

Equality Impact Assessment - Changes to the residency criteria for access to tuition fee and living cost support – Evacuated UK nationals from Afghanistan as part of Operation Pitting

April 2023

Equality Impact Assessment – Results

1. Title of Policy

Change to the residency criteria for access to tuition fee and living cost support- Evacuated UK Nationals from Afghanistan as part of Operation Pitting.

2. Summary of aims and desired outcomes of Policy

Relevant National Outcome(s):

- We are well educated, skilled and able to contribute to society.
- We respect, protect and fulfil human rights and live free from discrimination.

This policy reviews the current residency criteria and eligibility for student support for UK nationals and their family members who have been evacuated/relocated from Afghanistan as part of Operation Pitting to the UK. The desired outcome is to consider how to amend the current regulations, that of the Education (Fees) (Scotland) Regulations 2022 and the Student Support (Scotland) Regulations 2022, to enable individuals in this category to access tuition fee and living cost support for courses of further and higher education.

3. Directorate: Division: Team

Lifelong Learning and Skills Directorate

Higher Education and Science Division

Student Financial Support Team

4. Executive Summary

A review of the current residency criteria and eligibility for student support was carried out, of which this EQIA forms a part.

The EQIA identified that extending the current student support system would advance opportunities for all those who have been relocated to the UK under the ARAP and ACRS by allowing access to tuition fee and living cost support to study further and higher education courses.

The Scottish Government does not consider there to be any direct or indirect discrimination as a result of this policy change. The proposed additional exception to the residency criteria for UK nationals and their family members is not intended to treat individuals in this category more favourably because of their nationality. The change will ensure that they are treated on the same terms as those who have been granted a special immigration status as a result of the recent upheaval in Afghanistan. The special immigration status is not available to UK nationals and their family members who have been evacuated from Afghanistan under the same circumstances. Nationals of other countries in a similar position will be able to apply

through the Afghan Citizens Resettlement Scheme (ACRS) as the scope of this scheme extends to Afghan nationals and nationals of other countries.

5. Background

The current criteria to access tuition fee and living cost support in Scotland requires 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 1 August for Autumn start courses; 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').

Under the terms of the current regulations, that of the Education (Fees) (Scotland) Regulations 2022 and the Student Support (Scotland) Regulations 2022, and including the recent changes made for individuals granted a home office status under the newly created Afghan schemes, there is no exception in place for UK nationals and their family members who have been evacuated from Afghanistan during Operation Pitting. These individuals will instead have to satisfy the above criteria of being ordinarily resident in the UK for 3 years immediately prior to the relevant date in order to be considered eligible for home tuition fee status and student support.

Prospective students who do not meet the residency criteria for home student support can still undertake courses of further or higher education, but may be considered as international students by institutions for fee purposes.

The aim of this policy is to review the current residency criteria and propose a change to the regulations that would allow UK nationals and their family members who have been evacuated during Operation Pitting and relocated to the UK to access tuition fee and living cost support for courses of further and higher education.

This contributes to the following national outcomes:

- We are well educated, skilled and able to contribute to society.
- We respect, protect and fulfil human rights and live free from discrimination.

6. The Scope of the EQIA

The proposed policy change has relevance to the protected characteristic race. As the change to the residency criteria would open up opportunities and have a positive

impact on any prospective students who meets this criteria, it is considered that a concise and focussed Equality Impact Assessment is proportionate in these circumstances.

Identifying potential numbers of individuals fitting the criteria of UK nationals evacuated from Afghanistan has been particularly difficult. We have engaged with the other UK administrations on this issue and consider that the numbers will be very low. There will also be some individuals in this category who may already be eligible for support under the current temporary absence rules. This allows someone who has settled status in the UK and left the UK temporarily for study/work to be supported upon their return.

7. Key Findings

We have identified a negative impact of the proposed policy change on the protected characteristic of race, specifically relating to nationality. The proposed policy change is only open to UK nationals and their family members and therefore it can be argued that this has a negative impact on other nationalities who will not be eligible under this provision but may have come to the UK under similar circumstances.

However, we consider that the negative impact relating to nationality is mitigated by the inclusion within the regulations of a provision for individuals who have been relocated to the UK under the Afghan Citizens Resettlement Scheme (ACRS). The scope of eligibility under the ACRS extends to Afghan nationals and nationals of other countries who will have arrived in the UK under similar circumstances as the UK nationals and their family members.

8. Recommendations and Conclusion

In conclusion, extending the current student support system would have a positive impact on UK nationals and their family members who have been evacuated from Afghanistan during Operation Pitting and relocated to the UK. The Scottish Government considers that this proposed policy change can be objectively justified as a proportionate means of achieving a legitimate aim.



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