protection or another form of leave as a result of a failed asylum/refugee claim.

The ACRS has been devised by the UK Government to provide protection for people who have been identified as being at risk in Afghanistan arising from the on-going conflict there. The scheme will prioritise those who have assisted the UK efforts in Afghanistan and those who stood up for the values of democracy, women's rights, freedom of speech and the rule of law. It will also provide protection for vulnerable people, including women and girls at risk, as well as members of minority groups (including ethnic and religious minorities and LGBT+).

### ***Who will it affect?***

The Home Office have confirmed that as of 14 November 2021, around 300 individuals have arrived in Scotland under the terms of the ARAP. The ACRS will open in January 2022 with the UK expecting to welcome around 5,000 people in the first year. We would be expected to settle around 10% of the people arriving in the UK. This could mean up to 500 being relocated to Scotland within the first year.

The proposed change would benefit Afghan nationals and their family members currently of an age to apply for further or higher education courses and those who would become eligible over the coming years.

### ***What might prevent the desired outcomes being achieved?***

When considering amendments to the residency criteria to allow individuals from the ARAP and ACRS to access tuition fee and living cost support, we must be mindful of the potential financial implications to the student support budget.

## **Stage 1: Framing**

### ***Results of framing exercise***

An initial framing exercise was carried out by the Higher Education and Science Division to gather the evidence to inform this EQIA. Existing evidence is available from :

- Home Office – Confirmation that 7,000 individuals and their family members have been relocated to the UK under the terms of the ARAP. 119 families (480 individuals) have been relocated to Scotland with another 5 families (28 individuals) expected in Scotland in the coming weeks.
- The ACRS opened in January 2022, with the Home Office expecting to welcome around 5,000 individuals to the UK in the first year. This would mean that around 500 would be relocated to Scotland under the terms of the ACRS. As at the end of April 2022, 19 families (72 individuals) have been relocated to Scotland with another 5 families (16 individuals) expected to arrive in Scotland in the coming weeks.

### ***Extent/Level of EQIA required***

The proposed policy change has relevance to the protected characteristic of race.

As this change to the residency criteria would open up opportunities to Afghan nationals and their family members, and have a positive impact on any prospective students, it is considered that a concise and focused EQIA is proportionate in these circumstances.

## Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic <sup>1</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<b>AGE</b>	No data to confirm age breakdown of people who have entered/will be entering the UK under the ARAP or ACRS.		<p>Scottish Government immigration policy colleagues are liaising with the Home Office and may be able to provide more accurate data on the age breakdown of individuals who have been relocated to Scotland under the ARAP or ACRS.</p> <p>As SAAS gather statistical data on student applications we will be able to monitor the impact of the policy change on relevant groups going forward.</p>
<b>DISABILITY</b>	No data to identify individuals under these schemes who may have a disability.		<p>SAAS do not gather statistical data on this protected characteristic via student applicants that could be used for this purpose and</p>

<sup>1</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

		therefore this information is not readily available.
<b>SEX</b>	No data to confirm sex of people under these schemes.	<p>Scottish Government immigration policy colleagues are liaising with the Home Office and may be able to provide more accurate data on the sex of individuals who have been relocated to Scotland under the ARAP or ACRS.</p> <p>As SAAS gather statistical data on student applications we will be able to monitor the impact of the policy change on relevant groups going forward.</p>
<b>PREGNANCY AND MATERNITY</b>	No data to confirm pregnancy or maternity.	SAAS do not gather statistical data on this protected characteristic via student applicants and therefore this information is not readily available.
<b>GENDER REASSIGNMENT</b>	No data to confirm gender reassignment.	SAAS do not gather statistical data on this protected characteristic via student applicants and

			therefore this information is not readily available.
<b>SEXUAL ORIENTATION</b>	No data to confirm sexual orientation.		SAAS do not gather statistical data on this protected characteristic via student applicants and therefore this information is not readily available.
<b>RACE</b>	<p>Afghan nationals and their families relocated to the UK under the ARAP and ACRS would be impacted by this policy change.</p> <p>ARAP – 119 families (480 individuals) relocated to the UK with 5 families (28 individuals) expected in the coming weeks.</p> <p>ACRS – 19 families (72 individuals) relocated to the UK with families (16 individuals) expected in the coming weeks.</p>	<p>Home Office</p> <p>COSLA</p>	
<b>RELIGION OR BELIEF</b>	No data to confirm religion or belief.		SAAS do not gather statistical data on this protected characteristic via student applicants and therefore this information is not readily available.

<p><b>MARRIAGE AND CIVIL PARTNERSHIP</b>          (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)</p>	<p>No data to confirm marriage or civil partnership.</p>		<p>SAAS do not gather statistical data on this protected characteristic via student applicants and therefore this information is not readily available.</p>
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### Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

#### Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	Access to further and higher education in Scotland is not limited by age.  Students of any age are able to study courses of further and higher education and apply for tuition fee support (including tuition fee loans), provided they meet the required eligibility criteria.			The proposed policy change will open up access to Afghan nationals and their family members relocated to the UK under the ARAP and the ACRS schemes. In doing so they will be able to access a home funded place to study further and higher education courses. Access to these courses is not limited by age, and all individuals will be able to gain access to the funded places provided they meet the entry criteria set by the institutions.
Advancing equality of opportunity	X			The proposed change to the residency criteria will open up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and the ACRS. This will allow them the opportunity to access support for studying further and higher education courses in Scotland.
Promoting good relations among and			X	No evidence of differential impact at this time.

between different age groups			
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**Do you think that the policy impacts disabled people?**

<b>Disability</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation			X	There is no information to identify any impact on disabled people as a result of the proposed policy change. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.
Advancing equality of opportunity among and between disabled and non-disabled people			X	No evidence of differential impact at this time.
Promoting good relations among and between disabled and non-disabled people			X	No evidence of differential impact at this time.

**Do you think that the policy impacts on men and women in different ways?**

<b>Sex</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
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Eliminating unlawful discrimination			X	There is no information to identify that the proposed policy change will impact on men and women in different ways. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.
Advancing equality of opportunity	X			The proposed policy change would advance opportunities for all those individuals who have been relocated to the UK under the ARAP and ACRS. The recent unrest and regime change in Afghanistan may have restricted opportunities to study higher education courses if these individuals were not relocated to the UK.
Promoting good relations between men and women			X	No evidence of differential impact at this time.

### Do you think that the policy impacts on women because of pregnancy and maternity?

	Positive	Negative	None	Reasons for your decision
<b>Pregnancy and Maternity</b>				
Eliminating unlawful discrimination			X	There is no information to identify that the proposed policy change will impact on women because of pregnancy and maternity. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.
Advancing equality of opportunity			X	No evidence of differential impact at this time.
Promoting good relations			X	No evidence of differential impact at this time.

**Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used)**

<b>Gender reassignment</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	There is no information to identify that the proposed policy change will impact on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.
Advancing equality of opportunity			X	No evidence of differential impact at this time.
Promoting good relations			X	No evidence of differential impact at this time.

**Do you think that the policy impacts on people because of their sexual orientation?**

<b>Sexual orientation</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	There is no information to identify that the proposed policy change will impact on people because of their sexual orientation. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.
Advancing equality of opportunity			X	No evidence of differential impact at this time.

Promoting good relations			X		No evidence of differential impact at this time.

**Do you think the policy impacts on people on the grounds of their race?**

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	There is no information to identify that the proposed policy change will impact on people on the grounds of their race. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.
Advancing equality of opportunity			X	No evidence of differential impact at this time.
Promoting good race relations			X	No evidence of differential impact at this time.

**Do you think the policy impacts on people because of their religion or belief?**

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	There is no information to identify that the proposed policy change will impact on people because of their religion or belief. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.
Advancing equality of opportunity			X	No evidence of differential impact at this time.

Promoting good relations

X

No evidence of differential impact at this time.

## Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership <sup>2</sup>	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	There is no information to identify that the proposed policy change will impact on people because of their marriage or civil partnership. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under the ARAP and ACRS is generally seen as a positive change. This will allow those individuals the opportunity to study courses of further and higher education and have access to tuition fee and living cost support while they study.

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<sup>2</sup> In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

## Stage 4: Decision making and monitoring

### ***Identifying and establishing any required mitigating action***

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

Have positive or negative impacts been identified for any of the equality groups?	In general, the proposed policy change can be considered as a positive change for all individuals who will be relocated to the UK under the ARAP and ACRS as they will be able to access courses of further and higher education and receive tuition fee and living cost support whilst doing so.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>3</sup> ?	We do not consider that there is any direct or indirect discrimination as a result of the proposed policy change. The individuals who will benefit from the extended eligibility criteria are not being treated more favourably than others on the grounds of nationality, but because they have been granted a special immigration status resulting from the recent turmoil in Afghanistan. The Scottish Government consider that this proposed policy change can be objectively justified as a proportionate means of achieving a legitimate aim.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

### ***Describing how Equality Impact analysis has shaped the policy making process***

The Equality Impact Assessment has identified information gaps relating to the impact on the protected characteristics of the individuals who have

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<sup>3</sup> See EQIA – Setting the Scene for further information on the legislation.



arrived in the UK under the ARAP and ACRS. However, opening up student support to Afghan nationals and their family members who have been relocated to the UK under these schemes would be seen as a positive change. This is because it would allow individuals to access tuition fee and living cost support to study courses of further and higher education.

### ***Monitoring and Review***

We will continue to liaise with Scottish Government Immigration colleagues and the Home Office to gather any relevant data on the individuals who have arrived in the UK under the ARAP and ACRS. They will also be able to provide us with information on the number of individuals who have been relocated to Scotland under these schemes. SAAS will also be able to collect statistical data on student applications and we will therefore hopefully be able to monitor the impact of this policy change on the relevant groups.

### **Stage 5 - Authorisation of EQIA**

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes  No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes  No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes       No       Not applicable

## **Declaration**

**I am satisfied with the equality impact assessment that has been undertaken for the review of the residency criteria and eligibility for student support for individuals who have been relocated to the UK under the ACRS and ARAP schemes and give my authorisation for the results of this assessment to be published on the Scottish Government's website.**

**Name: Roddy MacDonald**

**Position: Deputy Director, Higher Education and Science Division**

**Authorisation date: 4 May 2022**