

Consultation response

1 July 2010

Response to the Law Commission Consultation Paper No 192 on Adult Social Care

About Scottish Refugee Council

Scottish Refugee Council is an independent charity dedicated to providing advice, information and assistance to asylum seekers and refugees in Scotland and to campaign on their behalf.

About the Consultation

The Law Commission is consulting on its proposals for reforming the law in relation to Adult Social Care in England and Wales (consultation paper no. 192). The Law Commission is seeking to consolidate legislation in England and Wales relating to adult social care as legislation in this area as it is a: *“confusing patchwork of conflicting statutes enacted over a period of 60 years. There is no single, modern statute to which service providers and service users can look to understand whether (and, if so, what kind of) services can or must be provided.”* (introduction to consultation paper). The proposals have implications for destitute asylum seekers and other migrant groups. The key question posed by the consultation in relation to asylum seekers asks what the likely consequences will be of the UK Government retaining its prohibition on adult social care services to those subject to immigration control solely because they are destitute or because of the physical or anticipated physical effects of being destitute.

Response

As a member of the Still Human Still Here coalition, we fully support its response to the Commissions' consultation, in particular the argument that the UK Government by maintaining its prohibition asylum seekers will *“continue to suffer extreme hardship with very significant indirect cost implications for local authorities.”*

In Scotland, asylum seekers with care needs are further disadvantaged by an additional layer of complexity: the relationship between devolved competences (the provision of social work support) and reserved (the provision of asylum support). The UK Border Agency and Scottish Local Authorities have shown confusion about what their respective responsibilities towards vulnerable people in the asylum system with care needs are with the resultant impact being that these care needs are not being appropriately met.

We would urge the Commission to consider a legal opinion that Scottish Refugee Council sought to clarify the relationship of the Slough judgment and Scottish legislation (see appendix). It is vital that there is full acknowledgement by the Home Office of this devolved complexity and we would also urge the Commission to discuss these complexities with the Scottish Government who have committed to examine and take forward the issue in Scotland.

For further information, please contact:

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