

Destitution, Asylum and Insecure Immigration Status

Policy Development

This paper seeks views from the Committee on COSLA's response to the Equalities and Human Rights Committee (EHRIC) Inquiry into Destitution, Asylum and Insecure Immigration Status and asks for input to shape future priorities and activity on the broader issue of immigration.

Summary and Recommendations

In May 2017, the Scottish Parliament's Equalities and Human Rights Committee (EHRIC) published the final report of its inquiry into the issue of destitution and asylum. The inquiry highlighted a number of issues with implications for Local Government and recommended further actions to improve the way in which Scottish Government and public authorities mitigate this issue. We suggest that this issue is growing in public and political attention and requires further work and policy consideration. This paper is an opportunity for the board to discuss implications of key findings/changes and to inform the direction of COSLA's future activity in this area.

The board are invited to:

- i. Consider key findings and recommendations from the EHRIC inquiry and discuss the implications for Local Government;
- ii. Agree proposed COSLA position and next steps to take in response and advise on priorities for future work; and,
- iii. Provide early views to inform COSLA's submissions to the Migration Advisory Committee call for evidence and the Scottish Affairs Committee's inquiry into 'Immigration and Scotland'.

References

17.03.17 CWB Item 5.1

COSLA [written evidence](#) for the EHRIC Inquiry into Destitution, Asylum and Insecure Immigration Status

COSLA [Supplementary Information](#) for the EHRIC Inquiry

COSLA oral evidence sessions

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1. Between January and May 2017, the Scottish Parliament's Equality and Human Rights Committee (EHRIC) conducted a high-profile inquiry into the impact of destitution on asylum seekers and those with insecure immigration status. This responded to concerns from the third sector and other key stakeholders, that refused asylum seekers and other vulnerable groups faced a high risk of experiencing destitution in Scotland. The inquiry focused on the ways that public authorities and services can mitigate this issue.

Current COSLA Position

2. To inform the inquiry, the Committee gathered testimony from asylum seekers, and those with insecure immigration status as well as groups and organisations that support or advocate on their behalf. COSLA provided written and oral evidence, (following input from the Community Wellbeing Executive Group, the predecessor to the Community Wellbeing Board). A number of individual authorities submitted responses (these can be accessed on the Scottish Parliament's webpage). The Committee's final report includes a number of key findings that are of direct relevance to local authorities and COSLA's work. EHRIC has asked for updates on its recommendations from public authorities and it expected that progress will be reviewed in 2018.
3. Local Government has a crucial role in supporting the integration of migrants, asylum seekers and refugees in Scotland. This has been illustrated by the response to the Syrian refugee crisis, which has seen all 32 councils volunteering to support resettlement efforts. COSLA has played a central role in coordinating this activity and performs at both an operational and strategic level with regard to asylum and refugee issues. Our evidence to the EHRIC inquiry was based on this experience and specific expertise gained from hosting a No Recourse to Public Funds (NRPF) Network. This specifically supports councils to meet their statutory duties to destitute migrants with NRPF.
4. Our evidence emphasised the following key points:
 - Destitution is an inevitable consequence of the immigration system, which seeks to create a 'hostile environment' for those who do not have a legal right to be in the UK.
 - The denial of public services to those with NRPF runs counter to Local Government's aims and commitments to the communities it serves. It also undermines our obligations to ensure the human rights of all people living in Scotland.

- Despite the challenges and legal barriers, Local Authorities play an important role in supporting some of the most vulnerable migrants, refugees and asylum seekers, including those with NRPF, namely those with needs assessed as being over and above destitution and which require support under the Social Work (Scotland) 1968 Act, the Mental Health (Care and Treatment) Act 2003 or in the case of families, the Children Scotland 1995 Act.
 - Local Authorities also have an ongoing responsibility to Unaccompanied Asylum-Seeking Children (UASC) who have reached the age of 18 and who have exhausted their appeal rights under the Children (Scotland) Act 1995 (as amended) and the Children and Young People (Scotland) Act 2014 to provide support up to the age of 19 and a duty to assess any eligible needs up to their 26th birthday.
 - Many Local Authorities are providing social work support, including accommodation and financial assistance under these duties. This is not supported by any additional resources from central government and creates additional pressures for public services at a time of reduced funding to Local Authority budgets. Data from the UK NRPF Network for 43 Local Authorities across the UK, including Glasgow and Edinburgh City Councils, highlights that they spent a combined total of £36.4 million in 2016/17 supporting families with NRPF.
 - We also recognise the pressure placed on our third sector partners who play a significant role in seeking to mitigate the negative impacts of destitution whilst also experiencing reductions in resources to support their work.
5. We called on both the UK and Scottish Government to find solutions that will bring much needed resources into the communities that are supporting asylum seekers and to recompense local authorities for costs incurred as a result of policies outside of their control.

EHRIC Final Report and implications for COSLA

6. The Committee's final report was published in May 2017 and acknowledges a number of the challenges facing local authorities as they seek to support destitute refugees and asylum seekers. However, it also flags a number of concerns about the consistency of approaches currently in place to mitigate its effects. They particularly highlighted concerns about local authority practices when implementing duties of care towards children whose parents are destitute and have NRPF. Some submissions from third sector organisations claimed that Local Authorities were actively withholding support from eligible families with children or threatening to remove children into local authority care. These issues have attracted a steady stream of media interest and public criticism over recent months, including actions from the Children and Young People's Commissioner for Scotland (CYPCS).
7. The Committee made a number of practical recommendations to improve the way in which destitution is mitigated, including a call for changes to UK policy on registering asylum claims; the creation of a Scottish anti-destitution strategy; a dedicated fund

and a national coordinated practitioners' network. It also sets a specific recommendation for COSLA to update national guidance (last produced in 2012) on the rights and entitlements of migrants, asylum seekers and refugees. The Committee has specifically asked all Local Authorities to undertake "an urgent review of trainings and procedures" currently in place to assess the needs of children whose parents are destitute and have NRPF. Recommendations to the inquiry were discussed by COSLA and local authority officers at the last meeting of the NRPF Network. Specific issues relating to assessment procedures and duties towards children will be the focus of further discussion at our next meeting (due to take place 9 November).

8. COSLA has also consulted with frontline staff working on NRPF cases in six local authority areas. These meetings have suggested that officers face a number of persistent challenges when supporting those with NRPF status. Wider issues relating to destitution as it is experienced across the asylum and refugee resettlement process have also been raised through engagement sessions held to inform the development of the 'New Scots integration strategy'. (COSLA is currently co-authoring the refreshed strategy and a report on this will be brought to the next Board meeting in December). In July 2017 the Scottish Government responded to the inquiry and said that they would take a number of steps to address the recommendations. Some of these have implications for COSLA's work. (This can be found in the appendix to this report).
9. In addition, future changes to immigration law due to be introduced at UK level are likely to have a significant impact on Scottish Local Authorities and the ability of our public services to mitigate destitution. In particular, provisions in the Immigration Act 2016 further restrict access to support through the UK asylum system for some refused asylum seekers, including those with children, and are expected to increase rates of destitution over the next few years. Future immigration policies after Brexit are also likely to have an impact. This is particularly the case, should an increased number of EU nationals have NRPF conditions imposed on their right to live and work in the UK.

Proposed COSLA position

10. It is COSLA's view that some of the evidence submitted to the EHRIC misunderstood the extent of Local Authorities' powers to respond to migrant destitution and failed to reflect many of the efforts undertaken at local level. However, the inquiry has highlighted a number of areas where Local Government policies and approaches could be strengthened and better supported. We agree that any significant barriers to the implementation of duties towards children, in particular, must be swiftly addressed.
11. We suggest that there is a need for COSLA and all Local Authorities to take further action on destitution, both to improve our understanding of and the way in which we tackle these issues and ensure that sufficient response is given to concerns raised. Longer term, our concern is that Local Government has sufficient capacity to respond to destitution and is recompensed to meet the significant costs incurred by

steps taken to mitigate its effects. We propose that these priorities form the basis of future policy development and engagement work.

Calls for evidence: Migration Advisory Committee and Scottish Affairs Committee

12. Elected members are invited to consider two calls for evidence which COSLA will be responding to over the coming weeks. Namely, these are the Migration Advisory Committee (MAC) [call for evidence](#) on EEA-workers in the UK labour market and the Scottish Affairs Committee [inquiry](#) into 'Immigration and Scotland'. Substantive papers will be taken to the Community Wellbeing Board and COSLA Leaders before the end of 2017, however the Board is invited to provide any initial views they would like COSLA to consider and to provide officers with any additional information for the COSLA responses.

Next Steps

13. The board are invited to consider the findings of the EHRIC inquiry and to discuss the implications for their Local Authority.

Response to EHRIC recommendations

14. We specifically ask the board to approve proposals for immediate activity in response:

- Develop new guidance, training and dissemination activities to improve support for frontline staff subject to additional funding and support from Scottish Government. It would be useful for us to understand what further support Local Authorities would find helpful.
- Develop the role of the NRPF network to strengthen links with third sector, legal practitioners: We would like to understand what level of strategic engagement and collaboration the Board would like COSLA to facilitate and ask for suggestions on how to increase Local Authority engagement.

15. We additionally ask the Board for its views on specific steps that COSLA could take to ensure that local authorities respond effectively to concerns about the implementation of statutory duties.

Future policy development and influencing

16. The Board are also asked to approve further work to develop COSLA policy and increase our lobbying on this issue, in collaboration with Local Authority officers, COSLA Boards and other key stakeholders, as appropriate.

Summary and Recommendations

17. In May 2017, the Scottish Parliament's Equalities and Human Rights Committee (EHRIC) published the final report of its inquiry into the issue of destitution and asylum. The inquiry highlighted a number of issues with implications for Local Government and recommended further actions to improve the way in which Scottish Government and public authorities mitigate this issue. We suggest that this issue is growing in public and political attention and requires further work and policy consideration. This paper is an opportunity for the board to discuss implications of

key findings/changes and to inform the direction of COSLA's future activity in this area.

18. The Board are invited to:

- i. Consider key findings and recommendations from the EHRIC inquiry and discuss the implications for Local Government
- ii. Provide views on proposed actions for COSLA to take in response to the inquiry and approval to pursue further policy development and influencing in this area

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