

# **Local Connection Provisions in Homelessness Legislation**

Scottish Executive

Response submitted by  
Scottish Refugee Council

**19 January 2007**

## ***About the consultation***

The Ministerial Statement of the Abolition of Priority Need published in December 2005 set out the Scottish Executive's intention to legislate to make changes to the current local connection provisions within homelessness legislation. The Homelessness Team of the Scottish Executive is seeking views on these changes and their implementation.

## ***About Scottish Refugee Council***

Scottish Refugee Council provides help and advice to those who have fled human rights abuses or other persecution in their homeland and now seek refuge in Scotland. We are a membership organisation that works independently and in partnership with others to provide support to refugees from arrival to settlement and integration into Scottish society. We campaign to ensure that the UK Government meets its international, legal and humanitarian obligations and to raise awareness of refugee issues. We are also an active member of the European Council on Refugees and Exiles (ECRE), a network of over 80 refugee-assisting organisations across Europe.

### ***1. Introduction***

- 1.1 Scottish Refugee Council welcomes the opportunity to take part in this consultation exercise and we are happy for this information to be made public if necessary. We would be keen to receive the results of this consultation and very happy to discuss further any of the issues we have raised in this response.
- 1.2 Scottish Refugee Council strongly supports the Scottish Executive's aim to tackle homelessness and develop the most progressive homelessness legislation in the world. We welcome the principle behind the Homelessness Task Force's recommendation to suspend local connection - where one local authority can refer a homeless applicant to another authority - as another step towards this goal. We are extremely pleased that the Scottish Executive already believes that refugees should not be considered for local connection<sup>1</sup>. This has given and gives refugees the possibility of securing accommodation in communities where they feel safe and secure, rather than be forced to live in areas they have been dispersed to for administrative reasons. Finding stable accommodation is an essential factor in ensuring refugees can start to rebuild their lives.
- 1.3 Our response does not seek to answer each of the questions set out in the consultation document in detail, but rather seeks to clarify the rights regarding refugees (whose claims for asylum have been determined in the UK). Whilst these rights should not change as a result of the proposed amendments, Scottish Refugee Council has come across several cases where local connection has been misinterpreted and we believe that the changes proposed may give rise to further confusion or misinterpretation. ***We would wish for such confusion to be resolved when guidance is issued on these changes to local connection, clearly highlighting their rights as set out in the Code of Guidance<sup>2</sup>.***

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<sup>1</sup> As defined in Section 27 2 (iii) of the Housing Scotland Act 1987 as amended by the Homelessness (Scotland) Act 2003

<sup>2</sup> <http://www.scotland.gov.uk/Publications/2005/05/31133334/33366>

## **2. Refugees and local connection**

2.1 Section 11 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 amended the local connection provisions of English and Welsh homelessness legislation such that asylum seekers automatically establish a local connection with the last area where they were provided with accommodation under section 95 of the Immigration and Asylum Act 1999 (that is, accommodation provided by the National Asylum Support Service). This means that, if an asylum seeker is given leave to remain in England and Wales and subsequently makes a homelessness application, she would have a local connection with her dispersal area. If she applies for homelessness assistance in a different area of England and Wales and she does not have a local connection there for any reason (for example family associations or employment) and a main homelessness duty would be owed, the local housing authority can (if they wish) refer the application back to the local authority in the dispersal area. However, this provision does not apply to Scotland as Section 11 of the 2004 Act did not amend Section 27 of the Housing (Scotland) Act 1987<sup>3</sup> which exempts refugees who were “resident in accommodation provided in pursuance of section 95 (provision of support for asylum seekers and dependents) of the Immigration and Asylum Act 1999.”

2.2 This means that asylum seekers who are dispersed to Glasgow under the 1999 Act and then granted refugee status<sup>4</sup> can subsequently make a homelessness application in another Local Authority of Scotland. However, it **also** means that they can make an application in England or Wales. This was spelt out in a letter<sup>5</sup> from the Department of Communities and Local Government (Previously the Department of the Deputy Prime Minister) to Housing Directors of all local housing authorities in England:

*...different provision is made for former asylum seekers who have been provided with s.95 accommodation in Scotland, and who then seek homelessness assistance in England (or Wales). This reflects the fact that under Scottish legislation asylum seekers do not establish a local connection with a district when they are provided with s.95 accommodation there.*

2.3 Whilst Scottish Refugee Council’s Housing Team has encountered relatively few problems with dispersed asylum seekers to Glasgow who subsequently seek homelessness assistance from another Scottish Local Authority<sup>6</sup>, we are aware of several cases of refugees who leave Glasgow upon receiving status and attempt to present as homeless to an English Local Authority. They have been told that they cannot receive assistance and have to return to Glasgow (i.e. they have been refused because they are incorrectly deemed to have established a local connection under Section 11 of the 2004 Act.)

2.4 We do not believe it is the duty of the Scottish Executive to inform English Local Authorities of their responsibilities. However, **we believe that it is vital that the Executive ensure the guidance developed to inform of the proposed changes is clearly communicated to the**

<sup>3</sup> as amended by the Homelessness etc (Scotland) Act 2003

<sup>4</sup> Or other forms of leave, such as humanitarian protection

<sup>5</sup> [http://www.communities.gov.uk/pub/849/Homelessnesscodeofguidance\\_id1149849.pdf](http://www.communities.gov.uk/pub/849/Homelessnesscodeofguidance_id1149849.pdf)

<sup>6</sup> Issues around local connection and priority need are usually resolved on citing the Code of Guidance

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***Department of Communities and Local Government to highlight their responsibilities to refugees dispersed to Scotland in light of this misinterpretation and to avoid possible future misinterpretation.***

2.5 It is also important to note that section 27 of the 1987 Act covers and exempts all dispersed asylum seekers in the UK and not just those asylum seekers dispersed to Scotland. Therefore, asylum seekers who were dispersed to a local authority in England or Wales have the right to seek homelessness assistance in Scotland upon being granted status as they are only defined as having a local connection when they seek housing in another Local Authority in England or Wales. This is particularly important to emphasise in light of the Homeless Monitoring Group’s recommendation in the consultation document that *“referrals to local authorities in the other countries of the UK should still be permitted under the new arrangements.”*<sup>7</sup> The case study below highlights the current misinterpretation.

**Case study**

*A 36-year old woman from Iraq with her 8-year old son claimed asylum in the UK at the beginning of August 2006. Supported in National Asylum Support Service (NASS) accommodation in Liverpool she received a very quick positive decision on her asylum claim. She left Liverpool and made her way to Glasgow with her child to be near her friends (the only people she knows in the UK). However, her friends could not support her due to overcrowding and she had to present as homeless. Scottish Refugee Council’s Housing Team advocated on her behalf due to the poor quality of temporary accommodation that was provided by Glasgow City Council (GCC) and sought to secure suitable and stable accommodation for her and her son. In mid-October she finally received a written decision from the North West Community Casework Team (NWCCT). They assessed her as homeless, in priority need, and not intentionally homeless but stated because she has no connection to Glasgow but had established a connection to Liverpool - she should go back there. After much advocacy and the instigation of legal proceedings, Glasgow City Council reviewed her case. On 5 December our client received a decision letter. This concluded that GCC upheld the original decision that she had a local connection to Liverpool, but given her “individual circumstances”, they decided not to exercise their discretion to refer local connection back to Liverpool in her case. They would take steps to secure her permanent accommodation.*

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<sup>7</sup> P.5 Consultation document

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**Respondent information form**

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name: **Gary Christie**

Postal Address: **Scottish Refugee Council, 5 Cadogan Square, (170 Blythswood Court), Glasgow G2 7PH**

1. Are you responding: (please tick one box)

- (a) as an individual  go to Q2a/b and then Q4
- (b) **on behalf of** a group/organisation  go to Q3 and then Q4

**INDIVIDUALS**

2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Executive website)?

- Yes  (go to 2b below)
- No, not at all  We will treat your response as confidential

2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

- Yes, make my response, name and address all available
- Yes, make my response available, but not my name or address
- Yes, make my response and name available, but not my address

**ON BEHALF OF GROUPS OR ORGANISATIONS:**

3. The name and address of your organisation **will be** made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

- Yes
- No  We will treat your response as confidential

**SHARING RESPONSES/FUTURE ENGAGEMENT**

4. We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

- Yes
- No