

# Shelter Scotland Response **Scottish Government** **consultation on statement on modifying local connection** **referrals between Local Authorities**

23<sup>rd</sup> October 2020

This consultation invites views on a **Statement** for exercising the power of Scottish Ministers, under Section 33 (B) of the Housing (Scotland) Act 1987, to modify the operation of local connection referrals between local authorities in Scotland.

## Question 1

We are proposing to suspend **local connection referrals** between Scottish local authorities to remove barriers people face to accessing the support they need. The analysis of the Scottish Government's 2019 consultation on local connection and intentionality demonstrated that there is support for this position, although there are concerns about the potential for increases in homelessness applications and subsequent impact on statutory services.

Please give us your current views about the proposed suspension of referrals.

## Shelter Scotland's view

Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal teams. We also campaign to make sure that, one day, no one will ever have to turn to us for help.

Shelter Scotland welcomes the opportunity to respond to this consultation and strongly agrees with and welcomes the proposal to suspend local connection referrals between local authorities to ensure that people who wish to move to another area are able to do so. We have consulted with our housing advisers who are on the front line in our hub areas across Scotland, supporting clients to challenge local connection decisions, so that they can live in an area which meets their needs.

Most of the clients we support are successful in overturning their local connection decision and are eventually given a full homeless duty in the area they have good reason to want to live. We are therefore supportive of these changes proposed, but **we would like to see this proposal go further and ensure that local authorities' power to assess local connection is removed entirely.**

### Rights based framework:

A right's-based framework where people are given proper choice and information which means they are properly empowered to make decisions about their housing and where they live, is key to making sure the housing system works well for the people who need it, and that households have good housing outcomes.

## **National strategic response:**

As well as introducing these changes to local connection referrals, these changes have to be part of a national strategic response to the housing emergency in Scotland with a long-term commitment to ensure that we will have the affordable, decent, social rented homes in the right areas for people who need them. That is why Shelter Scotland, CIH and SFHA are calling for at least **37,100 social rented homes** to be built over the next parliamentary term in the right areas to reduce housing need.

## **Understanding and upholding rights:**

People must be supported to fully understand their rights, what housing options they have and be supported to make the right housing choice for them.

Underpinning this change to local connection is the right to live in a decent, affordable home in the best place for the household/family, which could include living in an area to gain employment, be close to family for support, or getting away from a violent or damaging environment. In our experience, when someone chooses to apply as homeless in another local authority, there is very good reason for that, so much so, that people will opt to move to another area even if that means not having a settled home to go to.

We recognise that current local connection guidance allows for households to move local authority in order to flee domestic violence, but often households for example flee other types of threat or trauma, which are not recognised by the guidance, or that the household may not want to share, but significantly impact on their ability to sustain their tenancy in another area.

It is well documented that giving a homeless household increased choice and control over their housing leads to improved housing outcomes in the long run. Homeless households should have the right and be empowered to make informed decisions on where they would like to apply as homeless. They should be given full information about local housing options and for example whether there will be long temporary accommodation stays in a given local authority. Most importantly they should have the choice as to where they wish to live.

## **Current examples of local connection practice:**

Local connection serves as another barrier to homeless applicants getting long-term housing where they want and need to be, which is detrimental to clients' housing situation, and their ongoing welfare. Although local authorities can use their discretion on local connection now, we find that in some areas local connection is still considered in many of the homeless applications. Our hub advisers often successfully challenge the local authorities on these local connection decisions, however we are concerned that people who do not access our services and receive support, will struggle to overturn local connection referral decisions. We cannot have a system which is only upholding people's rights if a housing adviser is available to challenge the decisions. We need to ensure that all homeless households can choose where they live and are able to secure sustainable housing outcomes without the need for third sector intervention.

While suspending local connection referrals between local authorities would remove the main power of the local connection policy, we are concerned that if the power to assess local connection is not removed too, local authorities may continue to assess local connection and make informal referrals, or assess local connection and the result may have adverse effects on a household's homeless application.

For example, we have had cases where clients have been passed backwards and forwards several times between two Local Authorities using the local connection referral process, before the households received assistance from Shelter Scotland to resolve the matter.

We recognise that some local authorities who have struggled to accommodate people in temporary and settled accommodation will have concerns about a possible increased demand for housing in their area if the ability to use Local Connection referrals between Local Authorities is removed. The evidence to date shows that of the 945 people in 2018-19 who were assessed as homeless and having a local connection with another Local Authority, only 185 people were referred to another Local Authority under the provisions of the 1978 act<sup>1</sup>. We would be very concerned if this proposal to modify the operation of local connection referrals was objected to on these grounds, when evidence to date indicates that this is not a huge issue. In addition to this, the local authority taking the homeless application has a statutory duty to make interim accommodation available pending its inquiries into local connection and pending the outcome of any such referrals which may follow. In other words, local authorities already must ensure that they can accommodate homeless persons presenting to them, regardless of their local connection, on a temporary basis.

The suspension of local connection may also help to prevent bottlenecks of high demand in certain areas, as households struggling to find a home in an area of high housing demand, could make an informed choice to move elsewhere if that is suitable for their household.

We are also optimistic that, in the long run, if tenancies are sustained to a greater degree as a result of giving households greater control over where they need to live, this will mean a reduction in demand for homelessness services overall.

The case studies below highlight the issues that our clients have faced due to the Local Connection referrals system and why we welcome the proposed changes.

### Case study 1:

Shelter Scotland recently supported a man who was unable to make a homeless application in a different Local Authority after being told he had no local connection. This decision was made, despite the fact that he was at risk of abuse in the area where a local connection did exist. The man was told by the local authority he wanted to move to that as there was no 'proof' of the abuse, they would refer him back to the area where he was at risk. This decision was overturned after we submitted a review and the client was awarded full homelessness duty.

### Case study 2:

A couple with 2 children were supported by Shelter Scotland as they were struggling to apply as homeless in an area they needed to be, due to their child's ill health. The couple's child was born with a significant health problem and has spent nearly all of her life in hospital and will require a significant and ongoing health support in the future.

During this stressful time the family also had to leave their tenancy following a neighbour dispute, as they felt intimidated and threatened and this coincided with daughter having to receive vital treatment in a hospital in England for a couple of months, which meant they had to stay in the English hospital to be near their child.

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<sup>1</sup> Scottish Government (2020) [Statistical data tables on local connection referrals](#)

The baby was then discharged from the English hospital, and the family moved back to Scotland and lived with the baby's grandmother for a short spell, travelling quite some distance back and forth to a Scottish hospital for appointments. The baby was unfortunately later readmitted to the Scottish hospital and before they could discharge the baby again, the family were advised that they needed to find a tenancy closer to hospital before their daughter could be discharged.

As they have family in an area closer to the hospital, they wanted to make homeless application in that area to be nearer to the hospital for appointments. However, the Local Authority initially refused to take their application on grounds that they had no local connection and they were told they should make an application in the other Local Authority where they believed they had a local connection. After intervention from Shelter Scotland explaining that the Local Authority could not look at local connection first, and refuse an application on this basis, the Local Authority accepted that they had to take the homeless application and put the family in to a temporary flat while they examined their situation. In the end they also accepted full duty for family and have now offered them permanent accommodation allowing them to be near the hospital for their daughter's treatment.

## Question 2

Considering the core content proposed for the Ministerial Statement (see section 2 – paras 31 - 33), please give us any suggested amendments with regard to the:

### i. circumstances for modifying local connection referrals (see para 31)

Para 31 says: It is proposed that the circumstances for modifying local connection referrals would be:

*To increase the ability of people who are experiencing or are threatened with homelessness to choose where to apply for assistance; taking account of available evidence on any detrimental effect which may result in terms of the capacity of particular local authorities to meet their homelessness duties, or outcomes for individuals or communities.*

## Shelter Scotland's view

We agree that circumstances for modifying local connection referrals should be to increase the ability of people who are experiencing or are threatened with homelessness to choose where to apply for assistance.

We would however strengthen that sentence to say that 'circumstances for modifying local connection referrals should be to increase the rights and ability of people who are experiencing or are threatened with homelessness to choose where to apply for assistance'.

We have concerns about the sentence:

*'The circumstances for modifying local connection referrals would be: taking account of available evidence on any detrimental effect which may result in terms of the capacity of particular local authorities to meet their homelessness duties, or outcomes for individuals or communities'.*

**This would completely undermine the policy intention of these proposed changes to ensure a person-centred approach, which aims to achieve tenancy sustainment and prevent recurring homelessness.**

A strategic approach is required to ensure that affordable, decent homes are available in the places people need to live. For example, strategic planning should take into account where people wish to live,

as there are increased employment opportunities in that area. Local authorities should be ensuring that there is a range of housing options for people in their area, based on evidence of need, with enough social housing available for those who require it and with capacity built in for households who may wish to move to the area due to other considerations such as being near family, fleeing dangerous or harmful situations. If we are to have a rights-based approach, where everyone has the human right to a decent, affordable home, then we need to ensure these rights can be realised with the high-quality affordable homes provided in the right places.

## 2ii. general criteria, by reference to which, the power to modify local connection is to be exercised (see para 32)

Para 32 It is proposed that the general criteria, by reference to which, the power to modify local connection is to be exercised would be:

- *To improve outcomes for households experiencing homelessness;*
- *To increase choice for households experiencing homelessness;*
- *At the same time, to maintain the capacity for local authorities to fulfil their statutory homelessness duties and their duty to house people in housing need, and to respond to:*
  - *significant undue pressures related to an increased level of households being assessed as homeless, where this pressure is due in part to the pressure of applications from households with no local connection to the local authority area(s);*
  - *significant undue pressures resulting from increases to the scale/frequency of homelessness applications from households experiencing homelessness with no local connection to the local authority area(s).*

## Shelter Scotland's view

- *To improve outcomes for households experiencing homelessness;*
- *To increase choice for households experiencing homelessness;*

We agree with the first two bullet points (above) on improving choice and outcomes for households, as we fully agree that households should have the choice on where to settle if it is in their best interests to do so. In addition we would include those who are *threatened with homelessness* within the general criteria – to ensure consistency with the section on circumstances for modifying local connection (2.i above)

However, we do have concerns regarding the criteria set out for local authorities regarding maintaining capacity, fulfilling statutory duties and responding to significant increased pressure. **We would require clarity on what 'significant' means in this context (see below) and also confirmation that people's rights to apply as homeless in another area, will not be impacted by this criteria, if it is in their best interests to apply to that local authority for housing.**

- *At the same time, to maintain the capacity for local authorities to fulfil their statutory homelessness duties and their duty to house people in housing need, and to respond to:*
  - **significant** *undue pressures related to an increased level of households being assessed as homeless, where this pressure is due in part to the pressure of applications from households with no local connection to the local authority area(s);*
  - *significant undue pressures resulting from increases to the scale/frequency of homelessness applications from households experiencing homelessness with no local connection to the local authority area(s).*

We therefore require clarity on whether these criteria will in effect provide Local Authorities with the ability to continue to make a local connection referral to another area, and refuse to accommodate a household permanently, as they for example say they are under undue pressure. **This would completely undermine the policy intention of these proposed changes to ensure a person-centred approach, which aims to achieve tenancy sustainment and prevent recurring homelessness.**

It is vital that Local Authorities are supported to provide the required temporary and settled accommodation in their area to meet housing need and for there to be a strategic approach to assessing what accommodation is required, based on evidence of need. We are not convinced there will be a significant increase in homeless applications in many areas and believe that the criteria as set out will potentially jeopardise the policy intention of this positive change to Local Connection.

### Question 3

Please let us know about any suggested amendments you have to the factors proposed in para 33 for assessing whether the capacity of a local authority to meet its homelessness and housing duties is being adversely affected by any modification to local connection.

Para 33 This third bullet is in recognition that it is important to balance the desire to reduce burdens and increase choice for people with the need to ensure that these choices are realistic in terms of accommodation and support capacity within local authorities. The Scottish Government plans to monitor this, on an ongoing basis, to determine whether the capacity of a local authority to meet its homelessness and housing duties is being adversely affected by any modification to local connection. It is proposed that the factors to be considered would include:

- *number of applications/assessments*
- *number of social lets required to house statutory homeless people and associated impact on waiting lists*
- *number of households experiencing homelessness in temporary accommodation and time spent there*
- *sustainability of solutions for households experiencing homelessness*
- *ability to meet support needs*
- *ability to prevent homelessness*

### Shelter Scotland's view

We agree that all of these factors should be monitored and at a specific time. It would also be useful to also focus on the **outcomes for households** to be able understand what the outcomes have been for people who have moved to a different area and if it has been a positive experience for them. For example, helping them to sustain their tenancy, gain/maintain employment, benefit from access to family or local support or by being able to escape a violent or threatening environment.

We understand the pressure in some areas to provide the housing people require, this is however not a new issue and it is one we have struggled with for many years, and despite ambitious social house building programmes over recent years, this has resulted in a housing emergency in Scotland.

If the ambitions of the Scottish Government include ensuring everyone has a safe, decent and affordable home in the place they wish to live, then the Local Authorities and the Scottish Government will need to make sure that the social rented homes that people need are provided in the right places.

That is why we are calling for another ambitious social house building programme over the next parliamentary term – to build at least 37,100 social rented homes in the right places to reduce housing need.

We would also want to ensure that should the monitoring and evaluation show for example a lack of ability by Local Authorities to provide support or temporary or settled accommodation, then this should be tackled by addressing the issues which are preventing them from being able to provide enough suitable housing and/or a person centred, rights-based housing and homelessness service. So, rather than preventing people from being able to choose to live in an area which meets their needs, we must ensure a rights-based approach is realised by providing the resources and support for Local Authorities and ensure they are complying with the legislation through a robust regulatory framework.

#### **Question 4**

As set out in the 2019 consultation, we propose using HL1 data to monitor the impact of this change. Please let us know of any comments you have on this proposal.

#### **Shelter Scotland's view**

Currently, while it is available on request, local connection data is not adequately published or clarified in the biannual homelessness statistics publications. We feel that it is extremely important to consider how the data is collected, published and understood in order to appropriately measure how local connection tests are currently used and to gauge the impact of changing this policy, particularly the outcomes for people.

We have also mentioned above that we know many referrals take place on an informal basis and are not recorded, and this being captured properly is intrinsic to understanding the issue better. It is also particularly important to ascertain how different localities experience the change. If data collection on local connection is continued, there should be robust guidance around this and emphasis on the fact that this is for monitoring the impact of the change only.

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