

# SCOTTISH GOVERNMENT CHANGES TO RESIDENCY CRITERIA FOR ACCESS TO FINANCIAL SUPPORT IN FURTHER AND HIGHER EDUCATION



Response | March 2023

Forces Children Scotland supports children and young people from serving personnel, reservist and veteran families to reach their potential and thrive. We achieve this by working collaboratively across sectors to drive improvements which reflect and support the unique challenges they face. We amplify their voices, ensuring they are heard and influence the development of policy and practice.

Do you agree with the overarching policy aim that students need to be able to demonstrate a connection to Scotland in order to obtain financial support from the Scottish Government for their studies? Yes

Please provide any relevant comments you may have in regard to your answer at question one.

Forces Children Scotland agrees that students who have immigrated to Scotland or are from one of the other home nations should have to demonstrate a connection to Scotland.

However, while we understand the urgency with which this consultation is being undertaken given the Scottish Minister's commitment to review the 2022 regulations following the Court of Session's ruling on the *Jasim v Scottish Ministers* case, we urge the Scottish Government to consider further consultation exploring how other communities may be impacted by restrictive policy which limits their access to funding for further and higher education.

Young people from armed forces families are one such group who can experience disadvantage in terms of accessing financial support for further and higher education. Currently, decision-making about access to financial support for the children of serving personnel of the Armed Forces is largely determined by a reciprocal agreement or 'common policy' applied across the four student funding agencies.<sup>i</sup> This policy states that children from an armed forces family who are seeking student funding, but do not have permanent residence, must apply to the student finance agency from the country in which the serving parent first signed up to the military. This policy was created to address the fact that military families may frequently move as a result of the serving parent's job, with many living in Service Family Accommodation which is not considered a permanent ordinary residence.<sup>ii</sup> The policy attempts to create some clarity for both funding decisions and families experiencing high levels of mobility. However, while we accept that the mobile nature of armed forces life poses challenge for funding decisions, we believe the common policy applies too rigid an approach, for what is a very diverse community with many different paths and experiences.

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Most worryingly, this policy appears to create disadvantage for the children of serving personnel which contravenes expectation set by the Armed Forces Covenant which states that no policy or practice should disadvantage a member of the Armed Forces community, including children, as a result of the serving person's role within the military. This impact is further concerning when considered in light of research which suggests children from armed forces and veteran families experience various types of educational impact growing up, with consequences for future education.<sup>iii</sup> Further, even for those who do achieve the qualifications required for higher education, research suggests they are 40% less likely than their peers to apply for university.<sup>iv</sup>

Scotland aims to have a rights-led and inclusive education system for all children and young people in Scotland.<sup>v</sup> The Scottish Government also state that *"We want every child, no matter their background, to have an equal chance of entering and succeeding in higher education"*.<sup>vi</sup> The current reciprocal agreement means that children and young people from armed forces families are not being given an equal chance of entering higher education as their student finance arrangements are more complex and some will not benefit from Scotland's free tuition simply due to their serving parent's career choice.

We ask that the Scottish Government takes time to consider and consult on the Student Awards Agency Scotland (SAAS) guidance on funding eligibility for this community<sup>vii</sup> and the reciprocal agreement between the UK nations to ensure blanket policy does not disadvantage any other young person unnecessarily. Our evidence suggests the disadvantages experienced by the reciprocal agreement cover five main themes: exclusion of those in Service Family Accommodation; exclusion of children living separately to their parents in boarding schools; a disregard of the non-serving parent's nationality or living arrangements; the identity of children in this community; and broader implications for children's rights.

## Service Family Accommodation

Many armed forces families live in Service Family Accommodation, managed by the Ministry of Defence (MOD). However, Service Family Accommodation is not considered to be permanent ordinary residence for the purposes of student finance. This has the potential to create the situation whereby young people in Service Family Accommodation could be excluded from student finance from SAAS, despite having lived in Scotland for the same amount of time as their civilian peers.

**CASE STUDY 1:** One family approached Forces Children Scotland to clarify regulations surrounding their entitlement as their child wished to apply to university in Scotland. The family had been living in Scotland since 2019 but lived in Service Family Accommodation so their child was told they was ineligible for SAAS funding as they did not qualify as

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ordinarily resident in Scotland. The family plans to stay in Scotland permanently but the lack of funding has put a strain on the family finances with a potential impact on whether the child decides to change their post school destination. Due to being in Service Family Accommodation as a result of their parent's career, this young person was not considered ordinarily resident in Scotland despite his family contributing to the Scottish economy and planning to stay in Scotland long term. Living in SFA does not diminish their contribution to Scotland.

Children and young people from armed forces families should be able to apply to SAAS as long as they can meet the ordinarily residence requirement, the same as civilians and other eligible people. Consideration should be given to understand how living in Service Family Accommodation avoids disadvantaging children and young people who consider Scotland their home. Service Family Accommodation allows families to remain living together as a family unit while the parent/s serve, ensuring the child's right to family life is met.<sup>viii</sup> To then place barriers on the child accessing further and higher education, should the family choose to stay in Service Family Accommodation, feels at odds with attempts to create stability and family connection for military families. Further, although military families may move around the UK on a regular basis, this is not the case for all families and the current policy does not appear to take this into account.

## Children living separately to their parents

Another implication of the highly mobile nature of armed forces life, is that some parents will choose to place their child in boarding school or ensure they can live with other family members to provide stability and continuity of education. This decision is supported by the MOD which offers access to a Continuity of Education Allowance recognising the importance to protect a child's right to education, while also expecting the serving parent/s to move with deployments and postings. This decision of course, may not be an easy one for families who have to balance the child's need for education stability, with the desire to maintain a family unit in the same house.

This decision while providing stability through primary and secondary phases, can also have little impact on the child's ability to access funding in the nation they have been living in, and commonly, consider their home. The current approach to student funding in Scotland does not take this experience into account.

Students who are studying at boarding school to keep continuity of their education, are unable to claim they have a relevant connection to Scotland as the General Residence Conditions state that *"If you are just in Scotland to study, but otherwise you would be living elsewhere, you are not ordinarily resident in Scotland"*.<sup>1</sup> While we understand the

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<sup>1</sup> <https://www.saas.gov.uk/guides/residence-conditions-uk-eu-eea-swiss>

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need for individuals to show connection to Scotland, we believe this blanket approach disadvantages children who live in boarding accommodation in Scotland, with some having spent a significant number of years here and ultimately calling Scotland home.

**CASE STUDY 2:** One young person in contact with Forces Children Scotland was refused SAAS funding as their serving parent had signed up in another nation. This is despite the young person being a Scottish education student since the age of 7 and in Scottish boarding school accommodation since age 10, with their parents residing in Scotland for many years before moving to England. They were refused on the grounds that as the parent had signed up in England, they must apply to the English student finance agency. This young person feels they have been unfairly treated as they have a very sufficient and relevant connection to Scotland, having been mostly educated and living here for most of their life, yet not considered ordinarily resident by the reciprocal agreement or the General Residence Conditions. This young person has contributed to the Scottish economy for over three years, has a Young Scot Card, a National Entitlement Card and is a Scottish Voter.

Currently, it is unclear how the General Residence Condition interacts with the UK-wide common policy for children from armed forces families. This means that children and young people from armed forces families in boarding school do not have clear and accessible information about their rights and entitlements around this policy.

We have entered “No” for question six as young people from armed forces families may choose to stay in boarding school to continue their education uninterrupted due to the highly mobile nature of service life. As being highly mobile is one part of service life, Forces Children Scotland do not believe these children should be disadvantaged for wanting to have an uninterrupted education. Their relevant connection to Scotland should not be dismissed because they are in full-time education at a boarding school. By living in Scotland at boarding school, they increase their relevant connection to Scotland and, as evidenced in Case Study 2, want to continue to contribute to Scotland and its economy by staying and studying in Scottish higher education.

Both case studies highlight that children and young people from armed forces families are treated unfairly by the current policies in place. These children and young people feel that they display a sufficient connection to Scotland but are not treated as such by the student finance agencies. This policy only serves to push away the incredible talent of children and young people from armed forces families and gives them less incentive to stay in Scotland. Policy should acknowledge their unique geographic mobility, but also allow them to be a part of the nation they may have lived in for several years.

Emphasis on the serving parent

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The current policy also negates a young person's non-serving parent's nationality as it is not taken into account with all emphasis is placed on the serving parent. This means that the young person may feel that a section of their identity is being ignored.

The nationality of the non-serving parent should not be erased as this may be integral to the young person's identity. A more well-rounded approach should be taken, acknowledging the circumstances of the whole family, not just the serving parent. Non-serving parents should have their own nationality considered and how this may affect their child's eligibility for funding. Although for many armed forces families the serving parent's career is a large part of their identity, it should not be considered the only factor in a young person's feeling of home and identity. As demonstrated in case study 2, young people develop their own sense of belonging, not always the same as their parents.<sup>2</sup>

A child may in fact feel closer to their non-serving parent as some children and young people have described to Forces Children Scotland. Below we have listed some direct quotes from children and young people about their family relationships:

**"I'M CLOSER TO MY MUM BECAUSE MY DAD IS USUALLY AWAY BUT SOMETIMES WISH HE'S AROUND, SO I DON'T MISS OUT ON THINGS".**

**"DAD WORKING AWAY MEANT THAT IT WAS ONLY ME AND MY MUM. MEANT ME AND MUM GREW CLOSER".**

**"I'M MORE COMFORTABLE AROUND MY MUM RATHER THAN MY DAD BECAUSE HE WAS GONE FOR SO LONG WHEN I WAS YOUNGER".**

These quotes illustrate that for some children and young people from armed forces families, their relationship to their non-serving parent is very important. The current policy does not allow for this to be reflected in student finance decisions.

## Children's Rights

As Scotland looks forward to incorporation of the UNCRC (Incorporation) (Scotland) Bill, it is important that Scottish public agencies remember three key rights in this instance: Article 28, the right to education; Article 12, respect for children's views; Article 17, access to information; and Article 42, knowledge of rights.<sup>3</sup> In the case of student finance, many young people in Scotland make these decisions when they are under the age of eighteen thus when considering any policy or approach to how they receive funding, the

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<sup>2</sup> See 'identity' section below for more information on Third Culture Kids and how their identity is formed.

<sup>3</sup> [UN Convention on the Rights of the Child - UNICEF UK](#)

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Scottish Government must ensure their rights are fulfilled. Such policy would benefit from a Child Rights Impact Assessment.

Young people from armed forces families should be able to access clear information on their rights and entitlements so that they are able to make more informed decisions on their post-school destinations. Although each student funding body shares information on their website about the reciprocal agreement as does the UK Government, many families know little about this UK-wide policy until it is too late. Further, Forces Children Scotland has heard from parents that even when attempting to gain information on student funding, education staff can be equally unaware of this policy and therefore unable to support appropriately. Regardless of future amendments to this policy, the four nations should consider how to ensure children, young people and their families are informed of the reciprocal agreement far in advance of applying for student funding, especially when families are making decisions about accessing Service Family Accommodation or choosing to place their child in boarding schools or with family members.

## Identity

Identity is a key part of all children and young people's lives. Identity is about shared values, similar language and a better understanding from others about their lives. Children and young people from armed forces families find being in an armed forces family very important to their identity. When Forces Children Scotland asked "what their best memory of forces life is"<sup>ix</sup> young people responded with:

**"MINE'S MORE THE PEOPLE THAN ANY ONE SPECIFIC THING, I KNOW SOME REALLY ABSOLUTELY AMAZING PEOPLE TO BE FAIR, THERE IS A HISTORY THERE WITH THEM."**

**"I THINK THE OTHER THING AS WELL THAT PEOPLE DON'T UNDERSTAND, GOING BACK ON THE LANGUAGE THING, NO BODY ACTUALLY GETS CALLED THEIR NAME".**

**"WE ALMOST SERVE WITH THEM".**

**"ITS SOMETHING YOU GROW UP WITH, IT'S IN YOU. AND IT IS ALL CONNECTED TO THAT PAST AND YOUR FUTURE".**

These quotes show that for young people, the shared language and history of being in a force's family creates a strong part of their identity. However, the highly mobile nature of life for many armed forces families also means that the child's identity, particularly regarding their home nation, may be shaped in a complex way.

Children who grow up in a different place to where their parents grew up, and then experience high rates of mobility, may experience their identity being shaped in unique ways. They may take elements of several cultures into their own cultural identity without

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full ownership of any one in particular.\* This concept is known as Third Culture Kids and includes children and young people from armed forces families who may have frequent moves not only around the UK, but also abroad. This group of children and young people have complex identities and their sense of 'home' may be vastly different to their civilian peers. Although the UK home nations have many shared cultural aspects, the culture can vary significantly with each having its own unique identity. Children and young people from armed forces families moving between the home nations may take elements of each nation they lived in and their parent's original home nation, developing that third culture identity.

Belonging to a nation is a huge part of anyone's identity. Although children and young people from armed forces families may frequently move around the home nations, some can feel a closer connection to one nation which may be due to them living there longer or having family connections there. A young person's sense of identity should be considered when looking at what home nation they 'belong' to in terms of student finance and a more well-rounded approach taken to identifying what home nation a young person belongs to for student finance purposes.

In case study 2, this young person identified strongly with their Scottish identity but is being discounted in favour of their parent's service. This young person has demonstrated a clear connection to Scotland and strong contributions to Scottish life. Dismissing this young person's identity means that this policy is pushing away a talented young person who wants to continue their contribution to Scotland but feels disadvantaged and pushed away. Although their father is English, they view their own identity as belonging to Scotland and yet feels discounted, with the serving parent's taking precedent.

## Conclusion

The Armed Forces Covenant was designed to try and remove disadvantage for service people, veterans and their families. By only allowing children and young people from armed forces families to apply to the funding body where their serving parent signed up, they are being disadvantaged as they may have lived in Scotland for many years yet must apply to the English/Welsh/Northern Irish funding body. As Scotland has free tuition, this puts this group of children and young people at a disadvantage compared to their Scottish civilian peers. Forces Children Scotland believes that this means that their serving parent's service is negatively impacting these children, acting in opposition to the Armed Forces Covenant.

In light of this evidence, Forces Children Scotland calls on the Scottish Government to:

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- CONSULT WIDELY:** conduct a wider consultation exercise to understand how current student funding policies impact different groups in Scotland. This consultation exercise must include exploration of all relevant policies, including the UK-wide common policy on student funding for service children.<sup>xi</sup> The Scottish Government may find it helpful to consult with groups such as Scottish Armed Forces Education Support Group which would be beneficial in helping explore this group's particular circumstances around student finance.<sup>xii</sup> Along with the Army Family Federation, Navy Family Federation and the RAF Family Federation, we would like to have a chance to discuss this matter further with the Scottish Government in light of the complexity of the issue.
- LISTEN TO THOSE WITH LIVED EXPERIENCE:** In accordance with Article 12 of the UNCRC and the Scottish Government's recently published participation framework, the Scottish Government should seek to listen to the views of those impacted by student funding policies, including children and families from the armed forces community. By doing so, the Scottish Government will be better equipped to not only understand the challenges of current policy, but to consider how it might co-produce future policy involving those with lived experience. Forces Children Scotland would welcome an opportunity to discuss how co-production of policy can and should be undertaken.
- CONDUCT A CHILDREN'S RIGHTS IMPACT ASSESSMENT:** Any future policy associated with student funding would benefit from undergoing a CRIA. In doing so, the Scottish Government can be sure that it is considering children's rights at the outset, an important process in light of future incorporation. The Scottish Government should also encourage each of the other home nations to consider conducting a CRIA on any jointly formulated reciprocal agreements or UK-wide common policy.
- PROVIDE CLEAR INFORMATION ON RIGHTS AND ENTITLEMENTS:** Children, young people and their families must be provided with clear information regarding student finance policy. Currently, it is challenging to interpret or understand the UK-wide common policy as it relates to children from armed forces families, and how this interacts with student funding policy. Families must be able to access clear information on their rights and entitlements early on, especially where choices about their living arrangements have consequences for children later.

Do you agree that the length of a person's residence in the UK (together with a requirement to be ordinarily resident in Scotland on the relevant date) is an appropriate way of assessing whether a person has a



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sufficient connection with Scotland to qualify for the financial support package in Further / Higher Education?

Yes.

Do you agree that 3 years' residence in the UK is a suitable minimum residence requirement for setting eligibility for student support in Scotland?

N/A

Do you agree that residence based on any form of leave to enter or remain from the Home Office in the UK should entitle a person to student support in Scotland, provided they otherwise meet the residence requirements? N/A

Do you agree that individuals who are here specifically for education purposes and are on a student visa, should remain ineligible for the financial support package from Scottish Government? No.

Do you think eligibility should be extended to the dependents (child, spouse or civil partner) of those with student visas? N/A

Should financial support beyond support already given through discretionary funds be extended to students who are currently ordinarily resident in Scotland and have sought asylum from the UK Home Office, but whose application is still pending? N/A

Do you think eligibility for student financial support should be fixed according to an assessment at the start of their course (i.e., with reference to the relevant date)? N/A

Do you have any comments on the sort of 'events or changes in circumstances that should trigger reassessment of a student's eligibility after the first academic year of their course? N/A

Do you have any other comments on the current policy of carrying out an assessment of eligibility on the relevant date, or the proposals to change it?" N/A

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Supporting armed forces children & young people

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<sup>i</sup> <https://www.gov.uk/government/publications/higher-education-for-service-children>

<sup>ii</sup> <https://aff.org.uk/advice/education-childcare/university/>

<sup>iii</sup> McCullough, Hall and Ellis (2018) The Education of Children from Military Families: Identity and Agency, <https://www.scipalliance.org/assets/files/BESA-Journal-EF-9-2-1-mccullough.pdf>

<sup>iv</sup> [https://www.scipalliance.org/assets/files/UoW-research-paper\\_Further-and-Higher-Progression-for-Service-Children.pdf](https://www.scipalliance.org/assets/files/UoW-research-paper_Further-and-Higher-Progression-for-Service-Children.pdf)

<sup>v</sup> [Embedding inclusion, wellbeing and equality | What we do | Education Scotland](#)

<sup>vi</sup> [Universities - gov.scot \(www.gov.scot\)](#)

<sup>vii</sup> <https://www.saas.gov.uk/guides/armed-forces>

<sup>viii</sup> UNCRC (1989) Art 9

<sup>ix</sup> [What is your favourite memory of forces life? - Forces Children Scotland](#)

<sup>x</sup> David C. Pollock & Ruth van Reken (2009) Third Culture Kids: The Experience of Growing Up Among Worlds,

<sup>xi</sup> <https://www.gov.uk/government/publications/higher-education-for-service-children>

<sup>xii</sup> [Scottish Armed Forces Education Support Group - gov.scot \(www.gov.scot\)](#)