



**ACCOMMODATION  
OF ASYLUM-SEEKING  
MOTHERS AND  
BABIES IN GLASGOW**

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## EXECUTIVE SUMMARY

- ▶ In April 2021 we were made aware by a number of non-governmental organisations (NGOs), including Scottish Refugee Council, Shelter Scotland, Amma Birth Companions, and Migrant Empowerment (MORE), about concerns relating to the human rights of asylum-seeking mothers and their children (aged 0-2) placed in bedsit accommodation in Glasgow ("the Unit") by the Home Office's contractor the Mears Group Plc.
- ▶ In line with the Commissioner's statutory functions, we examined the situation through a children's human rights lens, with a view to "assessing the adequacy and effectiveness of... law, policy and practice"; and in order to "promote best practice by service providers".
- ▶ We met with many of the mothers and their children, with representatives of the Mears Group Plc, the Convention of Scottish Local Authorities (COSLA), and officers of the Glasgow Health and Social Care Partnership (HSCP). We also visited the Unit and considered the standard of accommodation for ourselves.
- ▶ We concluded that use of the Unit to accommodate babies and their mothers risks breaching a number of children's human rights including; rights to an adequate standard of living (UN Convention on the Rights of the Child (UNCRC) Article 27 and International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 11), rights to respect for private and family life (European Convention on Human Rights (ECHR) Article 8 and UNCRC Articles 9 and 16), right to the highest attainable standard of health (UNCRC Article 24), right to survival, safety and development (UNCRC Article 6), and rights to leisure, play and recreation (UNCRC Article 31).
- ▶ The process through which asylum accommodation in Glasgow is proposed, approved and delivered does not sufficiently reflect the human rights duties of Scottish statutory bodies. It fails to include an adequate mechanism for ensuring the human rights and best interests of children are a primary consideration in all decision making. (UNCRC Article 3).
- ▶ We produced a human rights analysis report which was submitted on 23 July 2021 to the Mears Group Plc, the HSCP, Glasgow City Council, and Greater Glasgow and Clyde NHS Board. The report supported and supplemented the campaigning work of NGOs and the advocacy of the mothers acting as Human Rights Defenders.

- ▶ We called for the Mears Group to review the suitability of the Unit for children, and to ensure that the babies and their mothers were provided with alternative accommodation in which their human rights and dignity were respected.
- ▶ We called for Glasgow City Council, NHS Greater Glasgow and Clyde, and the HSCP to withdraw their support for the Home Office and the Mears Group's placement of babies and their mothers in the Unit. This action is in line with their human rights duties.
- ▶ The Mears Group wrote to us on 5 November 2021 to advise that the Unit is to be repurposed for single people only. We understand that the babies and their mothers have to date still not all been moved to more appropriate accommodation.
- ▶ We remain concerned that the significant risk of human rights violations inherent in requiring children to live in this kind of accommodation have not been properly accepted or acknowledged by the Mears Group or by Glasgow City Council, NHS Greater Glasgow and Clyde, or the Glasgow Health and Social Care Partnership.
- ▶ The Russian invasion of Ukraine, and the Scottish Government's welcome response to the unfolding human rights crisis, means that it is important to consider the protections required around long-term accommodation for refugee and asylum seeking children and their families. This report is intended to assist in those discussions.
- ▶ In addition, the ongoing concerns about Home Office policy and proposed legislation reinforce the need to ensure that all necessary measures are taken to minimise the risk of children again being placed in unsuitable long-term accommodation. We have made recommendations to that effect, including the need for legislation.



## INTRODUCTION AND TIMELINE

In April 2021 we were made aware by a number of non-governmental organisations (NGOs), including Scottish Refugee Council, Shelter Scotland, Amma Birth Companions, and Migrant Empowerment (MORE), about concerns relating to the human rights of asylum-seeking mothers and children (aged 0-2) placed in bedsit accommodation in Glasgow by the Home Office's contractor the Mears Group Plc, a housing and social care provider.

These included concerns about safety, about maternal and infant mental health, and about negative impacts on children's social, emotional, and physical development. A number of those organisations have conducted extensive campaigning on the issue under the hashtag #FreedomToCrawl<sup>1</sup>. Similar concerns were raised by elected members within Glasgow City Council<sup>2</sup>, by local MPs and MSPs, and by other NGOs and professional bodies.

We wrote to the Mears Group on 5 May 2021<sup>3</sup> setting out our concerns and seeking assurance that they would urgently review the suitability of the accommodation for children. We urged them to take whatever action was necessary to ensure that the babies and their mothers were provided with a safe and supportive environment in which their human rights and dignity were respected.

At the invitation of the mothers, we met with them to hear their views directly. Initially this took place on 13 May 2021 via a Zoom meeting facilitated by MORE. On 7 June 2021, we took part in a face-to-face meeting, again facilitated by MORE, with 16 mothers and their children at the Transmission Art Gallery in Glasgow. Later that day, we visited the Unit to see it for ourselves<sup>4</sup>. Our concerns were significantly heightened as a result of this meeting and visit. Our observations are set out later in this report.

Noting that the Mears Group relied heavily on support from the Glasgow Health and Social Care Partnership (HSCP) when defending its position, we also contacted the Convention of Scottish Local Authorities (COSLA) and the HSCP to establish the role each of those bodies had played in the process through which the accommodation was proposed and delivered, and to establish to what extent they shared our concerns.

We subsequently met with representatives of the Mears Group (18 June 2021), HSCP officers (7 July 2021) and COSLA (12 July 2021) to discuss our concerns in more detail. We were particularly surprised and disappointed that the HSCP (on behalf of Glasgow City Council and NHS Greater Glasgow and Clyde) remained fully supportive of the Mears Group and the Home Office's decision to place babies and mothers in the Unit.

<sup>1</sup> <https://www.freedomtocrawl.org/>

<sup>2</sup> <https://www.thenational.scot/news/19367262.glasgow-home-office-mum-baby-unit-breaches-rights-child/>

<sup>3</sup> <https://cypcs.org.uk/resources/letter-to-mears-group-rights-concerns-around-mother-and-baby-unit/>

<sup>4</sup> Both the meeting and the visit were conducted in compliance with the Covid Regulations in force at the time.

Following these meetings, we produced a human rights report which was submitted to Glasgow City Council (GCC), NHS Greater Glasgow and Clyde (NHSGGC), the HSCP and the Mears Group on 23 July 2021. The report was provided initially in confidence to allow them time to review and reconsider their decisions around the appropriateness of the use of the Unit for babies and their mothers.

We recognised that immigration is a reserved matter, and that the primary responsibility and powers to accommodate asylum seekers rests with the Home Office. However, we called on GCC, NHSGGC and the HSCP to act in accordance with their UNCRC obligation to ensure that all children in Scotland are treated with equal dignity and respect for their human rights. In particular, we asked them to review their support for the Mears Group's placement of babies and mothers in the Unit and to use their influence with the Mears Group to promote a more rights respecting approach.

We also identified flaws in the process through which asylum accommodation is proposed and approved in Glasgow. We made a recommendation to COSLA intended to rectify those issues.

This was in line with the Commissioner's statutory function to promote and safeguard the rights of children and young people and, in particular, to keep under review and assess the adequacy and effectiveness of law, policy and practice relating to the rights of children and young people<sup>5</sup>. It is important to note that the Commissioner's mandate applies to all children physically present in Scotland, without regard to matters such as their immigration status.

The report was targeted to support and supplement the campaigning work of the NGOs, and the public advocacy of the mothers themselves as they acted as human rights defenders for their children, including by speaking out in the media<sup>6</sup>.

<sup>5</sup> <https://www.legislation.gov.uk/asp/2003/17/crossheading/functions>

<sup>6</sup> <https://www.mirror.co.uk/news/uk-news/horrified-mums-seeking-asylum-put-24424802>



## OUTCOME

We subsequently received responses from the HSCP, Glasgow City Council (GCC) and Greater Glasgow and Clyde NHS Board (NHSGGC) (10 September 2021) and from the Mears Group (5 November 2021).

In its response, the Mears Group indicated that it had reviewed the use of the Unit with the Home Office and Glasgow City Council. It proposed to repurpose the Unit to an initial accommodation facility for single asylum seekers. It also indicated that the mothers and babies would be moved to new homes in consultation with partner organisations and service users on all aspects of the arrangements, including room layout, furniture and access to facilities and services. Our understanding was that this was intended to be completed by the end of January 2022.

We welcome the decision to repurpose the Unit, and to ensure that the mothers and babies are moved to more appropriate accommodation. However, we understand that at the time of writing, this process has still yet to be completed. We have been told by NGOs that there are significant concerns about the process of relocation, which appears to have some of the same flaws (lack of notice and information, time to prepare and pack) as the process of moving to the Unit in the first place.

We were also advised that COSLA and the HSCP will "consider the need to review the procurement protocol through a human rights perspective, recognising that the protocol is not binding on Home Office or their contractors." We welcome this commitment and look forward to more detail on timing.

## OUTSTANDING CONCERNS

We are disappointed that the responses from the Mears Group, GCC, NHSGGC and the HSCP do not properly acknowledge or accept the rights breaches inherent in accommodating children in cramped and unsafe bedsits. Instead, the Mears Group explains the decision to repurpose the Unit in terms of shifting demographics, saying the facility is no longer required for the accommodation of babies and their mothers.

In seeking to justify their position, GCC, NHSGGC and the HSCP argued in their response that some of the mothers reported that they were happy with the accommodation in the Unit. We refer to the concerns we express in Part Two of this report about power imbalances and note simply that it is not a reasonable position to claim that there is no need for a public body to respond to human rights violations if it believes that individuals have 'consented' to them. We also note that the experiences of the mothers have since been captured in greater detail and depth by research conducted by MORE, Edinburgh Napier University and the Economic and Social

Research Council<sup>7</sup>. The findings of this research strongly reflect what the mothers told us in terms of their negative experiences of living in the Unit.

More broadly, we are aware of the ongoing criticisms by human rights organisations and NGOs about the long-term use of hotel accommodation by the Home Office and the Mears Group in Scotland, and concerns that this may be a precursor to the wider use of centres, described and critiqued as institutional accommodation<sup>8</sup>, to house asylum seekers.

We note that such "basic" accommodation centres are an integral part of the UK Government's Nationality and Borders Bill, and that the United Nations High Commission for Refugees has expressed a view that they risk increasing refugees' need for support and delaying their integration<sup>9</sup>.

We are also mindful of the potential impact of the Home Office's decision to make the National Transfer Scheme mandatory, which means more children may require to be accommodated in Scotland<sup>10</sup>.

Finally, this report is being published amid the human rights crisis caused by the Russian invasion of Ukraine. The Scottish Government's welcome response means that it is particularly important to consider the protections required around long-term accommodation for refugee and asylum seeking children and their families. The human rights analysis within this report is intended to assist in those discussions, and to support the Government, statutory agencies and NGOs.

For all these reasons, we are now publishing an updated version of the report we submitted to Glasgow City Council (GCC), NHS Greater Glasgow and Clyde (NHSGGC), the HSCP and the Mears Group in July 2021. This includes the human rights analysis, the views expressed to us by the mothers, and the direct observations we made of the Unit. We are publishing the recommendations we made in relation to the process through which asylum accommodation is proposed and approved, as well as the need for overarching human rights-based standards for children's accommodation.

Our recommendations are intended to ensure that Scotland is doing all it can to mitigate the negative impacts of Home Office policy and legislation and to ensure that refugee and asylum-seeking children are treated with dignity and respect for their human rights.



<sup>7</sup> [https://tempacco.files.wordpress.com/2021/09/interim-report\\_final.pdf](https://tempacco.files.wordpress.com/2021/09/interim-report_final.pdf)

<sup>8</sup> Home Office preparedness for COVID-19 (Coronavirus): institutional accommodation - Home Affairs Committee - House of Commons (parliament.uk) and An inspection of contingency asylum accommodation: HMIP report on Penally Camp and Napier Barracks - GOV.UK (www.gov.uk)

<sup>9</sup> <https://www.unhcr.org/publications/legal/615ff04d4/unhcr-legal-observations-nationality-and-borders-bill-oct-2021.html>

<sup>10</sup> <https://www.gov.uk/government/news/national-transfer-scheme-to-become-mandatory-for-all-local-authorities>

## PART ONE – HUMAN RIGHTS FRAMEWORK

Human rights are universal; they apply to everyone, without exception. However, some groups are entitled to additional legal protections to take account of their vulnerability to rights abuses. In particular, mothers and children have long been recognised as requiring additional protections to secure their rights.

Article 25 of the Universal Declaration on Human Rights (UDHR) states that everyone has the right to a standard of living adequate for the health and wellbeing of them and their family, including food, clothing, housing, medical care and necessary social services. It goes on to state that:

“Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection”.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) sets out rights to an adequate standard of living, including rights to housing and to food. It also recognises that mothers and children are entitled to special measures of protection.

The United Nations Convention on the Rights of the Child (UNCRC) builds on the UDHR, on ICESCR and other human rights treaties. It proclaims children’s status as human beings with a distinct set of rights, not just as passive objects of care and charity.

The Committee on the Rights of the Child (CRC) has repeatedly identified that, despite early childhood being a critical period for realising children’s rights, very young children do not receive sufficient recognition as rights holders.

### EARLY CHILDHOOD AND HUMAN RIGHTS

- (a) Young children experience the most rapid period of growth and change during the human lifespan, in terms of their maturing bodies and nervous systems, increasing mobility, communication skills and intellectual capacities, and rapid shifts in their interests and abilities
- (b) Young children form strong emotional attachments to their parents or other caregivers, from whom they seek and require nurturance, care, guidance and protection, in ways that are respectful of their individuality and growing capacities “
- (c) Young children establish their own important relationships with children of the same age, as well as with younger and older children. Through these relationships they learn to negotiate and coordinate shared activities, resolve conflicts, keep agreements and accept responsibility for others
- (d) Young children actively make sense of the physical, social and cultural dimensions of the world they inhabit, learning progressively from their activities and their interactions with others, children as well as adults
- (e) Young children’s earliest years are the foundation for their physical and mental health, emotional security, cultural and personal identity, and developing competencies”

- UN Committee on the Rights of the Child General Comment No. 7

The obligations under the UNCRC already apply in Scotland. All Scottish public bodies should review and constructively challenge their policy and practice to ensure children’s human rights are given the greatest level of protection in Scotland. The Scottish Parliament has taken the important step of passing the United Nations Convention on the Rights of the Child (Scotland) Bill, which will incorporate the UNCRC into domestic law. This means that when the Bill comes into force the duties on public bodies to comply with the provisions of the UNCRC will become directly justiciable in the domestic courts.

Both the European Court of Human Rights and the UK Supreme Court<sup>11</sup> have made clear that unincorporated international conventions may be used by the courts to ensure that ECHR rights are interpreted in a way which is consistent with rules of international law and as evidence of internationally accepted common values. In assessing whether there has been a breach of Convention rights in respect of a child, regard should be had to the principle embodied in Article 3(1) of the UNCRC that the best interests of the child must be a primary consideration.

Furthermore, as the UK Parliament’s Joint Committee on Human Rights points out<sup>12</sup>, even unincorporated treaties require to be considered carefully by public bodies when taking decisions that engage human rights.

“When reviewing the exercise of discretion by public authorities, the courts subject decisions or acts which interfere with human rights under international treaties to especially anxious scrutiny. Such decisions or acts require particularly strong justification if they are not to be regarded as irrational or disproportionate and, therefore, unlawful.”

### Best Interests (UNCRC Article 3)

Article 3 of the UNCRC requires the child’s best interests to be a primary consideration in all decisions affecting them. The Committee on the Rights of the Child (CRC) has described this as a right, a principle and a rule of procedure aimed at ensuring the full and effective enjoyment of all rights recognised in the Convention as well as the holistic development of the child.

As the CRC points out in its General Comment No.14<sup>13</sup>:

“Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned.”

11 R (on the application of SC, CB and 8 children) (Appellants) v Secretary of State for Work and Pensions and others (Respondents) [2021] UKSC 26

12 <https://publications.parliament.uk/pa/jt200304/jtselect/jtrights/183/18305.htm>

13 <https://www.refworld.org/docid/51a84b5e4.html>

This obligation is not limited to decisions taken directly as a consequence of legal duties. As the Committee notes:

"The word 'action' does not only include decisions, but also all acts, conduct, proposals, services, procedures and other measures. Inaction or failure to take action and omissions are also 'actions'.

It goes on to say that:

"There is no hierarchy of rights in the Convention; all the rights provided for therein are in the child's best interests... The full application of the concept of the child's best interests requires the development of a rights-based approach, engaging all actors, to secure the holistic physical, psychological, moral and spiritual integrity of the child and promote his or her human dignity."

The interconnected and indivisible nature of human rights means therefore that a determination on best interests must of necessity include an assessment of the impact on all of the child's human rights that are engaged by the decision. We outline the most significant of those rights below.

#### Right to an Adequate Standard of Living (ICESCR Article 11 and UNCRC Article 27)

Article 11 of ICESCR provides that everyone has the right:

"...to an adequate standard of living for himself and his family, **including adequate food, clothing and housing**, and to the continuous improvement of living conditions."

In its General Comment No.4<sup>14</sup>, the Committee on Economic Social and Cultural Rights (CESCR) states that:

"In the Committee's view, the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. **Rather it should be seen as the right to live somewhere in security, peace and dignity...** the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised."

In General Comment No.4, CESCR states that:

**"An adequate house must contain certain facilities essential for health, security, comfort and nutrition.**

**"Housing standards can impact not only on physical and emotional well-being, but also on the ability to participate fully in community and cultural life. Inadequate accommodation can contribute to feelings of stress and shame, which can cause or compound social exclusion and disempowerment. People in poor quality housing can experience discrimination and marginalisation which can significantly affect their day-to-day functioning. Lack of a safe, secure, comfortable home and facilities can undermine maternal mental health and weaken attachment and bonding, which are crucial in the early stages of child development."**

- Scottish Association of Social Workers

<sup>14</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en)

All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating, and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;"

The right to an adequate standard of living therefore is about far more than just a roof over someone's head. It must be an environment conducive to the realisation of the full range of children's human rights.

Article 27 of the UNCRC sets out this right in more detail as it relates to children. It requires States Parties to recognise:

**"...the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.** [...] The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.... States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing."

#### Right to Survival, Safety and Development (UNCRC Article 6)

An unsafe environment cannot be considered to represent an adequate standard of living in terms of Article 11 of ICESCR or Article 27 of the UNCRC. Furthermore, children have the specific right to be kept safe from harm in terms of Article 6 of the UNCRC. The CRC's General Comment No.7 makes comment on the importance and scope of Article 6 rights for babies and infants.

"Ensuring survival and physical health are priorities, but States parties are reminded that **Article 6 encompasses all aspects of development, and that a young child's health and psychosocial wellbeing are in many respects interdependent.** Both may be put at risk by adverse living conditions, neglect, insensitive or abusive treatment and restricted opportunities for realising human potential."

**"Infants need to learn about their environment from the moment they are born and to experience the range of sensory input that prepares them for achieving their developmental milestones. This requires the newborn and young infant to live in a safe and stimulating environment where they can explore and play as they acquire motor skills – handling toys, taking food to their mouth, learning to move independently – rolling over, sitting up, crawling, standing and taking their first steps."**

- Professor Richard O'Leary, Chair of Children's Health Scotland

**“Breastfeeding is a human rights issue for both the child and the mother. Children have the right to life, survival and development and to the highest attainable standard of health, of which breastfeeding must be considered an integral component.”**

- Joint statement from the UN Special Rapporteur on the Right to Food; UN Special Rapporteur on the Right to Health; and the Working Group on Discrimination against Women in law and in practice; and the UN Committee on the Rights of the Child

### Right to the Highest Attainable Standard of Health (UNCRC Article 24)

In its General Comment No.15, the CRC defines child health as a state of complete physical, mental, and social wellbeing and not merely the absence of disease or infirmity. The CRC notes that it interprets:

“...children’s right to health as defined in Article 24 as an inclusive right, extending not only to timely and appropriate prevention, health promotion, curative, rehabilitative and palliative services, but also to **a right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health** through the implementation of programmes that address the underlying determinants of health.”

The CRC goes on to accept that domicile is one of the determinants of health and to reinforce the link between maternal and infant health:

**“Among the key determinants of children’s health, nutrition and development are the realisation of the mother’s right to health and the role of parents and other caregivers.** A significant number of infant deaths occur during the neonatal period, related to the poor health of the mother prior to, and during, the pregnancy and the immediate post-partum period, and to suboptimal breastfeeding practices. The health and health-related behaviours of parents and other significant adults have a

major impact on children’s health.”

An environment that causes damage to the health of a mother therefore will also negatively impact on the child’s rights to health and development.

The right to food is recognised as a fundamental part of securing an adequate standard of living in terms of Article 11 of ICESCR and Article 27 of the UNCRC. It also engages several other rights including rights to survival and development UNCRC Article 6, and rights to health UNCRC Article 24.

Accommodation which limits the ability of a mother to provide nutritious food for her baby and herself is therefore likely to breach these rights. Accommodation which in any way inhibits or restricts the ability to breastfeed is especially concerning.<sup>15</sup>

<sup>15</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20871&LangID=E>

### Right to Leisure, Play and Recreation (UNCRC Article 31)

The UN Committee on the Rights of the Child points out that the right to leisure, play and recreation under Article 31 of the Convention is:

**“...fundamental to the quality of childhood,** to children’s entitlement to optimum development, to the promotion of resilience... Through their involvement in play and recreation, children learn by doing; they explore and experience the world around them; experiment with new ideas, roles, and experiences and in so doing, learn to understand and construct their social position within the world.”

It goes on to say that:

**“Play and recreation are essential to the health and wellbeing of children** and promote the development of creativity, imagination, self-confidence, self-efficacy, as well as physical, social, cognitive and emotional strength and skills. They contribute to all aspects of learning; they are a form of participation in everyday life and are of intrinsic value to the child, purely in terms of the enjoyment and pleasure they afford. **Research evidence highlights that playing is also central to children’s spontaneous drive for development, and that it performs a significant role in the development of the brain,** particularly in the early years.”

While room for a child to play is not expressly recognised as a feature of an adequate standard of living in Article 11 of ICESCR, the reference to the child’s “physical, mental... and social development” in Article 27 of the UNCRC, coupled with the research evidence on the developmental value of play<sup>16</sup> means that an environment that restricts or eliminates the ability of children to play is highly unlikely to be considered as providing an adequate standard of living for a child.

### Rights to Respect for Private and Family Life (ECHR Article 8 & UNCRC Articles 9 and 16)

Children have the right to respect for private and family life (ECHR Article 8 and UNCRC Article 16). Article 9 of the UNCRC makes clear that no child should be separated from their parent(s) against their will in the absence of a determination by a competent authority subject to judicial review that separation is in the child’s best interests. Requiring a child to live separately from a parent where there is no identified risk of harm, and in accommodation that limits the ability of a parent to spend time with the child, build an attachment, and engage in play, violates these rights.

<sup>16</sup> <https://www.csap.cam.ac.uk/media/uploads/files/1/david-whitebread---importance-of-play-report.pdf>

**“Given the abundant nature of the research evidence that play in humans is adaptive and is fundamental in supporting a whole range of intellectual, emotional and social abilities, it seems self-evident that children who, for whatever reason, play very little or not at all will be disadvantaged in their development.”**

- Dr David Whitebread et al, ‘The Importance of Play’ (2012)

## PART TWO – OBSERVATIONS

### Nature and Status of the Accommodation

The accommodation, commonly known as the 'Mother and Baby Unit', is operated by the housing and social care provider the Mears Group Plc, under contract from the Home Office. This is in fulfilment of the Home Office's statutory function to provide support, including accommodation, to asylum seekers and their dependents in terms of Part VI of the Immigration and Asylum Act 1999.

The contract requires all properties to be appropriately licensed and to meet all relevant local statutory and regulatory requirements. The building comprises of 38 self-contained bedsit flats.

A note on terminology: we do not intend to use the term 'Mother and Baby Unit' further in this report as we believe it risks confusion about the nature and purpose of the accommodation. We will instead describe it as "the Unit" to avoid confusion with Greater Glasgow and Clyde NHS Board's specialist Mother and Baby Unit (MBU). The MBU admits women who are experiencing severe mental illness in the later stages of pregnancy or if their baby is under 12 months old. It enables mothers to be supported in caring for their baby whilst receiving care and treatment. It supports the wellbeing of both mother and baby and strengthens the mother-infant relationship and infant development. The MBU is staffed by a multi-disciplinary team of professionals.

By contrast, the Unit solely provides accommodation for asylum-seeking mothers and babies and does not offer any specialist support. Mothers and babies access the same support and interventions which would be provided by universal and other services to a family living in a tenancy anywhere else in Glasgow. Although the Mears Group has a welfare manager on site who possesses a basic safeguarding qualification, the Unit's staff are not qualified in any relevant professional discipline and cannot therefore offer wellbeing, attachment, mental health, infant relationship/development, nutrition or any other support to expectant/new mothers or their children. The Mears Group was clear that all their staff provided was signposting to existing services; they provided accommodation, not support or other services.

### Meeting with Human Rights Defenders and Visit to the Unit

At the invitation of several mothers, we met with them and visited the Unit on Monday 7 June 2021, which was the earliest opportunity to conduct such a meeting in compliance with the relevant Covid regulations. We are grateful to MORE for facilitating the meeting and to the Mears Group for supporting the visit.

We are particularly grateful to the mothers who spoke to us and showed us around the Unit. In doing so, they were acting as Human Rights Defenders (as defined in the UN

Declaration on human rights defenders<sup>17</sup>) by seeking scrutiny and challenge from an independent children's rights institution.

We were able to view five separate rooms of varying size within the Unit, as well as the common areas and laundry room.

We detail our findings and observations below. Before we go further, we note that a common feature of situations in which children's human rights are engaged is an imbalance of power between the child and the State. Power imbalances can seriously inhibit the ability of children and their representatives to raise concerns, or access complaints mechanisms and redress for rights violations.

We note that the Mears Group has put in place processes to try to hear the mothers' views, saying it will respond to any individual request to be rehoused. However, taking account of these power imbalances it is likely to be hugely challenging for individuals to access such mechanisms

We have respected these concerns by not using direct quotes and by withholding aspects of what we have been told that might identify individuals.

### Size of Rooms

By far the biggest issue with the Units is the size of the rooms. They bear the hallmark of the building's previous use as temporary accommodation for single homeless men, before Glasgow City Council determined that it was inadequate to house that particular vulnerable group. While they varied in size, none of the five rooms we saw provided sufficient space for a mother and baby.

The cosmetic refurbishment that has taken place is apparent, with fresh paint and good quality fixtures and fittings in most rooms and common areas. However, décor and furnishings cannot mitigate the fundamental limitations of the property.

The windows we saw only open a few inches at the bottom, meaning that ventilation is limited. The day we visited was warm, and the rooms were hot even with the windows open. Some mothers described the size of the windows and lack of natural light as making the already cramped rooms feel like a prison.

The flats feature only single beds, there is no space in the rooms for anything larger. A number of the mothers described the beds as uncomfortable and said they led to back and joint pain. The single beds are too small to allow a mother to easily comfort a crying child in the night, or to breastfeed comfortably.

The rooms we saw varied in size, but in each case floor space was extremely limited, meaning there was no room for the babies to play, explore, learn to crawl, or stand. These are critical developmental activities and milestones for young children. The largest area of "empty" space was often in front of the cooker, making it unsafe for

<sup>17</sup> <https://www.ohchr.org/en/issues/srhdefenders/pages/declaration.aspx>

play. Research<sup>18</sup> shows that limiting or eliminating space to play can adversely affect children's security of attachment to their caregiver; their ability to develop age-appropriate motor skills; and their cognitive development. The consequences can include elevated levels of fear and anxiety, increased risk of injury, developmental and educational delay.

### Safety

The cramped conditions means that there is often little space between the cots and items that are unsafe for children such as cookers or heaters. The heaters are "protected" by a barred cover with holes easily large enough for children's fingers to pass through. The only real area of "empty" space in most of the flats is in front of the cooker, meaning that children cannot be safely placed on the floor to play or explore.

In some flats the smoke alarms are located between the cooker and the window, we were told that due to the lack of ventilation, the alarms go off frequently, disturbing the babies' sleep and feeding. We note that the Mears Group disputed whether this was still the case, but the decision by many mothers to stop cooking altogether (see right) may explain why there has been a reduction in alarm frequency.

We were told that the additional regular alarm once a week caused further disruption to feeding and sleep patterns. We note that this would not be a feature of a normal tenancy.

A Welfare Manager employed by the Mears Group is onsite they hold a Level 2 Safeguarding certificate. This provides a basic level of awareness of child protection and safeguarding issues but is not a specialist qualification suited to supporting vulnerable individuals.

### Food and Nutrition

The low ceilings and lack of extractor fans on the cookers, coupled with the cramped space, lack of ventilation and the location of the smoke alarms, have prevented many of the mothers from cooking fresh food altogether. Lack of a freezer also prevents them from batch cooking or buying cheaper frozen fruit or vegetables, impacting on both maternal and infant health. This is particularly significant for a group whose access to food is limited by the Home Office's use of "cash cards". There have been significant issues with these cards<sup>19</sup> which has affected access to food. We were also told that the small size of the beds and the lack of space overall meant that it was difficult to find any comfortable space for the mothers to breastfeed their babies.

18 [https://goodmenproject.com/featured-content/deprivation-sjbr/?fbclid=IwAR2DfHmnoLzKuVZGvdueNw7GRZYtJoeFRcRjcof--NDIKgM2fo5NGkD\\_oE](https://goodmenproject.com/featured-content/deprivation-sjbr/?fbclid=IwAR2DfHmnoLzKuVZGvdueNw7GRZYtJoeFRcRjcof--NDIKgM2fo5NGkD_oE)

19 <https://www.theguardian.com/uk-news/2021/jun/02/thousands-of-asylum-seekers-go-hungry-after-cash-card-problems>

### Sanitation

The 38 flats shared just four washing machines on a pre-determined rota system. Each mother had two designated days per week on which to wash clothes, this was shared with up to 14 other women and their babies. There was one day (Sunday) where washing was unrestricted. Wet clothes had to be hung out to dry in the corridors as there was no space in the rooms themselves.

### Mental Health and Wellbeing

The findings of the Edinburgh Napier et al research, and the accounts of NGOs confirm the views expressed to us that the mental health and wellbeing of many of the mothers had suffered as a direct consequence of moving to the Unit. They told us they felt significantly more isolated from community supports than they had done in previous tenancies, which were almost all identified as being of higher quality and meeting their needs more effectively.

We formed the view that front-line services were making the best of a bad situation, with social workers, health visitors and others doing their best to offer support in line with their statutory duties. But we were concerned that the nature of the Unit was more likely to escalate risk for the babies and mothers living there. Many of the mothers we spoke to described it as additionally traumatic, rather than an environment to aid recovery. We would expect that GIRFEC Child's Plans for the children resident in the Unit would identify the standard of accommodation as a factor "getting in the way of wellbeing", and that statutory agencies would consider the negative consequences of the environment carefully in terms of exercising their own duties towards children.

### Moving to the Unit

We were told that there was little in the way of needs assessment to inform who was moved to the Unit. The mothers were given scant information as to why the Unit was considered to be better accommodation for them than where they were living at the time. With only one exception, the mothers we spoke to reported that their previous accommodation was of a higher standard and met their needs better than the Unit. Several of the mothers noted their belief that they would not have been moved from their tenancies if they hadn't become pregnant. Rather than receiving the additional support and protection to which motherhood is entitled, they felt they were being punished for having a child.

We were told that the process of moving to the Unit was dehumanising, degrading, and shaming. Mothers reported having little time to pack, being told that they could only

take two bags with them and having to abandon the few possessions they had been able to accumulate since arriving in Scotland. This included clothes, toys and other items that had been donated for their children by local charities. What became of many of these donations is not clear. The process appears to pose a risk of exacerbating existing trauma.

### Accommodation Separate From Fathers

Babies and their mothers are accommodated separately from their fathers/partners. We were told by the Mears Group that this is outwith their control as a result of the terms of the immigration legislation and the Home Office contract, but that where both parents are asylum seekers they would be accommodated together.

We were told that visits by fathers and other family members was limited to just two hours a day. This restricts opportunities for the child to build relationships and attachments with their father, as well as the level of support a partner would normally expect to be able to offer to a mother. Instead, support has had to be provided by NGO volunteers or by statutory services. There is no room within the Unit for family groups to be accommodated, or for partners to stay overnight to share parenting duties. Most of the mothers had more space in their previous accommodation which permitted much greater flexibility, allowing fathers to spend more time with their child while providing more support for their partners.



## PART THREE – DECISION MAKING

### The Proposal and Approval Process

In light of these concerns, there are serious questions to be asked as to how the Unit was approved for its current purpose. We set out below our understanding of the process through which the Unit was proposed and delivered.

As noted above, the law states that responsibility to provide accommodation for asylum seekers rests with the Home Office. That function is delivered in Glasgow through a contractual arrangement with the Mears Group Plc, a housing and social care provider, which sources and manages accommodation. The terms of the contract require the Mears Group to consult with local partners when proposing to procure properties.

This consultation is managed through a Protocol, supervised by COSLA's Strategic Migration Partnership (SMP). The Protocol provides a structure for statutory bodies to raise any objections to proposals made by the Mears Group before a final decision is made. The Protocol includes specific consideration of a number of factors.

### Factors to be Considered Under The Protocol

- Levels of deprivation at a local level
- Community cohesion issues at a local level
- Pressure on local statutory services eg GP and school places
- Existing restrictions in place on the private rented sector
- Existing number of dispersals/ratio levels at a local level
- Recent procurement activity
- Number of private lettings in the surrounding area
- Number of asylum seekers at a local level
- Existing housing initiatives or strategies that may conflict with the procurement of property for accommodating asylum seekers
- Public protection or community safety issues

It is clear that the Protocol is framed predominantly around the impact on public services of asylum seekers being accommodated in a particular location, rather than the impact on the asylum seekers themselves.

The Protocol envisages that:

"...the provider will normally proceed on the basis of the advice received from the SMP. In the unlikely event that the provider wishes to proceed with procurement against advice, the matter will be escalated for discussion in the DPG [Delivery and Procurement Group] in the first instance. If the matter is still unresolved, a final decision will be made further to discussion between senior leads from the provider, Glasgow City Council and the Home Office, under the auspices of the GPB [Glasgow Partnership Board]."

We were told by COSLA that it was not uncommon for consultees to raise objections to proposed procurement and that those had always been respected. No procurement had gone ahead contrary to the advice of statutory bodies since the Protocol had been in force. It is clear therefore that good relations exist between the Mears Group, the HSCP and other partners, through a formal mechanism which allows for a significant degree of influence to be exerted.

### The Unit

In the case of the Unit, we understand the proposal was made by the Mears Group in November 2020. None of the consultees – including Glasgow City Council and Greater Glasgow and Clyde NHS Board (via the Glasgow Health and Social Care Partnership) raised any objection to the proposal. The Mears Group therefore proceeded on the basis of that approval. The Mears Group has subsequently said that Glasgow City Council and Greater Glasgow and Clyde NHS Board "are supportive of the facility." HSCP officers we spoke to at the time agreed that this was the case.

Home Office guidance provides that local authorities may inspect asylum accommodation<sup>20</sup>, but no such inspection was carried out by Glasgow City Council either to inform its position on approval, or subsequently when concerns were raised about the standard of accommodation.

### National Policy

The Scottish Government's New Scots Refugee Integration Strategy<sup>21</sup> (to which COSLA is a key signatory) sets out a number of principles including:

#### Integration from Day One

This is described as "the key principle of the New Scots strategy: that all refugees and asylum seekers should be supported to integrate into communities from day one of arrival".

#### A Rights Based Approach

This sets out the expectation that refugees and asylum seekers are treated "on the basis of principles of decency, humanity and fairness." It also reflects the fact that public

<sup>20</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/821324/Pack\\_A\\_-\\_English\\_-\\_Web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/821324/Pack_A_-_English_-_Web.pdf)

<sup>21</sup> <https://www.gov.scot/publications/new-scots-refugee-integration-strategy-2018-2022/>

bodies have duties to act compatibly with human rights law.

Supporting these principles are a number of outcomes, two of which are particularly relevant here:

"1. Refugees and asylum seekers live in safe, welcoming and cohesive communities and are able to build diverse relationships and connections.

"4. Policy, strategic planning and legislation, which have an impact on refugees and asylum seekers, are informed by their rights, needs and aspirations."

### The Protocol

However, the Protocol does not expressly reflect or refer to the Principles or Outcomes of the New Scots Strategy. In particular, contrary to the commitment in the Strategy to a rights-based approach, it does not provide that the human rights of those affected by its decisions are a relevant consideration. Nor does it set an expectation or assumption that all accommodation for asylum seekers should enable them to integrate into the community.

The result is a decision-making process that appears to be disconnected from national policy, and from the human rights duties owed by Scottish public bodies; for example the obligation in terms of Article 3 of the UNCRC to ensure that children's best interests are a primary consideration in all decisions affecting them.

As a consequence of this disconnect, none of the public bodies concerned raised an objection to the proposal, despite:

- Use of this type of accommodation for asylum seekers appearing to conflict with the principles of the New Scots Strategy
- Use of the Unit for babies and mothers raising a significant number of human rights concerns, many of which would have been known to Glasgow City Council given its prior ownership and familiarity with the building
- The Unit appearing, at the time we visited, to fail to meet the legal standard that would be applied to accommodation provided to children by Glasgow City Council in terms of its own statutory duties.<sup>22</sup>

We recommend that the Protocol is revised to ensure these matters are rectified and that future decision making is more clearly aligned with national and local policy, informed by relevant professional expertise, and compliant with human rights obligations. We set out in the Recommendations section how that could be achieved.

Our view is strengthened given the wider and concerning developments in law, policy and practice relating to use of long-term hotel accommodation by the Home Office across Scotland.

<sup>22</sup> <https://www.legislation.gov.uk/ssi/2014/243/made>



## PART FOUR – RECOMMENDATIONS

As noted above, the process through which asylum accommodation is proposed and delivered requires further human rights safeguards.

**COSLA should therefore seek agreement from all partners to amend the Protocol to ensure it reflects the Principles and Outcomes of the New Scots Strategy, as well as the human rights duties of statutory agencies. In particular the Protocol should:**

- **Require express consideration of any human rights issues in relation to accommodation proposals.**
- **Require statutory bodies to seek appropriate professional advice on human rights issues identified before giving approval.**
- **Include an “equivalence” provision which makes clear no approval will be given for accommodation into which it would be unlawful to place Scottish children**
- **Remind statutory bodies of their obligation to make decisions in line with their own human rights duties, for example the obligation to ensure that the best interests of the child/children are a primary consideration in any decision that affects them**

While public bodies involved in the proposal and delivery of asylum accommodation do not have direct statutory duties or powers, they do have influence and should act at all times in line with their obligations in terms of the UNCRC.

**Glasgow City Council, NHS Greater Glasgow and Clyde, and the Glasgow Health and Social Care Partnership (HSCP) should make a commitment to not approve any asylum accommodation for children that violates their human rights.**

We note that some progress has been made towards meeting the Mears Group's commitment to move all the babies and mothers out of the Unit and into more appropriate accommodation. However, action has not been swift enough. It is clearly concerning that the relocation process appears to have some of the same flaws as the process of moving to the Unit in the first place.

**We therefore urge the Mears Group to ensure that all of the babies and mothers are relocated as a matter of urgency to suitable accommodation in Glasgow, with appropriate support to enable a smooth relocation and integration into new communities.**

There are insufficient national standards against which asylum accommodation can be judged.

**The Scottish Government should legislate to create human rights-based statutory minimum housing standards for children, drawing from the ECHR, UNCRC and ICESCR, as well as other relevant human rights treaties. These should directly apply as widely as possible within the legislative competence of the Scottish Parliament.**





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