



For the Citizens'  
Rights Agreements

# **Assurance Review (Looked after Children and Care Leavers) Annex 11: Scotland**

**Local authority responses on support for Looked after Children  
and Care Leavers in making applications to the EU Settlement  
Scheme**

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# Executive Summary

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In March 2023, the Independent Monitoring Authority for the Citizens' Rights Agreements (IMA) wrote to all 32 local authorities in Scotland. The IMA is seeking assurance that local authorities are providing appropriate support in relation to EU Settlement Scheme (EUSS) applications on behalf of all eligible looked after children, children in receipt of local authority care and support, and care leavers.<sup>1</sup> Further detail of the IMA's methodology on looked after children and care leavers is outlined in our [Assurance Review](#).

Twenty-nine out of 32 local authorities responded by the agreed upon deadline, and the IMA has assessed the responses according to the following three categories:

- robustness of the identification processes;
- accurate record keeping; and
- completion of retrospective checks.

The IMA has identified overarching concerns from the information provided:

Firstly, there is a lack of documented processes and written operational guidelines within the majority of local authority responses. Secondly, the lack of support for all children in receipt of local authority care and support to make an EUSS application; and thirdly, the robustness of the identification process for non-EU and EEA EFTA family members of EU and EEA EFTA citizens. The fourth and final overarching concern is that some responses indicate conflation of ethnicity and nationality when identifying eligible children and care leavers.

The IMA has additional concerns in relation to whether local authorities in Scotland are accurately capturing and storing all data on eligible children and care leavers and their EUSS applications in line with good practice, as reflected in Home Office guidance. In relation to retrospective checks, some local authorities confirmed that these had not taken place and some responses did not clarify whether they had occurred. This is particularly important for eligible children and care leavers up to the age of 26 who may have left care up to eight years ago and may not have been identified.

In response to these concerns, the IMA will consider opening individual assurance reviews where local authorities have not sufficiently demonstrated they are discharging their responsibilities, and which could impact the rights of children or care leavers under the Withdrawal and Separation Agreements.

1. These local authorities comprise of the Councils of Aberdeenshire, Aberdeen City, Angus, Argyll and Bute, Clackmannanshire, Dumfries and Galloway, Dundee City, East Ayrshire, East Dunbartonshire, East Lothian, East Renfrewshire, Edinburgh City, Falkirk, Fife, Glasgow City, Highland, Inverclyde, Midlothian, Moray, North Ayrshire, North Lanarkshire, Orkney Islands, Perth and Kinross, Renfrewshire, Scottish Borders, Shetland Isles, South Ayrshire, South Lanarkshire, Stirling, West Dunbartonshire, West Lothian, and Western Isles.

# Responses from local authorities in Scotland: Summary

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1. In order to establish whether all children and care leavers under a local authority's remit are being identified and supported to make applications to the EUSS, the IMA wrote to all 32 local authorities in Scotland. A series of questions were asked with regards to the identification of all those eligible to apply, and subsequent support and monitoring of these applications.<sup>2</sup>

2. The IMA received responses from 29 local authorities, and has assessed them according to the following three areas:

- the identification of eligible children and care leavers;
- record keeping processes; and
- retrospective checks.<sup>3</sup>

3. The IMA has assessed the information provided by each local authority using a RAG (Red-Amber-Green) grading system with the aim of identifying potential good practice and/or areas for improvement.

4. The RAG gradings are based on our review of the initial response received from each local authority. The IMA has informed each local authority of their current RAG grading.

5. If a local authority did not provide a response to the IMA or a response was received after the deadline or agreed extension, the IMA has graded it as red for all three categories. The IMA will complete a further review with the local authority as part of an individual assurance review.

6. The IMA have analysed these 29 responses, excluding three local authorities who did not provide a response to the IMA's request.

2. Where this review refers to '(all) children and care leavers' this includes looked after children, children in receipt of local authority support, care and support, and care leavers.

3. Retrospective checks here refer to a local authority checking historical records to identify any eligible children or care leavers who they have a responsibility to support in making an EUSS application where they are up to the age of 26 (in Scotland) and may have left care up to eight years ago.

# The position in Scotland

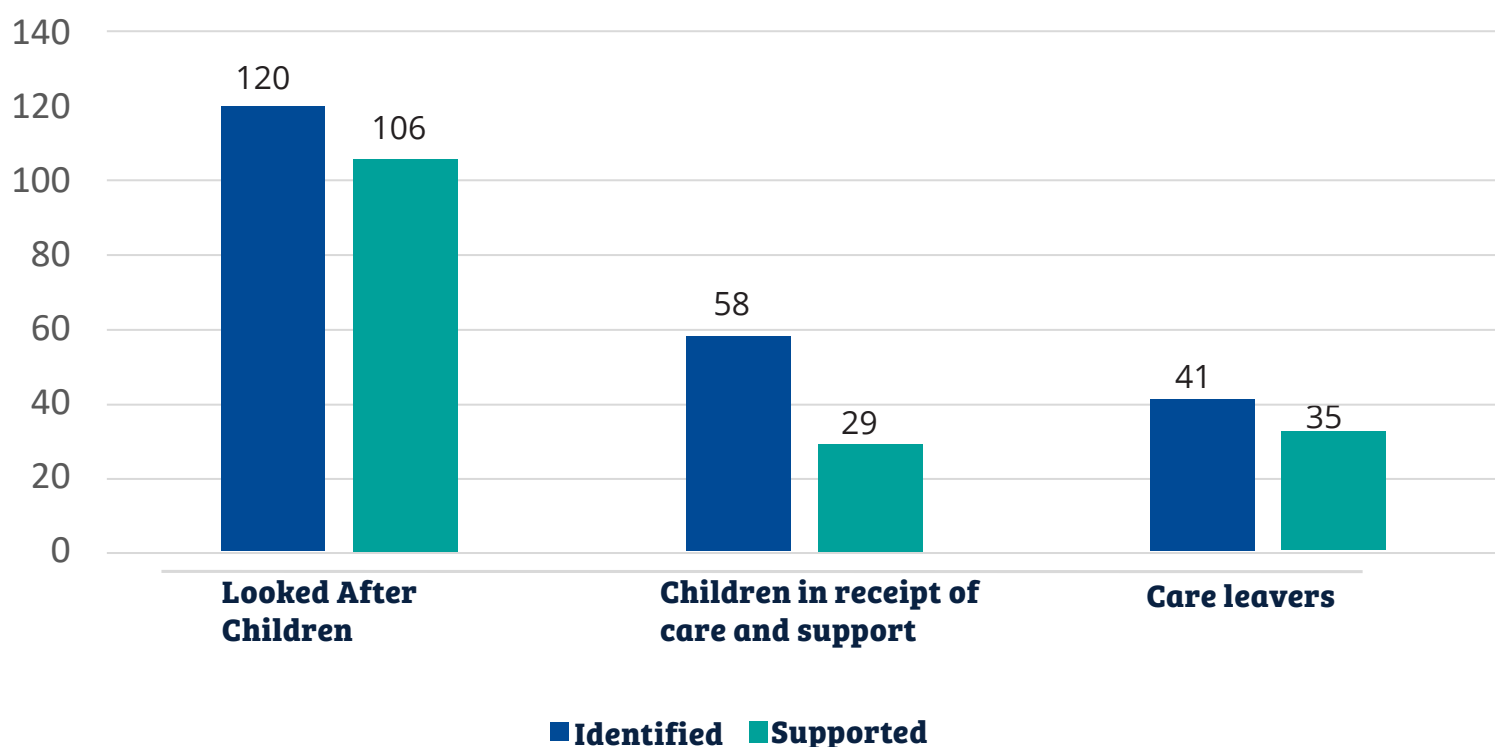
## Support for identified eligible children and care leavers

*The majority of looked after children and care leavers identified are being supported by their local authority. Half of children in receipt of local authority care and support identified were said to have been supported.*

7. The IMA requested the total number of eligible looked after children, children in receipt of local authority care and support, and care leavers who have been identified and received support. Figure 1 compares the total number of children and care leavers identified who are eligible to apply to the EUSS, versus those who have been supported as detailed in local authority responses.

8. These figures exclude three local authorities who did not provide a response to the IMA's request, as well as three local authorities who did not provide precise figures for children and care leavers identified versus supported due to concerns over identifiability.

**Figure 1. Graph comparing numbers of LAC, children in receipt of care and support, and care leavers identified vs. supported**



9. Figure 1 demonstrates that the majority of looked after children and care leavers identified were subsequently supported to submit EUSS applications. 88% of looked after children and 85% of care leavers identified were reported to have been supported by a local authority.<sup>4</sup>

10. This was not the case for children in receipt of care and support. Figures reported in responses from 27 out of the 32 local authorities in Scotland indicate that 1 in 2 (or 50%) of children in receipt of care and support identified were not subsequently supported to make an EUSS application.

11. Some responses provided explanations regarding these discrepancies. In the case of three looked after children, once identified they were subsequently able to apply for British citizenship. One care leaver was reported as having moved to another local authority, and two were supported by their families. As such, 91% of looked after children and 93% of care leavers have been accounted for. Despite this, discrepancies remain for all cohorts.

4. Of the 27 local authorities included in this figure (see paragraph 8).

# Identification of eligible children and care leavers

***On the basis of the responses received, the IMA is not sufficiently assured at this stage that all eligible children and care leavers are being identified and supported.***

12. Ninety-four percent of responses were graded as amber or red on the basis of the information provided to the IMA regarding identification processes for eligible children and care leavers. The majority of responses were graded as amber (69%), and one in four (25%) were graded as red, 6% were graded as green.

13. Three responses were graded as red on the basis that they did not provide a response to the IMA's request for information.

14. For responses that were graded as either amber or red, the IMA has identified the following overarching concerns (also detailed in Figure 2 below):

## ***Lack of documented processes and written operational guidelines***

15. Ninety-three percent of the responses analysed did not provide the IMA with any written process for identifying and/or supporting all eligible children and care leavers (including non-EEA family members) with their EUSS applications.

16. A formalised written process may ensure improved consistency in the application of the identification process alongside greater awareness of the EUSS and local authority responsibilities amongst staff. As such, the IMA would be concerned if these formalised written processes do not exist for both EU and EEA EFTA, and non-EEA family member children and care leavers.

## ***Identification of non-EU and EEA EFTA family members of EU and EEA EFTA citizens***

17. The IMA's third overarching concern lies with the identification of non-EEA family members. This concern is reflected in both the processes and figures provided in relation to this cohort.

18. Forty-five percent of the responses analysed by the IMA demonstrated an issue with identifying and supporting non-EEA family members. These responses stated either that the local authority had no process in place for this cohort or provided an unclear process. Six responses also either did not provide a figure for non-EEA family members identified or noted that they do not record figures for this cohort.

19. The IMA needs to further assess whether this cohort is being identified and adequately supported to apply for residency status under the EU Settlement Scheme where eligible.

## ***Support for children in receipt of local authority care and support***

20. The IMA has noted a discrepancy in the reports from local authorities between the number of children they currently support who may be eligible to apply to the EUSS, and the number who have been supported to make an application. According to responses, just half (50%) of identified children in receipt of local authority care and support went on to be supported with their EUSS application.

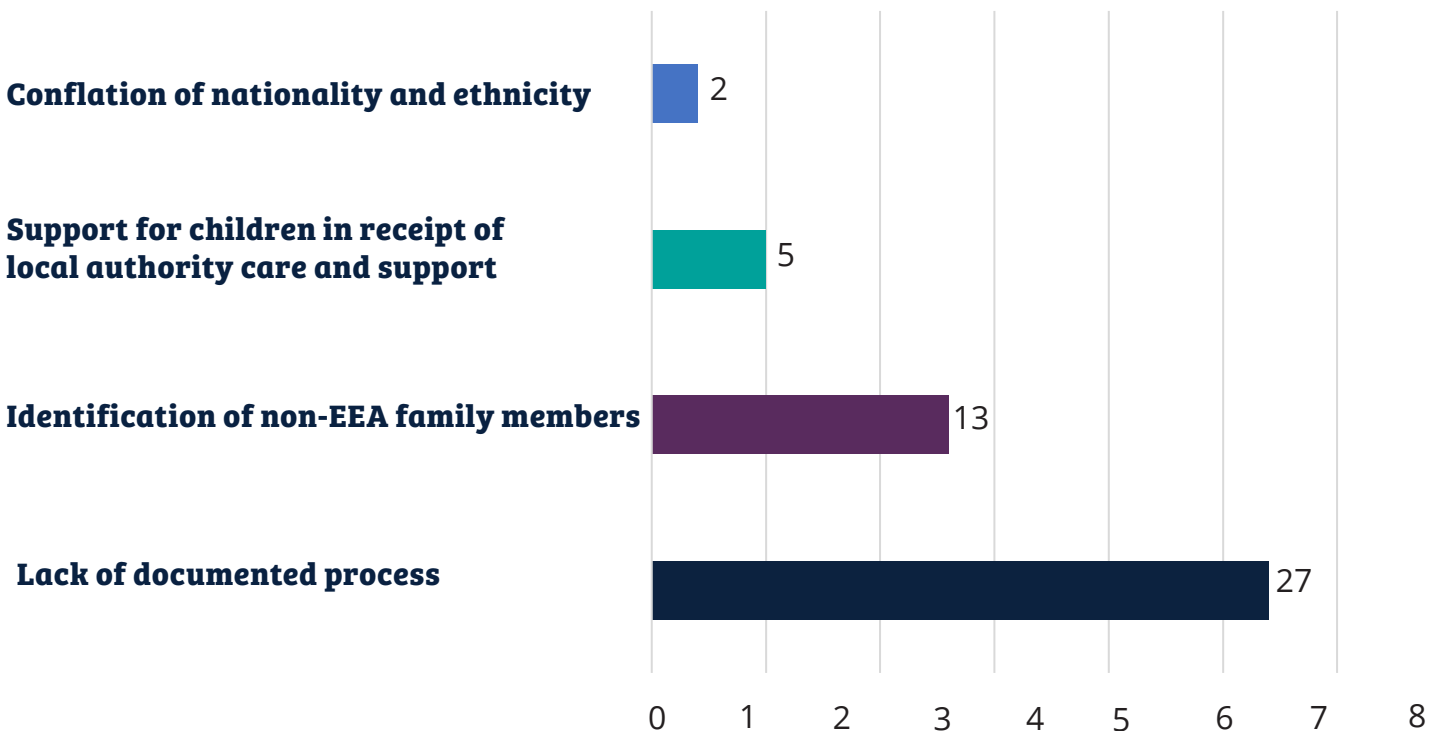
21. Unexplained discrepancies were seen in responses from three local authorities, whilst a further two reported that they did not record figures on this cohort. As such, issues in relation to supporting children in receipt of local authority care and support have been identified for 17% of the 29 responses analysed. This will be investigated further upon engagement with individual local authorities.

22. The IMA will need to be assured that every child in receipt of local authority care and support is being assisted to make an EUSS application and ensure that they are additionally supported in moving from pre-settled to settled status (ensuring recognition of the latter, once accrued) where applicable.

## ***Conflation of nationality and ethnicity***

23. Seven percent of responses analysed demonstrated a conflation of nationality and ethnicity. These responses referred to identifying eligible children/care leavers on the basis of their ethnicity. By filtering via ethnicity, local authorities will not be able to correctly identify eligible EU and EEA EFTA children and their family members. Thus, it is particularly concerning that these responses refer to ethnicity as opposed to nationality.

**Figure 2. Number of responses indicating key concerns with regards to identification processes**





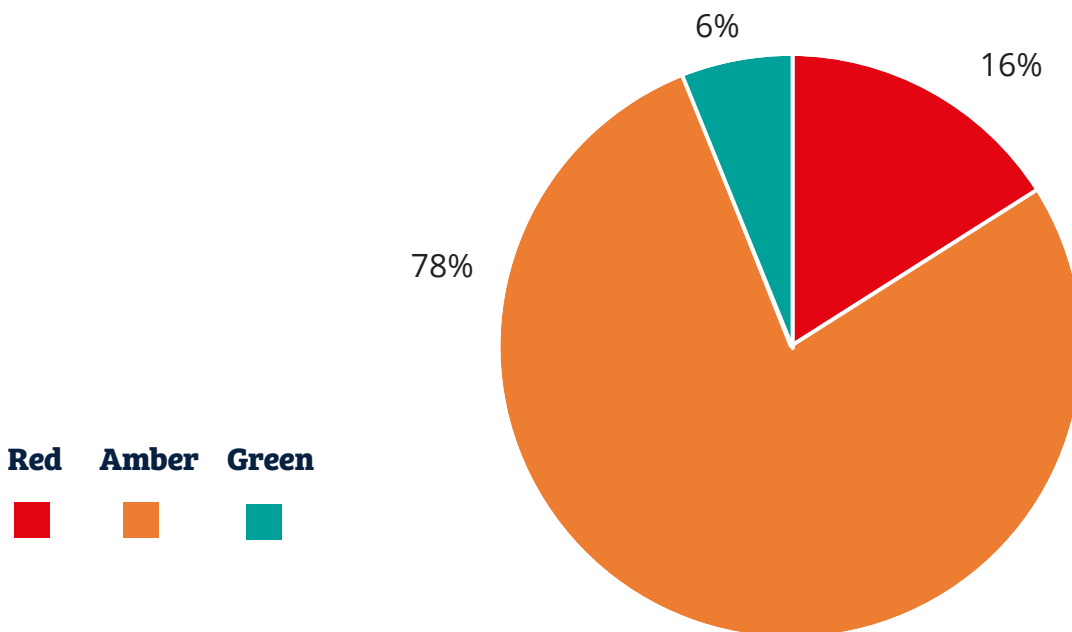
# Record keeping processes

*The IMA is not currently assured based on responses provided, accurate and up-to-date records are being kept in relation to EUSS applications of all eligible children and care leavers in each local authority.*

24. Ninety-four percent of responses did not satisfy the IMA that accurate and up to date records are being kept in relation to the EUSS applications of all eligible children and care leavers in each local authority in Scotland. Seventy-eight percent of responses were graded as amber and 16% as red.

25. Two responses were graded as green having provided a clear explanation of a record keeping process which included records of EUSS applications and outcomes, contact details, and dates when the child/care leaver would be eligible to move from pre-settled to settled status (see figure 3).

**Figure 3. RAG grading of record keeping**



26. Of the 29 local authorities who did respond to the IMA's request, four reported not recording specific figures on all cohorts of children/care leavers (including non-EEA family members). The IMA will seek clarity regarding these issues upon commencement of engagement with individual local authorities.

27. The majority of responses did not demonstrate evidence of a clear record keeping process for all eligible children and care leavers, including records of EUSS application status/outcomes, contact details, and when the child or care leaver would be eligible to move from pre-settled status to settled status.<sup>5</sup>

5. Again, this is without prejudice to the IMA's judicial review against the Home Office as cited above.

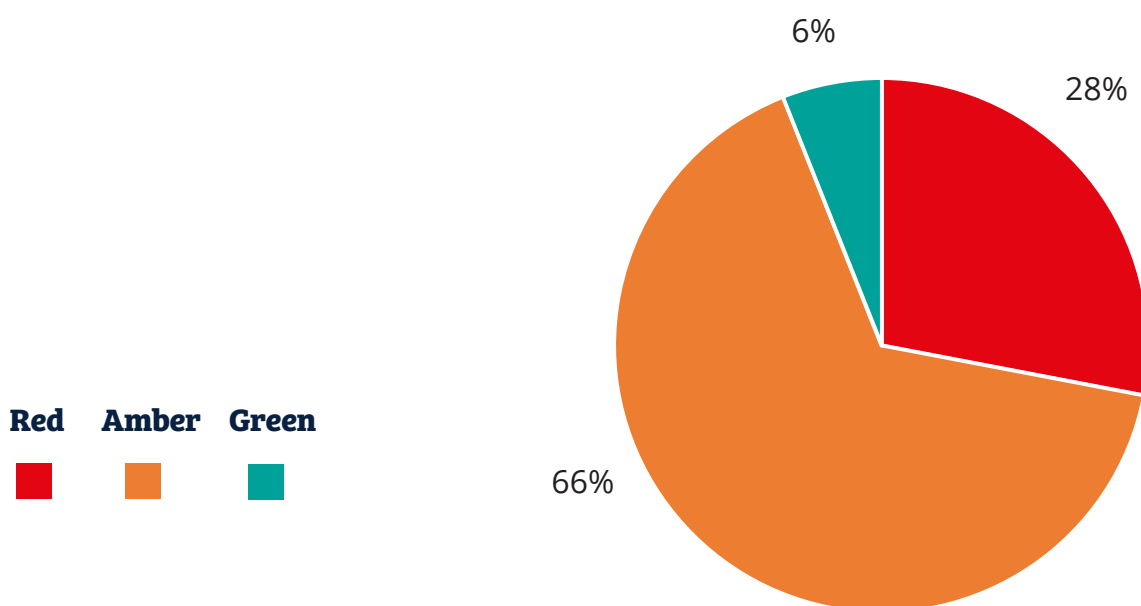
# Retrospective checks

*The IMA notes that 94% of responses did not assure the IMA that retrospective checks (underpinned by adequate identification processes) have been completed.*

28. Grading of retrospective checks is linked to the IMA's grading of identification processes included in the responses as retrospective checks are based on these identification processes. As such, where identification processes are deemed inadequate on the basis of the responses provided, it follows that retrospective checks will likewise be deemed insufficient.<sup>6</sup>

29. Ninety-four percent of responses were graded as either amber (66%) or red (28%) on the basis of their retrospective checks in respect of all children, including care leavers up to 26, who may have left care up to eight years ago (see figure 4). Only 6% were graded as green.

**Figure 4. RAG grading of retrospective checks**



30. The IMA has concerns about 94% of responses received from Scotland regarding local authorities accurately conducting full retrospective checks of all children and care leavers that are underpinned by adequate and robust identification processes.

6. The exception to this would be firstly, where a local authority's response is graded as either amber or green based on their identification process but confirms that retrospective checks have not occurred (retrospective checks would be red). Secondly, where a response's identification process is graded as green, but it is unclear whether retrospective checks have been completed (retrospective checks would be amber). These possible cases are reflected in the definitions provided alongside the grading above.

# Next Steps

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31. Analysis of the responses received from 29 out of 32 local authorities in Scotland has enabled the IMA to identify potential overarching issues with regards to the identification of all eligible children and care leavers, the local authorities' ability to undertake accurate record keeping and apply robust retrospective checks.

32. In response to these potential issues, the IMA will open individual assurance reviews for specific local authorities where there are concerns, or where they have not demonstrated how they are supporting eligible children and care leavers. This includes local authorities who did not provide a response to the IMA's request for information.

33. The IMA recognises that it is possible that in responding, individual local authorities may not have sufficiently articulated in their original response their processes and procedures for identifying and supporting eligible children to apply to the EUSS.

34. During individual assurance reviews, the IMA will work with local authorities to understand their approach to supporting eligible children and care leavers, refer to the principles identified in the assurance review, and may make further recommendations and/or utilise follow up periods. Based on our experience to date, some local authorities have simply needed to provide further information of the arrangements they have in place already. Some local authorities have taken steps to strengthen their arrangements in order for children to be supported.

35. Following the individual assurance reviews, the IMA will re-grade each local authority against our best practice principles and inform each local authority of the outcome of their assurance review.

36. Following the conclusion of all individual assurance reviews for a nation or region, the IMA will produce an updated assurance report for that nation or region.