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The Information Centre
An t-Ionad Fiosrachaidh

Social Justice and Social Security Committee

**7th Meeting, 2022 (Session 6), Thursday,
10 February**

Refugees and Asylum Seekers

Introduction

The Committee will hold its second evidence session on refugees and asylum seekers in Scotland on 10 February.

The aim is to focus on the following three areas:

- No-recourse to public funds.
- the Afghan Citizen Resettlement Scheme
- UK Government's Nationality & Borders Bill, and the Scottish Government's LCM

Other issues have been raised in submissions and are referred to in this paper.

The Committee will hear from:

Panel 1

- Graham O'Neill, Policy Manager, Scottish Refugee Council
- Andy Sirel, Legal Director and Partner, JustRight Scotland
- Lidia Dancu, JustCitizens Member, JustRight Scotland
- Robina Qureshi, Chief Executive Officer, Positive Action in Housing

Panel 2

- Hassan Darasi, Challenging Violence Against Women project manager, Community InfoSource

- Phil Arnold, Head of Refugee Services – Scotland, Wales and N Ireland, British Red Cross
- Maggie Lennon, Director, Bridges Programme
- Pinar Aksu, Human Rights and Advocacy Coordinator, Maryhill Integration Network,
- Danny Boyle, Senior Parliamentary and Policy Officer and National Coordinator of the EMNRN ([Ethnic Minority National Resilience Network](#)), BEMIS Scotland

On 3 February, the Committee heard from:

- Andrew Morrison, Chief Officer, COSLA Migration, Population & Diversity
- Pat Togher, Assistant Chief Officer, Public Protection Complex Needs, Glasgow HSCP
- Councillor Susan Aitken, Leader, Glasgow City Council
- Alistair Dinnie, Refugee and Migration Programme Manager, City of Edinburgh Council
- Calumn Maciver, Director for Communities, Western Isles Council.

The Committee has received written submissions from COSLA, Bridges Programme, Maryhill Integration Network, the Scottish Refugee Council, British Red Cross and JustRight Scotland.

Background and context

For background and context on the entitlements for asylum seekers, refugees and people with insecure immigration status who have no recourse to public funds (NRPF), Members can refer to the [SPICe paper prepared for the Committee on 3 February 2022](#).

Theme 1: Statistics

The Home Office publishes a range of data on asylum, although there is limited detail based on the settled location of asylum seekers. Data tables are available in the [previous SPICe briefing](#).

Data is available on:

- The number of asylum seekers receiving government support (housing and/or subsistence), under section 95 of the Immigration and Asylum Act 1999. This shows that Glasgow City Council has the largest population of asylum seekers, which is because it is the only local authority taking part in the UK Government's asylum dispersal scheme. Glasgow City Council has, as at 30

September 2021, 3,573 asylum seekers, with 3,481 in dispersed accommodation, and 92, receiving subsistence only.

- The number of refugees who have been resettled in local authorities under four UK Government resettlement schemes. This shows that all 32 local authorities have resettled refugees, mainly under the Vulnerable Persons Resettlement Scheme (Syrian refugees). Edinburgh and Glasgow have resettled the highest numbers in total under the four schemes, respectively, 562 and 521, as at Q3 2021.

Data is not available on the number of people with NRPF.

In written submissions to the Committee, COSLA said that gaps in available information make it challenging to determine the number of people in Scotland with NRPF and to plan for and meet their needs.

However, COSLA did state that it assumes the majority of Scottish local authorities have some residents who have NRPF:

“Despite the limitations of existing data, COSLA assumes that the majority of local authority areas in Scotland will have some residents who have NRPF or EEA nationals with similar restrictions on their entitlements to benefits. Migrants who are subject to immigration control living in the UK are able to move within and between local authority areas. Informal exercises conducted by COSLA have highlighted that Glasgow, which is an asylum dispersal area, as well as Edinburgh, typically have the highest number of people in Scotland requiring assistance because they have NRPF, followed by Dundee and Aberdeen. Other areas including Perth and Kinross, Dumfries and Galloway and Highland Council also indicated awareness of temporary residents working in seasonal employment such as food processing and agricultural work, as well as hospitality and tourism. Fifteen Scottish local authorities responded to a recent informal snapshot survey conducted by COSLA to capture information on support provided to people with NRPF.”

On 3 February the Committee heard from Glasgow Health and Social Care Partnership (HSCP) and COSLA about the value of having data on NRPF. Glasgow HSCP said it would allow them to anticipate service delivery better, to case manage better, to inform budgets, and anticipate trends. COSLA agreed with this view. Glasgow HSCP also explained that it was important to hear from people with lived experience as they need to understand past trauma, and be a trauma informed organisation.

COSLA were also able to provide an estimate of EEA nationals who now have the condition of NRPF. The estimate is based on UK wide data which shows that 3% of EEA nationals have been refused settled status. COSLA said there have been nearly 300,000 applications for settled status in Scotland (as at September 2021), and assuming 3% are refused, this would mean that around 9,000 EEA nationals have been refused settled status in Scotland and therefore have NRPF.

Glasgow HSCP also said that in Glasgow there 90 people with NRPF in accommodation, 132 EU nationals, have around 130 people with NRPF supported by children and families service.

Impact on resourcing

There was also discussion on 3 February about whether there should be a greater **geographic spread of asylum seekers and refugees across Scotland**. Western Isles Council supported the idea, but the critical thing is matching people and families to remote areas. While the Western Isles have resettled Syrians and Afghans, any increase in the population of refugees or asylum seekers would have to consider whether housing and appropriate support structure is in place, for example access to interpreters and legal advice.

COSLA said there is unanimous support for resettlement schemes across 32 authorities. A support structure can be built up with UK Government funding. The challenge is around asylum dispersal, where there is no UK Government funding. This makes it difficult for local authorities to support the dispersal scheme as they don't necessarily have the resources to support people. COSLA would like a dialogue with the UK Government about reforming the asylum dispersal scheme so that it is more akin to resettlement schemes.

Legal advice remains a challenge, and it is largely based in Glasgow. It is a strand of the Ending Destitution strategy and the Scottish Government has funded COSLA to provide some casework support to help councils with some of the challenges they are facing.

COSLA said there had been significant changes to supporting **Unaccompanied Children (UC)** in the last 6 months. A year ago, the UK Government consulted on how UC should be supported, as there were particular pressures on the south coast of England and a significant number of UC were accommodated in hotels. A voluntary rota system was established which Scottish local authorities agreed to participate in. At the end of last year, the scheme was made mandatory because the UK Government needed more councils to "step up". Currently, local authorities are "in a state of flux" moving from the voluntary to mandatory scheme, but it is likely that every council will receive UC. Councils do receive funding for UC in way that they don't for adults. There are challenges for those who are over 18, as councils have ongoing responsibilities to support care leavers. There are costs to supporting care leavers who were UC, which COSLA will update the Committee on. Councillor Aitken said that Glasgow has more UC than they are funded for.

The Scottish Government supports UC by funding [the Scottish Guardianship Service](#) (SGS), which is managed and delivered by the Scottish Refugee Council and Aberlour Children's Charity. The SGS works with local authorities and other stakeholders, for example legal services, to help UCs access the assistance they need and to make informed decisions about their future.

Members may wish to ask the panel:

1. **About the need to have accurate data on the numbers of asylum seekers, refugees and people with no recourse to public funds in Scotland, particularly for the third sector.**
2. **What are their views on more local authorities taking part in the UK Government's asylum dispersal scheme and the concerns about adequate resourcing to provide a support infrastructure?**
3. **Extrapolating from UK Government figures, there could be around 9,000 EEA nationals in Scotland who have NRPF. What impact is this having on existing support services?**
4. **How are Unaccompanied Children supported through the Scottish Guardianship Scheme?**

No recourse to public funds (NRPF)

The situation for people with no-recourse to public funds (NRPF) has been a long-standing issue of concern in Scotland. Information on NRPF has been provided in the background and context section of the paper, above.

The former Local Government and Communities Committee considered NRPF at the end of session 5. The Committee heard how the situation for people with NRPF had worsened during the pandemic. The [Committee's legacy report](#) (24 March 2021) recommended that a successor Committee follow up on this subject.

The Scottish Government and COSLA's [Ending Destitution Strategy](#) (31 March 2021) aims to improve support for people with NRPF in Scotland. A joint submission from the Scottish Government and COSLA to the [Work and Pension's Committee inquiry on Children in Poverty: NRPF](#) said:

“The Ending Destitution Together strategy is part of our approach to ensure that, as far as possible, we can meet the specific needs and mitigate the unique risks of poverty for people with NRPF, including families with children. A key focus of our initial actions will be strengthening the statutory safety net that local authorities are able to provide and seeking to bolster the role that other services that are not restricted by NRPF rules can provide.”

The strategy is initially for three years, and includes 13 actions across three areas:

- **Essential needs** – access to housing, food and financial support, via local authorities and the third sector, and removing barriers to health services.
- **Advice and advocacy** - increase access to specialist advice and advocacy, including legal advice, to help people to navigate immigration and asylum systems.
- **Inclusion** - support inclusive approaches to the design and delivery of support, including through Scotland's extended social security powers and employability. People with lived experience will continue to inform and shape the strategy.

COSLA's submission states that supporting people with NRPF is a priority. It also said that the Committee should broaden its focus to include other migrants, including EEA Nationals whose entitlements to public services have changed significantly following the UK exit from the EU. COSLA has also been supporting Hong Kong British National (Overseas) migrants who have been settling in the UK under the new visa route.

COSLA suggests the Committee could focus on:

- The progress of the Ending Destitution Together Strategy, alongside other strategies, such as Ending Homelessness Together, and the development of devolved social security.
- Specific action in the Ending Destitution Together Strategy – Action 3 which is a commitment to a 5 year delivery plan to end destitution for adults with NRPF, Action 4 which is a commitment to strengthen access to financial assistance, and Action 10 which is a commitment to extend financial support (using devolved social security powers) to people with NRPF, where possible.
- The funding provided by the UK and Scottish Government to local authorities and their partners, including third sector organisations. COSLA states that local authorities have discretionary powers and some statutory duties to provide assistance, permitting financial support to meet essential living costs to vulnerable people/households with NRPF. The amount of support provided is discretionary and balanced against the resources available to the local authority.

COSLA produced a [framework](#) to help support people with NRPF at the start of the pandemic. The former Local Government Committee heard that while the guidance was welcomed by stakeholders, the implementation by local authorities has been inconsistent. This framework is currently being updated.

In evidence to the Committee on 3 February, COSLA explained that the Framework was about providing accommodation provision to everybody at risk of rough sleeping. It was also about addressing other needs and some councils enhanced financial support to provide food parcels, free school meals, ensuring phone contact, and introduced a mechanism around social isolation support funding. Councillor Susan Aitken, said that the pandemic had allowed Glasgow to deal with NRPF in different ways, with positive outcomes.

COSLA and the Scottish Government's joint response to the Work and Pensions Committee also highlighted:

- Financial pressures of supporting families with NRPF are particularly acute of Glasgow City Council and City of Edinburgh Council as they have higher numbers of people with NRPF. (para 30)
- New funding routes were created, as part of the £350m Communities package to provide support during the pandemic, which were not restricted and enabled the funding of recipients based on need rather than status. (para 35)

- An equivalent discretionary grant, to match the Social Isolation Support Grant, was made accessible for people subject to NRPF under provisions in the Public Health (Scotland) Act 2008, however there was confusion and lack of awareness that this was available for those with NRPF. (para 43)
- The pandemic placed increasing demands on social services, related to domestic abuse, mental health, poverty and substance misuse, which were the most common reasons for children and families needing help from children's social care. This meant financial pressure increased. Loss of employment placed families with NRPF into poverty and destitution. It has also become an issue for EEA Nationals who have not secured Settled Status and are now subject to NRPF. (para 59)

The submission from JustRight Scotland states that the Scottish Government and Scottish public authorities should pursue "every avenue possible to mitigate the impact of NRPF". They list the following areas of concern:

- Barriers to accessing accommodation and financial support
- Increased risk of exploitation and harm for women with NRPF
- Barriers to accessing legal advice
- Knowledge and understanding around NRPF
- Impact of Covid-19

JustRight Scotland commend COSLA's guidance on NRPF, "but our experience continues to tell us that public authorities find this aspect of immigration law challenging".

Devolved social security benefits

As stated in COSLA and the Scottish Government's joint submission to the Work and Pensions Committee, while the Scottish Government can determine eligibility for devolved social security benefits, the UK Government retains control of the list of restricted public funds for immigration purposes and qualifying benefits can restrict eligibility. The UK Government can add devolved benefits to the list, like the Scottish Welfare Fund. However, the Scottish Government has worked with the Home Office to ensure those with NRPF can access:

- Best Start Grant Pregnancy and Baby Payment - Home Office confirmation has been received that parents under eighteen with NRPF can apply for the Pregnancy and Baby Payment without it affecting their immigration status. For applicants over the age of 18, the Home Office continues to require people to be in receipt of a qualifying benefit, thus excluding people subject to NRPF who are restricted from accessing a qualifying benefit.
- The Young Carers Grant provides financial support to young people with

caring responsibilities. Since 1 April 2020, young carers with NRPF can access the Young Carers Grant.

The British Red Cross said in its written submission that in partnership with the Scottish Government, it is delivering a trial first year of a **Scottish Crisis Fund**, providing cash grants to vulnerable people at risk of destitution, including those who have no recourse to public funds (NRPF), reaching 600 people. Part of the project is to better capture data around those at risk of destitution. It believes there is an opportunity “for a longer-term programme to create a stronger safety net in Scotland, linked to the forthcoming review of the Scottish Welfare Fund”.

Members may wish to ask the panel:

- 5. There was increased pressure on the public and third sector to support people with NRPF during the pandemic. Evidence heard on the 3 February suggests that the public health emergency had allowed local authorities to deal with NRPF in different ways, with positive outcomes. What is your experience of the support available to people with NRPF during the public health emergency, and how have things changed now that Covid-19 restrictions have changed?**
- 6. COSLA issued framework guidance on supporting people with no recourse to public funds during the pandemic and is now updating the guidance. The former Local Government committee reported that implementation of the guidance had been inconsistent by local authorities. What is your experience of the framework guidance?**
- 7. An equivalent discretionary grant, to match the Social Isolation Support Grant, was made available for people subject to NRPF, although in its written submission COSLA said there was confusion and lack of awareness that this was available. Can you comment on this?**
- 8. What involvement do you have with the Ending Destitution Strategy, are the aims achievable and how is it progressing?**
- 9. The British Red Cross has been involved in a trial first year of a Scottish Crisis Fund, providing cash grants to vulnerable people at risk of destitution, including those who have NRPF, reaching 600 people. What is your experience/knowledge of this fund, and what other ways do you think there are to provide financial support to people with NRPF, within devolved powers?**
- 10. COSLA highlights the financial pressure on local authorities, and in particular, the pressures faced by Glasgow City Council and City of Edinburgh Council who have a high number of people with NRPF. Can the panel comment on the role the third sector plays to provide assistance to people with NRPF?**

Afghan Citizen Resettlement Scheme (ACRS)

The Prime Minister [announced the scheme on 18 August 2021](#). It was launched on 6 January 2022. The focus of the ACRS is to resettle Afghan nationals and their immediate families who remain in Afghanistan or the region.

The scheme will prioritise:

- “those who have assisted the UK efforts in Afghanistan and stood up for values such as democracy, women’s rights, freedom of speech, and rule of law
- vulnerable people, including women and girls at risk, and members of minority groups at risk (including ethnic and religious minorities and LGBT+)”

The UK Government aims to resettle more than 5,000 people in the first year, and up to 20,000 over the coming years.

Anyone who is resettled through the ACRS will receive indefinite leave to enter or remain (ILR) in the UK, and will be able to apply for British citizenship after 5 years in the UK under existing rules.

There is no application process for the ACRS. Prioritisation and referral for resettlement will be in one of 3 ways:

1. Vulnerable and at-risk individuals who arrived in the UK under the evacuation programme will be the first to be settled under the ACRS. Eligible people who were notified by the UK Government, but not able to board flights, will be offered a place under the scheme if they subsequently come to the UK. The first Afghan families have been granted ILR under the scheme.
2. From spring 2022, the UNCHR will refer refugees in need of resettlement who have fled Afghanistan.
3. Relocate those at risk who supported the UK and international community effort in Afghanistan, as well as those who are particularly vulnerable, such as women and girls at risk and members of minority groups. In the first year of this pathway, the government will offer ACRS places to the most at risk British Council and GardaWorld contractors and Chevening alumni. After the first year, the government will work with international partners and NGOs to welcome wider groups of Afghans at risk.

The [Scottish Refugee Council](#) (7 January 2022), while welcoming the fact the ACRS has ‘finally opened’, said:

“we are concerned about the strict limitations around who is eligible to apply for help under this scheme, and that it will leave many thousands of people still at risk of harm in Afghanistan and neighbouring countries.

We are also shocked that the UK government plans to count people who are already in the UK – those who were evacuated from Kabul along with British forces in August – within the 20,000 ‘new’ places offered by the scheme.”

The Scottish Refugee Council said it would work with partners to provide any support necessary to those arriving under the scheme, and will look closely at the rights and type of status conferred under the scheme.

JustRight Scotland's submission says it is difficult to comment on the ACRS, describing roll out as a "fairly opaque and delayed process", but they have experience on of working with Afghan citizens seeking international protection in the UK, and Afghan families seeking reunification. They view the lack of an application process for ACRS as a difficulty, but that it is in common with the Syrian VPRS. Based on their experience with the Afghan crisis and the Syrian VPRS, they stress that "accurate and accessible information regarding rights and entitlements, including refugee family reunion under the UK Immigration Rules, is essential."

To date, evacuations and resettlements from Afghanistan by the UK Government have taken place via:

- the [Afghanistan Locally Employed Staff \(Ex-Gratia\) Scheme](#)
 - This scheme started in 2013 to offer training, financial assistance (in-country) and relocation to the UK, limited to Afghans who worked directly for the UK Government on or after 1 May 2006 and had worked for more than 12 months when they were made redundant or resigned. It will remain open until November 2022 when it will be replaced by ARAP.
- the [Afghan Relocations and Assistance Policy \(ARAP\)](#).
 - Launched on 1 April 2021 following the UK Government's announcement of their intention to withdraw from Afghanistan by Autumn 2021. ARAP offers relocation or other assistance limited to any current and former locally employed staff who are at risk of serious threat to life in Afghanistan, regardless of their role, employment status and length of service. The scheme will remain open indefinitely.

These schemes oversee the resettlement of Afghan citizens who were contracted by the UK Government and locally employed in Afghanistan.

COSLA has said that Scottish local authorities are playing a disproportionate role in the efforts to accommodate people from Afghanistan, and that all local authorities have committed to participating in both ARAP and ACRS.

"Nearly a hundred families (around 400 individuals) have arrived in Scotland and are making their homes here while a further c. 40 properties are awaiting families to be matched to them. There are also a number of bridging hotels operating in several local authority areas. The local authorities and their community planning partners continue to work tirelessly to ensure that the families who are in the hotels are able to access all the services and information they need before being relocated to their new permanent homes."

It has also said that there are “significant issues around the matching and transfer processes from bridging hotels to local authority accommodation”. This has a negative impact on the Afghan families and the ability of local authorities to fulfil their commitment to support Afghan people.

COSLA said that a key issue to consider is the lack of clarity on, and implications of, the different immigration statuses that people entering the UK on the different schemes will be granted. It suggested the Committee monitor whether resettlement and relocation programmes meet the needs and protect the rights of people seeking refuge in the UK.

In evidence on 3 February, Edinburgh Council said that it had only, so far, supported families in bridging accommodation, 30 families since September 2021. Support is based on the model developed based on their Syrian resettlement support. However, the support available is limited by the nature of their temporary stay in Edinburgh.

Councillor Aitken said Glasgow is supporting 37 Afghans through the current scheme but has been supporting Afghans since 2014. The matching process of accommodation from the Home Office has been slow, so people are staying in hotels, which has a negative impact on mental health. The situation means there is limited information on the complexities of their needs or associated trauma to allow preparation for supporting when they are matched with accommodation. RSLs in Glasgow have made offers of accommodation, but properties cannot be held on to indefinitely.

COSLA said the matching challenges are replicated across Scotland. There is concern from local government, not just in Scotland, but the UK, that a large number of properties are sitting empty, with refugees staying in hotels. This places pressure on local authorities who have existing housing challenges.

Members may wish to ask the panel:

11. What support is the third sector providing to Afghan families, and what are the current gaps in provision to support their resettlement?

12. The Committee heard evidence about the challenges of the matching and transfer process from bridging hotels to local authority accommodation. This means that Afghan families are staying in hotels. How does the third sector support Afghan families who are temporarily staying in hotels?

13. Following the recent announcement of the Afghan Citizen Resettlement Scheme, the Scottish Refugee Council has criticised the limitations on eligibility and that the UK Government will count Afghan refugees already in the UK. What are your views on eligibility to the scheme?

Nationality and Borders Bill

The [Nationality and Borders Bill](#) was introduced to the House of Commons on 6 July 2021. The Bill is currently at the Committee stage in the House of Lords. Because immigration and asylum are reserved, most of the provisions apply to the UK. There

are some exceptions on the provision of civil legal services and certain measures related to modern slavery, which would apply to England and Wales.

The Bill has three main objectives:

- To increase the fairness of the system to better protect and support those in need of asylum.
- To deter illegal entry into the UK, thereby breaking the business model of people smuggling networks and protecting the lives of those they endanger.
- To remove those with no right to be in the UK more easily.

The Bill would also make changes to nationality law and to processes for identifying and protecting victims of trafficking or modern slavery.

Several of the Bill's provisions have proved to be highly controversial. The [House of Lords library](#) (21 December 2021) summarised these as follows:

- powers related to the so called 'pushback' of those seeking to cross the Channel in small boats
- the creation of two tiers of those seeking asylum, and
- the Government's interpretation of the 1951 refugee convention.

The Bill has attracted criticism from refugee advocacy groups, the Joint Committee on Human Rights, and the UN Refugee Agency. Labour, the Scottish National Party, and the Liberal Democrats all voted against the bill being given a second reading in the House of Commons. It passed by a margin of 366 votes to 265.

The Scottish Refugee Council and JustRight Scotland [published a legal opinion on the Bill](#) to understand its impact on Scottish legislation and policy (16 November 2021). They refer to it as the 'anti-refugee bill' and argue that it is the biggest threat to refugee rights in decades. The legal opinion set out [ten recommendations](#) on how Scotland can protect refugees, asylum seekers and migrants, including that:

- Scottish Ministers should lodge a Legislative Consent Memorandum against the bill.
- Scottish Ministers should introduce responsibility for trafficking identification in Scotland and create a Scottish anti-trafficking system to protect refugees and survivors of trafficking.
- Undertake a review of devolved strategies that will be impacted by the bill, including, Ending Destitution Together, New Scots Refugee Integration, and the human trafficking and exploitation strategies.

Maryhill Integration Network said its main concern with the Bill is access to safe routes for asylum seekers, criminalisation of movement and offshore process centres.

The British Red Cross said that access to good quality and early legal advice will be important, give the “one-stop-shop” approach being introduced, requiring people to provide evidence to support their asylum claim at the earliest opportunity, and any delays damaging credibility. Regarding age assessments, it said that the Committee may wish to consider the current process in Scotland, the guardianship service, and the consequences of changes to dispersal on young people in the asylum process.

[JustRight Scotland](#) (30 November 2021) has described the most concerning aspects of the Bill as:

- Differential treatment of people based not on need for protection but on method of arrival.
- Age assessment provisions reach into Scottish child protection systems, and in their written submission they describe the process as damaging for a young person.
- Provisions on human trafficking and exploitation, both areas of law devolved to the Scottish Parliament. In their written submission they state that the provisions provoked an intervention from four United Nations Special Rapporteurs in the form of a [joint statement of concern](#) (5 November 2021).
- Offshoring claimants, where people claiming international protection are taken off shore to process their claims for asylum, raises concerns about our obligation to provide legal advice and support.
- In their written submission they state that proposals on British citizenship, would make it more difficult for children who are stateless, or at risk of statelessness, to access British nationality.

A written submission from JustRight Scotland said the Bill would contravene the European Convention against Trafficking, the European Convention on Human Rights, the UN Convention on the Elimination of All Forms of Discrimination Against Women and the UN Convention on the Rights of the Child. They argue this would directly threaten the Scottish Government [commitment to incorporate international human rights treaties by 2026](#). It would also “impact services around housing and homelessness, social care for children and adults, and domestic violence, to name but a few”. As an example, they refer to a statement made by Rape Crisis Scotland (2 February 2022): [Rape Crisis Movement in Scotland Stands in Opposition to the Nationality and Borders Bill](#).

Further information from the Scottish Refugee Council refers to the increasing level of asylum casework, in a [report by the Chief Inspector of Borders and Immigration](#) (18 November 2021) which the SRC said detailed:

- (a) a decisions system riven by delays
- (b) with staff morale low, attrition high and incompetent, and insensitive interviews too frequent; and
- (c) with limbo for refugees waiting, unable to move on.

The Bill is currently at the [Committee stage in the House of Lords](#), this is a line by line examination of the bill.

COSLA's submission to the Committee said the Bill poses a range of issues for the rights of migrants, asylum seekers and refugees, as well as for the delivery of public services. It has undertaken work to assess the implications of the bill. In a briefing to the House of Lords (included in its submission to the Committee), COSLA said it was also concerned about the bill's impact on public health and safety, in particular:

- “Scottish Local Government is concerned that the Bill, as it is currently drafted, could harm the ability of local authorities to protect vulnerable people, and will place additional pressure on the provision of essential services in Scotland.
- These concerns are compounded by the current context which is seeing local authorities playing an increasingly important role in supporting refugees, Unaccompanied Asylum-Seeking Children, EEA nationals, and other migrants, including new arrivals from Hong Kong.
- The Bill puts Scottish Local Government in a difficult position by making our obligations unclear. In practice, councils' duties to protect vulnerable migrants may come into conflict with the obligations created by this Bill.”

Giving evidence to the Committee on 3 February, COSLA and Councillor Aitken talked about their concern that the Bill creates a of rights depending on how you come into the country. COSLA expressed concerns about provisions on the age assessment process, intentions to establish reception centres that would give rise to safeguarding concerns, and provisions on human trafficking. Reference was made to a pilot on human trafficking with the Home Office, which is now being undermined by the Bill's provisions.

Legislative Consent Memorandum (LCM)

The [First Minister said on the 20 January 2022](#) the Scottish Government is considering the impact of the Bill on devolved areas.

The Scottish Government lodged a [Legislative Consent Memorandum on the Nationality and Borders Bill on 1 February 2022](#). The UK Government consider the Bill entirely reserved as it relates to nationality and immigration. However, the Scottish Government consider that two provisions relate to devolved matters. These are clause 49 which relates to age assessment, and clause 58 which relates to modern slavery. On this basis, the Scottish Government “cannot recommend to the Scottish Parliament to give its consent to the Bill in relation to clause 49 and clause 58”.

Both JustRight Scotland and the Scottish Refugee Council welcome the LCM.

Clause 49

Age assessment of age disputed persons is carried out by both local authorities and immigration services for different purposes. Scottish local authorities carry out age assessments for devolved purposes to establish if an age-disputed person is a child to whom the local authority owes a duty of care and support under devolved legislation. The [Scottish Government published age assessment practice guidance in 2018](#).

Clause 49(3)(a) allows local authorities to refer an age assessment to person designated by the Secretary of State (this will be to the new National Age Assessment Board) but the resulting age assessment would be binding on the local authorities when exercising their devolved functions (clause 49(7)(b)).

Based on our experience, we believe that these changes in the Bill will increase the use of age assessments for purely immigration purposes

The LCM states that under the current system, the Home Office does not scrutinise the age assessment material of Scottish local authorities in detail. The Scottish Government states that the Bill's provisions:

“would allow the Home Office to choose to deploy the NAAB in a more interventionist manner which would significantly alter age assessment processes (and likely outcomes) in Scotland. In particular, the NAAB will be empowered to use scientific techniques as part of age assessment, Scottish Government guidance has consistently advised against use of such techniques on child welfare grounds as well as reasons of scientific unreliability.”

Clause 58

Clause 57 would introduce slavery or trafficking information notices, on a person who has made a protection claim or a human rights claim, requiring relevant evidence to be before a specified date. Clause 58 provides that a failure to do so by the specified date would damage a person's credibility with decision-makers without good cause. The UK Government's view is that these notices will support the early identification of victims and reduce delays.

The Scottish Government sets out in the LCM that the making of decisions as to who is a victim of human trafficking/modern slavery for the “purposes of providing support” is considered to be a devolved matter. It says that Clause 58 is drafted in a manner that suggests the requirements set out would have to be followed for decisions about victim status and support. For background see [COSLA's guidance for local authorities on human trafficking and exploitation](#) (2019).

Decisions in Scotland are currently made by one of two Home Office competent authorities under the National Referral Mechanism (NRM). The Scottish Government states that participation in the NRM, and use of Home Office competent authorities, is through choice. If a Scottish competent authority were to be set up, clause 58 provisions would constrain the Scottish Ministers by requiring late provision of information in support of a trafficking claim to be considered as damaging to a

person's credibility. This would affect existing powers of the Scottish Ministers to make regulations (under [section 9 of the Human Trafficking and Exploitation \(Scotland\) Act 2015](#)) designating the competent authority in Scotland, and detailing how any potential future Scottish competent authority would make decisions about who is a victim of human trafficking.

“The Scottish Government does not agree that potential victims of human trafficking should have the outcome of their claim influenced by the provision of information after an arbitrary deadline and as such consent should be withheld”.

In their written submission, JustRight Scotland recommend that serious consideration is given to “instituting an independent Scottish identification responsibility”.

Members may wish to ask the panel:

14. What are your specific concerns about the Bill and how might the Bill impact on support provided to asylum seekers and refugees in Scotland, for example?

15. What preparations are you able to make to take account of the potential impacts of the Bill?

The Scottish Government has a lodged an LCM on the UK Government's Nationality and Borders Bill.

Clause 49 allows local authorities to refer an age assessment to person designated by the Secretary of State (this will be to the new National Age Assessment Board) but the resulting age assessment would be binding on the local authorities when exercising their devolved functions. The Scottish Government's view is that the Bill would allow the Home Office to choose to deploy the NAAB in a more interventionist manner which would significantly alter age assessment processes (and likely outcomes) in Scotland.

16. What is your experience/knowledge of age assessments, how might this clause impact on young asylum seekers in Scotland, and do you agree with the Scottish Government that consent should be withheld on this clause?

Clause 58 sets out that where a potential victim of human trafficking provides the information required by clause 57 after a specified date, this late provision of the information is to be considered as damaging the credibility of that person, unless there are good reasons. The Scottish Government sets out that the making of decisions as to who is a victim of human trafficking/modern slavery for the “purposes of providing support” is considered to be a devolved matter. It states that the clause is drafted in a manner that suggests the requirements set out would have to be followed for decisions about victim status and support.

17. What is your experience/knowledge of the provision of support for victims of human trafficking, and do you agree with the Scottish Government that consent should be withheld on this clause?

18. JustRight Scotland suggest the Scottish Government consider establishing a Scottish authority to identify victims of human trafficking. Can you comment on this suggestion?

Other issues raised

The submissions from Maryhill Integration Network (MIN) and Bridges Programmes (BP) raise a number of additional issues.

They both raised concern about Glasgow's withdrawal from the dispersal scheme. However, in evidence to the Committee on 3 February, Councillor Aitken said that the Council had not withdrawn from the scheme, that it has been widely misreported. The Council has an agreement post the Park Inn incident, which was there before but the incident emphasised how important it is, that there is a pause on unlimited dispersal on certain types of dispersal. There is a pause on single male asylum seekers, which is a large portion of the asylum-seeking population in the UK. It is about the impact on the wellbeing of asylum seekers coming into the city, and those already in the city.

The concern from MIN and BP is how this change in approach to asylum dispersal might impact on the overall support mechanism for asylum seekers, and that it may result in people being housed in unsuitable spaces in other regions, with little access to the support services they need.

The Scottish Refugee Council has said there is growing evidence that the Home Office are implementing, with their accommodation contractors:

“...a “fait accompli” practice, whereby they reach agreement with private hoteliers, and only then tell the local authority and health services they have done such, putting the council and local communities unfairly and needlessly on the back-foot. This is irresponsible. A proper way to act would be to consult and liaise with the local authority and to respect their views and knowledge, towards a genuine partnership to support new arrivals in appropriate accommodation in communities (not these institutional accommodation sites). And, thereby respect local communities and impacts on services also.”

According to the Scottish Refugee Council, this ‘fait accompli’ practice has been applied in Falkirk, South Lanarkshire, Aberdeen City, Perth and Kinross and Edinburgh (and potentially Dundee also). The result is that “approximately 500 people have been moved into institutional ‘ex-hotel’ asylum accommodation, with no consent sought or got from the local authority nor any direct funding either”.

The [Scottish Government has published a series of correspondence with the UK Government on the use of hotels to accommodate asylum seekers](#) (31 January 2022).

The Cabinet Secretary for Social Justice, Shona Robison MSP, wrote to the Home Secretary, Priti Patel MP, on [21 October 2021](#). The letter said that the Scottish Government are aware that the Home Office plans to procure hotels to accommodate asylum seekers in Scotland in locations outside Glasgow. The Cabinet Secretary said the Scottish Government was not informed of 'new plans to widen dispersal', Ministers became aware after concerns from local authorities. The Cabinet Secretary stressed the unsuitability of hotels, and that such concerns were raised before the tragic incident at the Park Inn on 26 June 2020.

The most recent letter to the Minister for Safe and Legal Migration, Kevin Foster MP, on [27 January 2022](#), requested copy of a letter to the Scottish Government outlining the UK Government's proposals on using hotel accommodation as contingency initial accommodation for people seeking asylum, sent on 20 October 2021 but which the officials have no record of receiving.

The Cabinet Secretary also highlighted the following issues raised and asked the UK Government to take immediate steps to resolve them, or explain longer term plans for the UK asylum system:

- access to independent legal advice to support people to navigate the asylum system
- access to support and services
- engagement prior to procurement of hotel contingency accommodation
- outcome of the inquiry into the Park Inn incident

Other issues raised by Maryhill Integration Network and Bridges Programmes included:

- Access to food – increased support to access food, and that food parcels should be culturally appropriate.
- Digital inclusion – many service users rely on wifi from community centres, libraries etc. Closure of public facilities, many of which have not reopened since the pandemic, has increased social isolation.
- Education – concern that asylum seekers are unable to access higher education, and are limited to a restrictive group of part-time college courses. Recommend the Committee examines how asylum seekers can access higher education without being considered as international students. Also suggest increasing funding for more ESOL classes.
- Well-being – call for more funding to support asylum seekers and refugees struggling with isolation and mental health. LGBTI refugees are often quite isolated and need specific support for their mental health.

- Free bus travel – asylum seekers are excluded from free travel for under 22 year olds. The Committee heard in evidence on 3 February that COSLA have been discussing this with the Scottish Government and it may be resolved soon.
- Devolved services should not ask for proof of immigration status to access the service. The fear that services may share information with the immigration system prevents people from accessing services that are vital to their health.
- Newly recognised refugees are at high risk of homelessness as asylum accommodation is withdrawn after a 28 day ‘move on’ period.

The submission from the British Red Cross raised the following additional issues:

- the experience of women in the asylum system, including the mother and baby unit in Glasgow
- the unique experiences of families reuniting in Scotland.

Homelessness applications

During evidence on 3 February, the Committee referred to [recent homelessness data published by the Scottish Government](#) (1 February 2022), which states that Glasgow saw a 28% increase in homelessness applications in the 6 month period, and that “This is partly due to the increased number of applications from refugees who have been granted ‘Leave to Remain’ status”.

COSLA, Councillor Aitken and Glasgow HSCP were not able to comment on this particular correlation.

Members may wish to ask:

- 19. There is concern about Glasgow’s ‘withdrawal’ from the asylum dispersal scheme and how the Home Office is now using hotel accommodation as contingency initial accommodation for people seeking asylum. However, the Committee heard that Glasgow has not withdrawn, but paused dispersal of single men seeking asylum. Can you provide further information on this situation and its impact to asylum seekers and the provision of support?**
- 20. Submissions from Maryhill Integration Network, Bridges Programme and the British Red Cross raise several other issues, for example, accessing higher education, supporting new refugees to avoid homelessness, provision of free transport for asylum seekers under 22, and improved access to wifi to promote digital inclusion. What policy changes would you suggest to improve the lives of refugees and asylum seekers?**

**Nicki Georghiou, Senior Researcher, SPICe Research
7 February 2022**

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The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot