

Consultation on a Ministerial Statement for Modifying Local Connection Referrals in Scotland

Analysis Report

February 2021

Contents

Executive Summary	1
Introduction	3
Summary of the Main Findings	6
Consultation Questions	6
Main Findings: Proposal to suspend local connection referrals (Q1)	6
Main Findings: Content of Ministerial Statement (Q2)	10
Main Findings: Factors for assessing impact on local authorities (Q3)	12
Main Findings: Data collection (Q4)	13
Respondent Organisations	15

Summary of Responses to Consultation on Local Connection Ministerial Statement

Executive Summary

1. The Programme for Government announced by the First Minister on 5 September 2017 set out a new commitment to eradicate rough sleeping, transform the use of temporary accommodation in Scotland and end homelessness.
2. The Homelessness and Rough Sleeping Action Group (HARSAG) was subsequently established to initiate these changes. HARSAG made 70 recommendations which led to the Ending Homelessness Together High Level Action Plan, which set out how the Scottish Government would work with partners to end rough sleeping and homelessness.
3. One HARSAG recommendation was to modify the operation of local connection by suspending the power of local authorities in Scotland to make referrals and the Scottish Government has been gathering views on taking this forward.
4. This is an analysis report of the Scottish Government's [consultation](#) on a Ministerial Statement for modifying local connection referrals in Scotland, which ran from the 3 August to 23 October 2020. The consultation is part of taking forward a key action from the [Ending Homelessness Together Action Plan](#), published jointly by the Scottish Government and COSLA and updated in October 2020.
5. The consultation paper invited comments on the content of a statement which Scottish Ministers are required to publish to set out the circumstances in which, and the general criteria by reference to which, their power, under Section 33A of the Housing (Scotland) Act 1987, to modify local connection referrals is to be exercised. It also invited comments on the Scottish Government's proposal to suspend local connection referrals between Scottish local authorities.
6. The consultation paper posed four questions and the Scottish Government received 44 responses (7 from individuals and 37 from organisations). Organisations responding included local authorities, third sector organisations, tenants groups and others.
7. There was general support in responses regarding the core content of the ministerial statement and the overarching aim of the proposed changes to give people experiencing or threatened with homelessness greater control over their journey from homelessness.
8. However, a majority of local authority responses noted concerns that the proposal to suspend referrals could negatively impact on the ability to deliver their housing and homelessness duties. The current power to apply the local connection test was viewed amongst a number of those responses as a useful tool to direct households to where they already have existing support and networks.
9. The responses to the consultation will be carefully considered and will help inform the final version of the ministerial statement and, after some further

discussions with stakeholders, the decisions on implementing any legislative changes.

Introduction

10. Local authorities currently have the power, but not a duty, under Section 33 of [Housing \(Scotland\) Act 1987](#) (“the 1987 Act”), to refer households they have assessed as homeless and who do not have a local connection with them to another local authority where they do have such a connection. This power does not apply where the person has been assessed as intentionally homeless, as there is no duty to provide settled accommodation.

11. Local connection is defined at Section 27 of the 1987 Act. A local connection is currently formed on the basis of residence of the applicant’s own choice, employment, family associations or any special circumstance, such as health reasons or education.

Local Connection Statistics

12. The most recent [Homelessness in Scotland: 2019 to 2020 Statistics](#) show that the power to refer applicants to another local authority on the grounds of local connection is used rarely (170 cases in 2019/20), and has been decreasing over time (see table 54). The statistics also show that, in 2019/20, 91% of homeless households had a connection to the local authority to which they made their application. A further 5% had no local connection to any local authority within Scotland. This means that only 4% (1,195) of households making a homeless application had a connection to another local authority other than the area they applied to. In 2019/2020 the majority of these cases (925, or 77% of the total) were in Glasgow City Council, and none of these were referred to other local authorities.

Consultation

13. In August 2020, the Scottish Government launched the [consultation paper](#) on a Ministerial Statement for modifying local connection referrals in Scotland.

14. The consultation paper posed four questions related to the proposed content for the ministerial statement as well as to invite further views on the Scottish Government’s proposal to suspend referrals between Scottish local authorities, as recommended by the Homelessness and Rough Sleeping Action Group (“HARSAG”).

15. The consultation followed on from a [consultation paper](#) issued by the Scottish Government in January 2019 which invited views on a recommendation from HARSAG to commence the provision in Section 8 of the [Homelessness etc. \(Scotland\) Act 2003](#) (“the 2003 Act”) to give Scottish Ministers the power to modify, by statutory order, referrals for local connection. HARSAG also recommended that Ministers use the new power to suspend referrals between local authorities in Scotland.

16. Following the 2019 consultation, the [Homelessness etc. \(Scotland\) Act 2003 \(Commencement No. 4\) Order 2019](#) commenced the local connection provisions, giving Scottish Ministers the power, under Section 33A of the 1987 Act, to modify the operation of referrals between local authorities within Scotland.

17. The provisions also required that, under Section 33B of the 1987 Act, Scottish Ministers must publish a statement setting out the circumstances and general criteria, by reference to which, modifications would take place.

18. The 2019 order also commenced the provision in Section 4 of the 2003 Act to change the duty for local authorities to investigate for intentionality to a power to investigate, and this was commenced in November 2019.

Profile of participants and engagement with the consultation

19. The consultation received 44 responses from individuals and organisations, with 7 from individual participants and the remaining 37 responses from a range of organisations, as shown below:

Table 1: Respondent Groups

Category	No. of respondents
Local Authority	25
Professional Bodies	1
Tenant Group	4
Third Sector	5
Legal	1
Public Bodies	1
Total Organisations	37
Individuals	7
Grand Total	44

20. An analysis of the responses was undertaken by officials in the Scottish Government Homelessness Unit. All four questions invited a qualitative response and no quantitative analysis was undertaken.

21. An overview of the responses to each question is provided in this report and individual responses are available to view on the Scottish Government's consultation hub [Citizen Space](#).

22. This report presents the range of views expressed and trends amongst responses. During analysis it became evident that some participants repeated aspects of their responses across questions. In some cases, parts of a response aligned more closely with another question in the consultation document. To avoid repetition, analysis is presented under the most appropriate heading/question.

Summary of the Main Findings

Consultation Questions

23. The consultation paper invited views on four questions relating to the core content of the ministerial statement for modifying local connection referrals in Scotland, as well as the Scottish Government's proposal to suspend the operation of local connection referrals between local authorities in Scotland.

24. The following paragraphs summarise the main findings from responses to each of the four questions.

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 2019 consultation 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.

Main Findings: Proposal to suspend local connection referrals (Q1)

25. There were 43 responses to this question, with the majority of respondents acknowledging the merits of giving people experiencing or threatened with homeless greater control over their journey from homelessness, although the majority of local authority respondents highlighted concerns about the potential impacts on housing and homelessness delivery in their areas.

Impact on those threatened with homelessness

26. The main theme from respondents whose comments supported the proposal to suspend local connection referrals was an acknowledgement that people experiencing homelessness should be able to choose to settle in a place that meets their own personal, housing and support needs.

27. A high number of respondents cited the positive benefits of the proposal in giving people the best chance of sustaining tenancies and therefore reducing repeat homelessness. This included the importance of choice for people experiencing homelessness and offering a capacity to be housed in an area best suited to an individual's needs (e.g. near family, relatives/friends, employment etc.) and where they can access the support services they require. It was also suggested that the proposed change could help prevent bottlenecks of high demand in certain areas if households who struggle to find a suitable home choose to move to another area that suits them.

28. Some respondents highlighted that a suspension of referrals would allow vulnerable households/persons to move areas to obtain more appropriate support

and a change of environment away from negative influences, harassment, threats of violence and persecution. It was also noted that the proposed change would benefit groups and individuals who can sometimes find it difficult to demonstrate a local connection, with Gypsy/Travellers and prison leavers suggested as examples.

29. A few respondents also suggested that an informal referral process should be retained to reduce the number of households that could be “lost in the system” without a resolution to their homelessness if the local authority they present to does not have the accommodation or support services available to fulfil their expectations.

30. Conversely, a few respondents also raised a concern that some people experiencing homelessness might be advised to present at another local authority area where they are more likely to be offered settled accommodation more quickly, rather than being provided with accommodation in an area where they wish to settle or have an existing support network. One response also expressed concern that local authorities may continue to assess for local connection and make informal referrals if the power to assess is not also removed from the legislation.

31. Some respondents noted that the proposed change could raise implications for some vulnerable households with complex needs, especially those linked with statutory services for Adult Support and Protection and Child Protection. It was also highlighted that there can be instances where households deliberately avoid statutory services to minimise compliance.

32. There was a concern that this risk might increase if a household is able to present to another local authority, when detailed assessments and risk processes had already been applied and support packages identified and put in place. It was noted that these have often been in place for many years with relationships developed between support services and children/adults.

33. It was also suggested that a national database of vulnerable households is developed and that the needs of children’s education and well-being must be considered prior to relocation.

Impact on local authority areas

34. The main theme from responses not supporting the proposal to suspend local connection referrals, mainly from local authority respondents, was a general concern that the numbers of homeless applications would increase and create issues for areas that do not have the housing stock and resources to meet the need.

35. There was broad acknowledgement across responses that the number of referrals for local connection were few, and decreasing over time. However, a high number of local authority respondents expressed concern that the change could potentially increase the number of homeless presentations they receive and put pressure on the supply of accommodation and support services.

36. Some of these responses also noted a potential negative impact on already pressurised resources such as the Housing Option & Homeless Service, Health and Social Care, NHS, Social Work and Education, particularly where people moving

have complex support needs. It was also noted by some respondents that the proposed change was being considered at a time when local authorities were under pressure from competing priorities, such as energy efficiency targets, Unsuitable Accommodation Order, Rapid Rehousing and the response to the coronavirus pandemic.

37. Some local authority respondents also expressed a concern that this was being compounded by a backlog of applications and a lack of suitable housing stock to meet temporary and permanent housing needs. Some respondents noted that this could lead to more people being housed in temporary accommodation for longer periods of time and that others on the permanent housing waiting list could become less of a priority due to housing supply issues.

38. Some respondents also highlighted a concern that making a homelessness application could become a more appealing option to people from outside the area who may perceive that they have an increased (and quicker) chance of being housed should they submit a homeless application.

39. It was also noted by some respondents that the proposed changes could put pressure on the 'more desirable' local authority areas while also having a potential detrimental social and economic impact on 'less desirable' areas if people are drawn more towards what they perceive to be attractive locations.

40. A number of respondents also noted that significant numbers of people who present as homeless from neighbouring local authorities have pronounced health and social care needs with identified care plans in their community which have been developed and resourced over time. This was viewed as a potential pressure for local authorities where the appropriate specialised services are in short supply or unavailable, a particular concern expressed by those from island and rural areas (see below).

41. A number of local authority respondents noted that the response to the coronavirus pandemic was adding to a backlog of cases. One respondent also anticipated an increase of movement to cities as restrictions are lifted which would place pressure on services. A small number of respondents suggested that the implementation of proposed changes be delayed to allow local authorities to prepare and to address the backlog and increase in numbers requiring assistance due to the economic impact of the pandemic.

42. Respondents broadly welcomed the commitment in the draft core statement to measuring and reviewing the impact of any changes on the capacity of local authorities to meet their housing and homelessness duties. Although some respondents also noted that it was essential that the Scottish Government should provide clear guidelines on how local authorities are to report evidence where local connection changes are having a detrimental effect. It was suggested that this includes further information on how a local authority would raise a concern, what the process would be, timescale and potential outcome.

43. One response from a tenants group recommended that the Scottish Government establishes a national fund to help any local authorities should they become overwhelmed with applications.

Impact on island and rural communities

44. There was a view from a number of local authority respondents that the proposed changes could potentially have a detrimental impact on rural and island communities. It was highlighted that these small communities cannot adapt swiftly to rapid changes in demand and that it was essential that a full islands communities impact assessment is undertaken. It was noted that rural areas are resourced to provide services to relatively low numbers and that even a small increase could be particularly problematic for small rural and island communities due to the lack of available resources and specialised services.

45. It was also noted by some respondents that often the people experiencing homelessness who are attracted to the islands are those with more complex needs and the specialist support they may require is not always available in island authorities. There was a request that island authorities be allowed some flexibility to determine whether they continue to apply local connection as opposed to removing it entirely.

Impact on urban city areas

46. It was highlighted in responses from the city local authorities that their areas were already experiencing pressures which could be exacerbated by the changes as more people are likely to present there as homeless due to their attractiveness and for employment opportunities.

47. A concern was also highlighted about the potential overspill from larger local authority areas who lack capacity and are already in breach of their statutory duties in relation to households experiencing homelessness, and how this will impact on areas which border them.

Impact on community justice arrangements

48. The impact on the operation of MAPPA and other public protection arrangements (including Child or Adult Protection duties), and the continuing housing and management of a range of offenders on release under licence arrangements was highlighted by a number of respondents as requiring further consideration, adequate resourcing and updated guidance across services to avoid any adverse unintended consequences of the changes.

49. It was further noted that high risk offenders whose movements are being managed are normally housed in their original local authority area and in some instances may also need to move locations due to security/safety concerns. These respondents also highlighted that the current system depends on good communication and collaboration across all the authorities/organisations involved and some expressed concern that the proposed changes could potentially lead to

breaches of licence conditions where service users apply to local authority areas where they are not known to services.

50. While a number of responses acknowledged that the proposed changes would benefit prison leavers who can often encounter difficulties reintegrating and in demonstrating local connection, some of the local authorities which are in close proximity to prison estates noted a concern that they could see an increased demand for resettlement. Other respondents also noted a potential unintended consequence of removing local connection was that housing authorities may no longer have a clear responsibility to engage with people in prison prior to release.

51. A few respondents highlighted a concern that the change could potentially allow the perpetrators of domestic abuse to take advantage to move closer to the victim of their abuse, who had been relocated for their safety.

52. A few local authorities also raised the prospect that changes could potentially exacerbate 'cuckooing', where the home of a vulnerable person is taken over in order to establish a base for illegal drug dealing and organised crime. It was noted that this was already an issue for some local authority areas.

Referrals from elsewhere in the UK

53. One respondent sought clarification on the position regarding referrals from elsewhere in the UK, which the consultation paper had confirmed would continue to operate as it does currently. Further clarity was sought on whether a person would be referred to a local authority to which they have a connection with, or if they would be able to choose where to be housed.

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

Main Findings: Content of Ministerial Statement (Q2)

54. There were 34 responses to this question with the majority of respondents broadly in agreement with the draft content for the statement on the circumstances and general criteria for modifying local connection, as proposed in paragraphs 31 and 32 of the consultation paper. However, some respondents identified areas which required further clarification and offered views on changes and additions which could be incorporated to enhance the statement. These included:

- (i) Circumstances for modifying local connection referrals:

- Include the role that Health and Social Care Partnerships (HSCPs) can play in meeting the health and wellbeing needs of those affected by local connection changes
- Acknowledge scope for referrals where it is in the best interests of the household, as demonstrated through the housing pathway planning process.
- Take account of the household's support needs and the support they already have in place in their current area
- Include additional text, "and to ensure that those facing homelessness after a period in prison are given the support they need to secure settled accommodation in their area of choice whilst maintaining the integrity and effectiveness of the MAPPA process."

(ii) General criteria to reference:

- Acknowledge potential impact on the entire community and other local authority statutory obligations (e.g. social work, criminal justice, education, individuals with no recourse to funds), not just homeless applicants.
- Ensure local authorities are still able to support someone who wants and would benefit from a referral to another local authority.
- Should take account of the household's support needs and the supports they already have in place in their current area of residence/origin.
- Include reference to maintaining the capacity of local authorities to fulfil public protection processes and requirements for children or adults, including safety concerns in relation to high risk offenders, and to ensure all applicants being discharged from prison can access the support and services they require.
- Include additional bullet point:
"To ensure that those being liberated from prison with no settled accommodation receive the necessary advice and information to allow them to make informed decisions about where they wish to be rehoused and are given the practical help and support they need to present to their chosen Council and sustain their new accommodation once it is available; and to ensure that the processes in place for the management and supervision of high risk offenders and in particular those subject to an Order of Lifelong Restriction and covered by the MAPPA process are robust enough to support these offenders in making decisions about where they want to live without compromising their supervision or the safety of other residents."
- Needs to be further clarification on what constitutes "available evidence of any detrimental effect" and measuring "significant undue pressure" on local authorities, with clarity also on how many additional presentations would constitute a 'significant' increase.
- Should stipulate how frequently will be monitored and what, and how quickly, support would be given to local authorities experiencing very high demand.
- Make clear that modification is to "increase the rights and ability" of people to choose where to apply for assistance.
- Account for the equality impact and need to improve outcomes for women, as well as young people up to the age of 25.
- Where capacity cannot be met need protocols in place to ensure people are aware of their rights and are rehomed in another appropriate authority that is suitable for their needs.

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.

Main Findings: Factors for assessing impact on local authorities (Q3)

55. There were 40 responses to this question with the majority of respondents satisfied that the impacts on local authorities of any changes to local connection were to be closely monitored. There was also broad agreement with the factors for doing this, as set out in paragraph 33 of the consultation paper. Again, some responses offered views on changes and additions which could be incorporated to enhance the statement. These included:

- Needs to be clear guidance and an easily evidenced mechanism for local authorities to approach the Scottish Government to highlight pressure, and any response needs to be timeous.
- Monitor the quality and sustainability of outcomes for households who have moved to a different local authority area as well as the impact on the area they have left.
- Monitor the percentage of social lets to homeless households.
- Acknowledge the role of health and social care services (including mental health and substance misuse services) third sector organisations and others such as faith based organisations.
- Monitor the capacity of local health and social care services to meet the needs of homeless applicants with particular health care or complex support needs.
- Monitor the views and experiences, the tenancy sustainment rates and repeat homelessness of those moving into an area as compared with established residents and the reasons for any disparity.
- Remove reference to monitoring the ability of local authorities to meet support needs as this could reduce support to young people and other vulnerable groups.
- Take account of housing market conditions for an area and overall impact on supply and demand, including lengths of stay in temporary accommodation, waiting times for permanent accommodation and breaches related to the use of unsuitable accommodation.
- Include results of any “island communities impact assessment” carried out under the terms of the Islands (Scotland) Act 2018.
- Monitor and evaluate any undocumented and informal practices that may develop as unintended consequences of any change e.g. Gatekeeping.
- Should be a mechanism for Scottish Government to lift suspension immediately where there is a “Force Majeure” arising from or attributable to acts, events, omissions or accidents beyond reasonable control such as “Coronavirus”.
- Make provision for review (within 2 years) of the modifications.

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.

Main Findings: Data collection (Q4)

56. There were 37 responses to this question with a broad acceptance that data collection on local connection would continue, although it was noted also that there should be robust guidance around this and emphasis on the fact that it is only for monitoring the impact of the change. However, as mentioned at para 30 above, one respondent suggested that the power of a local authority to assess for local connection should be removed completely.

57. Most respondents agreed that HL1 data was the key tool in monitoring the impact of any changes, although HL3, PREVENT 1 and housing list data sets were also suggested as useful monitoring sources.

58. Some respondents suggested that care is needed when using HL1 data to measure the impact of these changes. It was suggested this is because local authorities can currently take different approaches in applying their power to make referrals, which will be reflected in the baseline data. One respondent also suggested that the HL1 system should capture information to identify multiple applications across different authorities which could impact upon the numbers recorded, and that the Scottish Government should provide guidance on how this is to be dealt with.

59. Some responses also highlighted that it was important not to rely solely on published data sources and that evidence should also be collected from the local authorities themselves, as well as the five regional housing options hubs and households who take up the opportunity to settle in a new area.

60. A few local authority respondents also suggested that to help assess the impact, patterns of movement and to understand why people present to different authorities, it would be beneficial to collect information on matters such as:

- reasons for moving
- types of households
- if support is being provided
- requirement for temporary accommodation
- time taken to resolve homelessness cases
- tenancy sustainment

61. Some also suggested including a question which asks for details of the applicant's last settled address rather than just the post code, which can be forgotten and/or recorded incorrectly.

62. One third sector respondent also requested further detail on options to be considered if local authorities come under pressure to make the changes work more effectively. It was suggested that consideration be given to the HARSAG

recommendation for a process where money or resources can follow an individual so that local authorities can claim costs from each other.

Respondent Organisations

Aberdeen City Council
Aberdeenshire Council
Aberdeenshire IJB
Angus Council
The Association of Local Authority Chief Housing Officers (ALACHO)
Chartered Institute of Housing Scotland
City of Edinburgh Council
Clan Childlaw
Comhairle nan Eilean Siar
Community Justice Scotland
Convention of Scottish Local Authorities (COSLA)
Crisis
Dumfries & Galloway Council
Dundee City Council
East Ayrshire Council
East Lothian Council
East Renfrewshire Council
Falkirk Council
Fife Council
Frontline Fife Homelessness Services
Glasgow City Health and Social Care Partnership
Homelessness Network Scotland
Moray Council
North Ayrshire Council
North Lanarkshire Council
North of Scotland Regional Network 1
Orkney Islands Council
Scottish Regional Network Region 3
Scottish Women's Convention
Shelter Scotland
Shetland Islands Council
South Ayrshire Council
South East Scotland Regional Network 2
South Lanarkshire Council
West Dumbartonshire Council
West Lothian Council
West Lothian Tenants Housing Network
* 7 Individuals



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