



Higher Education and Research Bill Committee Stage Briefing October 2016

New Clause 12 – Access to support for students recognised as needing protection

Summary:

Currently, people with refugee status in the UK are classified as having home fee status for the purposes of higher education as well as being able to access student finance. However, for other potential university students who have either been given a different form of protection or who, after claiming asylum, have been granted a type of leave other than refugee status, the restrictions and delays in accessing home fee status and student finance are a barrier to education that is often insurmountable. The aim of New Clause 12 is to allow all refugees resettled to the UK, as well as people seeking asylum granted forms of leave other than refugee status, to access student finance and home fees.

Insert the following new clause –

“* Access to support for students recognised as needing protection

- (1) The Secretary of State must, within six months of the day on which this Act is passed, lay before parliament regulations to apply across the UK on the availability of financial support for higher education courses to students with certain immigration statuses.
- (2) The regulations specified in section (1) must, at a minimum –
 - (a) make provision for all those who have been brought to the UK under the Syrian Vulnerable Persons Relocation Scheme or any equivalent scheme and their family

- members to access student loans on the same basis as refugees recognised in-country; and,
- (b) make provision for those who have claimed asylum and been granted a form of leave to remain in the UK to be eligible –
 - (i) for home fees for a higher education course if they have been ordinarily resident in the United Kingdom and Islands since being granted leave; and,
 - (ii) for student loans for a higher education course, if they have been ordinarily resident in the United Kingdom and Islands since being granted leave and are ordinarily resident in the United Kingdom and Islands on the first day of the first academic term of that course.
 - (3) In this section “home fees” means fees for a higher education course charged to persons not considered as “qualifying persons” under regulations made under the Higher Education Act 2004 (c.8).
 - (4) In this section “student loans” means loans made to students in connection with their undertaking of a higher education course under the Teaching and Higher Education Act 1998 (c.30).”

Purpose:

Requires the Secretary of State, within six months of Royal Assent, to make provision through regulations for financial support for higher education courses for persons resettled under the Syrian Vulnerable Persons Scheme and their family members to have the same access to student loans as refugees, viz., as the law currently stands, and as required by the 1951 Convention relating to the Status of Refugees requires to be entitled to pay home student fees and to be entitled to student finance on the same basis as nationals.

The regulations must also make provision for persons who claimed asylum and were not recognised as refugees but were granted another form of leave, for example humanitarian protection or leave as unaccompanied children:

- to be eligible for home student, rather than overseas’ student fees, if ‘ordinarily resident’, i.e. lawfully and habitually residing in the UK from choice since being granted leave (temporary absences being ignored)
- to be eligible for student finance if ordinarily resident as described since being granted leave and on the first day of their course.

These are minimum requirements; the Secretary of State can make more inclusive provision.

Briefing:

There are a significant number of young people whose future is clearly in the UK but who are unable to access higher education as a result of their immigration status. This amendment seeks to rectify that situation for some of those young people, specifically those who have come to the UK to seek protection from war and persecution, either on their own or with their family, and been granted some form of status by the Home Office in recognition that it is not possible for them to return home.

One of the groups the amendment would help attend university are those Syrian refugees being resettled in the UK through the Government's Vulnerable Person's Resettlement programme. Syrian refugees coming to the UK through that programme are awarded five years humanitarian protection, rather than refugee status. Humanitarian protection is an immigration status given to people who would face a real risk of suffering harm if they were to return to their country of origin. In the UK's immigration rules, serious harm for humanitarian protection includes risk of the death penalty, unlawful killing, torture or inhumane treatment, or a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

Whereas people with refugee status are able to access student finance and home fee status from the time they receive their status, those with humanitarian protection are treated differently. In order to qualify for student finance, young people will need to have been resident in the UK for three years at the start of the academic year. Currently, the largest group being awarded humanitarian protection are resettled Syrians. The lack of access to student finance is a considerable barrier – and in many cases an insurmountable barrier – to young people being able to attend university. For a Syrian arriving this autumn, they would not be eligible for student finance until the start of the academic year in 2020.¹

The amendment would also address problems accessing higher education for young people who have made an application for asylum, either themselves or as part of their family, and have then been given permission to remain in the UK but with a status other than refugee status. For many of these children, whose foreseeable future is in the UK, they will have watched their school friends go on to university while unable to also join them despite being equally bright and capable.

Some of the young people in this situation will have been granted humanitarian protection, and so face the three year residency criteria discussed above. Other young people, who have received limited leave to remain following an asylum application, have even higher hurdles to face. In 2012, the Government changed the rules for this group of students so that they could no longer access student finance and were also reclassified as international students, meaning that they also faced much higher fees. These new rules were subject to a legal challenge supported by the children's charity Just for Kids Law, with the Supreme Court ruling that the Government's policy was discriminatory.² Following the ruling, a new category of "long residence" was introduced, which gave eligibility for home fees and student finance to anyone who had either lived in the UK for seven years prior to starting university if they are under 18, or had lived in the UK for half of their life if they're over 18.

Many of the young people who would still not be eligible for home fees and student finance are those who arrived in the UK as unaccompanied children and claimed asylum. The majority of unaccompanied children who claim asylum are granted limited leave to remain as an unaccompanied asylum seeking child, rather than refugee status. As most unaccompanied

¹ The situation in Scotland is different for resettled Syrian refugees. Since 1 August 2016, Syrians being resettled to Scotland through the Vulnerable Persons Resettlement programme have had immediate access to home fee status and student finance.

² R (on the application of Tigere) (Appellant) v Secretary of State for Business, Innovation and Skills (Respondent) [2015] UKSC 57

children are in their teenage years when they arrive in the UK, on reaching 18 they will not meet the “long residence” criteria, and so many will have to watch their peers go off to university while they themselves are unable to. Children generally do not choose their country of residence, or the immigration applications made on their behalf, yet they are currently being blocked as a result of these decisions once they turn 18 and wish to carry on into higher education.

Case Study – Hamid

Hamid came to the UK from Afghanistan when he was 16, having lost both his parents in the conflict. After applying for asylum, he was granted limited leave to remain. After doing well at school and improving his English, he began the process of applying to go to university, only to find out that he wasn’t eligible for student finance. In his own words:

“first I had to face the pain of losing my parents, then the lonely journey which had no direction...I mean I didn’t know where I was going...only to run for the safety of my life. And now I had to lose education which was the only hope that kept me going to succeed, the desire to become a useful independent educated person in society.”

Despite being offered a place at university, Hamid had to defer beginning his studies because he was going to be unable to fund his own studies. With the help of Refugee Support Network, he was able to secure a complex combination of support that included extra support from the University who had offered him a place, as well as funding from his local authority.

Hamid is now in his third year at Brighton University studying engineering. He also has Indefinite Leave to Remain. But due to the Government’s restrictions he spent two years unable to take up his university offer, and was only able to finally start his studies due to the support of a charity and the goodwill of Brighton University.