

Consultation response

Modifying local connection provisions in homelessness legislation

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Shelter

Modifying local connection provisions in homelessness legislation

Introduction

Shelter welcomes the proposals to modify the local connection provisions. These changes are an important step in a fundamental transformation of the way that homelessness assessments are made in Scotland as recommended by the Homelessness Task Force.¹ Suspending the power for a local authority to refer an applicant to another local authority on grounds of local connection is a positive move that allows reasonable freedom of movement and fairness to people in immediate housing need. We do not believe that these changes will create significant additional resource pressures for individual local authorities. However, it is important to monitor the impact of suspending the local connection test separately from the impact on applications caused to changes to priority need categories.

Answers to consultation questions

Q1: Do you agree with the principles behind the Homelessness Task Force's recommendation on local connection?

YES

Comment:

Shelter believes that homeless households should be able to apply to be housed by any local authority in Scotland. A person's commitment to a local authority area, which can be reflected by their decision to make a homeless application there, is likely to increase their chances of sustaining a tenancy. From the experience of our clients, people generally only move from an area where they have a local connection when there are substantial reasons for doing so, for example to escape domestic abuse. People tend to choose an area on the basis of their proximity to support networks, which is also likely to improve their prospect of sustaining a tenancy.

Q2: Do you agree with the proposal that the local connection provisions should be suspended among Scottish local authorities? If you disagree please state why and your preferred approach to modifying the existing local connection provisions.

YES

Comment:

¹ Homelessness Task Force (February 2002) An Action Plan for Prevention and Effective Response.

Shelter believes that homeless applicants should be allowed to decide for themselves which local authority they make an application to, and that an individual applicant is best placed to determine where they have a local connection. It is important to note that the proposals limit the suspension of the local connection test to applications within Scotland, and that connection refers to a whole local authority area not a specific community within it. We appreciate, however, that some local authorities may be apprehensive about the removal of the local connection test. This may be due to concerns that removing a test for local connection may result in an unmanageable increase in the number of applications received, and a corresponding increase in pressure on housing stock.

As research by Tribal HCH² shows, however, current levels of referrals under the local connection provisions are very low. The local connection test only applies to applicants found to be in priority need, which nationally stands at 56 per cent of all applicants. Then just over 1 per cent of all households in priority need are currently referred to another local authority, and this figure has not varied over recent years despite changes to the priority need categories. While we do not believe that applications will increase significantly solely as a result of removing the local connection test, we understand that it is appropriate to retain the option of reversing the proposed changes. This would be on the basis that quantifiable and measurable criteria should be met before Ministers can reinstate a local connection test in any individual local authority or nationwide.

Q3: Do you agree this should be implemented at the same time as the new HL1 becomes operational?

YES

Comment:

It is crucial that the local connection provisions are effected at the same time as the introduction of the new HL1 forms in April. This will enable any impact on the pattern of applications caused by modifying the local connection provisions to be monitored. It is essential that homelessness staff are given support in adopting these changes, both with the operation of the new provisions on local connection and with the introduction of new HL1 forms.

Q4: Do you agree with the proposed monitoring arrangements? If not, what other arrangements ought to be put in place?

YES

Comment:

² Tribal HCH (2004) Operation of the Power to Modify Local Connection Provisions.

There are a number of changes being introduced at the same time including changes to the priority need categories which will vary by local authority, and new methods of recording information about applications. The purpose of monitoring is to ensure that the suspension of the local connection test is being properly applied, and to gather evidence of its impact. Monitoring arrangements are extremely important in order to clearly identify the impact of changes caused by modifying the local connection provision, and to separate them from possible changes caused by other factors. For a local authority to make a case for reversing the suspension, they should be able to show that unacceptable pressures are due to people making applications that they would not have previously been able to because they would have failed a local connection test (had it been applied).

Shelter is happy with the proposed monitoring arrangements. However, current recording will not allow for meaningful comparison of data before and after suspension of the local connection test so it is extremely important that clear criteria are set for the circumstances under which the suspension of local connection might be reversed and for identifying whether a local authority that believes the amount of 'non-local' people it is accommodating has increased significantly. Good quality accurate monitoring should identify where rises in homeless applications occur due to ending of the local connection test and where those rises can be attributed to the expansion of priority need categories.

In addition, assessment of the impact should take into account the possibility that there may be an apparent rise in applications because local authorities that had previously informally suggested an applicant should apply to another local authority because they would be likely to fail a local connection test, would be no longer able to do so. Improving the accuracy of recording will also have an apparent impact on the number of applications received. We understand that a recent peer review in Scottish Borders Council by the Housing Best Value Network identified that they were not accurately recording all households who presented as homeless. As a result of improvements they have made to recording, they now anticipate a rise in the number of applications.

Finally, Shelter would like to see an additional questions added to the monitoring database to record which local authority an applicant would consider themselves to have a local connection with, and the type of connection that they have to the local authority to which they are applying. For example, are they making an application because they have family or friends in the local authority area, because they have more chance of finding work, or because they have moved there to care for someone and then found themselves homeless. Recording this information would allow for better modelling of the relative impact of the changes on different local authorities, and show the patterns of movement across Scotland. It would also give a better understanding of why people decide to apply to a certain local authority and give a better picture of the complexities behind their choices than the current local connection criteria.

Q5: Would guidance on applications to more than one authority be helpful?

YES

Comment:

There appears to be an implicit assumption in the consultation paper that households are currently allowed to have simultaneous applications. We are aware, however, of a number of examples where applicants have not been allowed to make applications to more than one authority in spite of the fact that there is nothing in either legislation or guidance to prohibit this.

Such examples are not particularly common. The vast majority of homeless households apply to only one authority, being the one that they want to live in and usually by virtue of a local connection to that area. We have clients, however, who having made an application to a local authority, sometimes at a time of crisis or emergency, find that after considering their position they should have applied to another authority. This may be due to a change in their circumstances or some other personal factor that can cause a household to reappraise their situation. There may also be circumstances where it is in the best interests of the homeless person for more than one authority to try to house them simultaneously.

Our clients' experience informs us that applicants are currently informed that they have to request a Section 38 referral to another local authority or that they have to cancel any live application and then apply again in person to another local authority.

There are a number of difficulties with this:

Some of our clients have lost their temporary accommodation as a local authority to which they have been referred has assessed them as not being entitled to a service. There are also instances where people do not receive temporary accommodation to which they are legally entitled.

Applicants are refused assistance in the local authority in which they are seeking to be housed.

The insistence that households must apply in person takes no account of any individual's mobility problems or the distances that might be involved in making an application in person, particularly in some rural authorities.

From our discussions with local authorities it appears that the lack of guidance to Scottish local authorities on dealing with multiple applications is creating a situation where the response is automatic refusal when a live application is held elsewhere. This may not be appropriate in each case, and consideration should be given to the circumstances when it

is acceptable for multiple simultaneous applications to be made. For example, an applicant may have two equally valid reasons for applying to two authorities, such as a child in school in one area, and close family in another area. Another example is when local authority boundaries dissect an area that an applicant would consider they have a connection with. In such circumstances a local authority should accept an application and work closely with the authority or authorities where simultaneous applications are held to find the best outcome for the household. Managing the case of someone who had made multiple applications would require good communication between the local authorities involved. Guidance should recommend that local authorities set up joint-working protocols to deal with multiple applications and that these cases are carefully monitored to avoid unnecessary duplication of work and that the best outcome is achieved for the applicant.

From our discussions with local authorities there are a number of points that would need to be resolved before guidance could be produced, for example the circumstances in which multiple applications are acceptable, what would constitute a discharge of duty, and how having more than one live application would influence whether or not an offer was accepted. Shelter recommends that further discussions between local authorities and homeless services take place to establish how multiple applications should work prior to guidance being issued.

Q6: Do you agree with the proposed content of the Ministerial statement setting out the circumstances in which, and the criteria with reference to which, modifications to the local connection will be made?

YES

Comment:

Shelter is happy with the proposed content of the Ministerial announcement. We are concerned, however, about the way in which the statement in paragraph 18 of the consultation document that aspirations of homeless people to live in particular areas should be balanced by the 'need to ensure that ...choices are realistic in terms of accommodation and support capacity within local authorities' will be reflected in the ministerial statement. As we identified in response to question 2, the rise in applications is likely to be small as a result of modifying local connection provision. Our view is that while it is appropriate to retain the option to reverse the suspension of the local connection test for individual local authorities who can prove that there has been a significant drain on their resources due to an increase in people applying as homeless from outside their area, the decision to reinstate the test should be a final option.

Q7: What additional or different content would you suggest?

Rather than a general statement about balancing choice with capacity, Shelter would like the statement to set detailed criteria for evidence that must be provided before a local authority can claim that modifying local connection provisions has put significant demands on their stock. The statement should make clear that the decision would not be taken merely on the basis of a rise in 'non-local' applicants, but due to the difficulty in accommodating these extra people. A local authority should be able to demonstrate that it is not practicable to increase the number of lets in the area or access additional houses, for example through Section 5 referrals to a registered social landlord, before reinstating the local connection test.

Q8: Do you feel the proposals promote equality? If not, please give details of your concerns?

YES

Comment:

We cannot see that the changes will have any differential impact on minorities within Scotland. Suspending the local connection test would ensure that anyone applying for housing, whether as homeless or through a housing waiting list has reasonable freedom of movement between local authority areas within Scotland. If, however, at a later date some authorities were allowed to reverse this suspension it would undermine the equal impact of the proposals.

Conclusion

Suspending the local connection test was one of the key recommendations of the Homelessness Task Force, and Ministers were given the power to modify the current local connection provisions by the Homelessness etc. (Scotland) Act 2003. Shelter welcomes the implementation of these powers which allow more flexibility for applicants and enable better long term outcomes for people in housing crisis.

Ending the test for local connection is part of a programme of changes to homelessness services that will transform the rights of homeless people in Scotland. To ensure successful implementation of these new rights Shelter is campaigning for more homes and more money for housing through the Comprehensive Spending Review taking place in 2007.