



**Higher Education and Research Bill
House of Lords Committee Stage Briefing
January 2017**

Amendment 443: 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. Amendment 443 tabled by Lord Dubs would insert a New Clause to the Higher Education and Research Bill to rectify this so that 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.

After Clause 82

LORD DUBS

Insert the following new Clause—

“Access to support for students recognised as needing protection

- (1) Within six months from the day on which this Act comes into force, the Secretary of State must, by regulations, make provision for financial support for higher education courses offered to students with certain immigration statuses.

(2) The regulations specified in subsection (1) must include, but shall not be restricted to—

(a) provision for persons 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) provision for persons who have claimed asylum and been granted a form of leave to remain in the UK to be eligible for—

(i) 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) student loans for a higher education course, if—

(a) they have been ordinarily resident in the United Kingdom and Islands since being granted leave, and

(b) 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 considered as “qualifying persons” under regulations made under the Higher Education Act 2004;

“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.”

Purpose:

The New Clause requires the Secretary of State to table regulations to make financial support for higher education courses available to persons resettled under the Syrian Vulnerable Persons Resettlement Scheme and other resettlement schemes, so that they have the same access to student loans as individuals recognised as refugees after applying for asylum in the UK.

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:

For a significant number of young people whose future is clearly in the UK, their immigration status means that they are unable to access higher education. The Higher Education and Research Bill offers the opportunity 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 amendment 443 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 Winter, they would not be eligible for student finance until the start of the academic year in 2020.¹

The New Clause will 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 children

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

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.

The New Clause tabled by Lord Dubs was debated during the House of Commons Public Bill Committee’s deliberations on the bill.³ Responding to the New Clause, the Minister for Universities, Science, Research and Innovation, Jo Johnson MP, said that there is a “distinction in international law” between humanitarian protection and refugee status. However, he did not offer an explanation either as to why this distinction should mean that those in receipt of humanitarian protection should face delays in being able to access student finance, nor as to why those Syrians being resettled to the UK are not being recognised as refugees. On this final point, it is perhaps of note that in the twelve months to September 2016, of the 1,983 decisions made on asylum applications from Syrian nationals, 85% resulted in a grant of refugee status, with only three grants of humanitarian protection.⁴

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.

This is a joint briefing from the Refugee Council, Student Action for Refugees, Coram Children’s Legal Centre, the National Union of Students, and the UK Council for International Student Affairs. For further information, please contact Jon Featonby, Parliamentary Manager, on 0207 346 1038 / 07780 664 598 or jonathan.featonby@refugeecouncil.org.uk.

³ Higher Education and Research Bill, Deb 18 October 2016, c569 <https://goo.gl/0Qnyzz>

⁴ Home Office Immigration Statistics, July to September 2016, Asylum table as 01 q