

Local Connection and Intentionality

Response from Citizens Advice Scotland

April 2019

Citizens Advice Scotland (CAS), our 59 member Citizens Advice Bureaux (CAB) and the Extra Help Unit form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone.

In 2017-18 the Citizens Advice Service network helped over 295,100 clients in Scotland and dealt with almost 800,000 advice issues. With support from the network clients had financial gains of over £138 million and our self-help website Advice in Scotland received approximately 3.2 million page views.

Introduction and context of response

CAS welcomes the opportunity to respond to the Scottish Government's consultation on local connection and intentionality. In 2017/2018, CAB advised on 9,700 issues relating to homelessness. 2,189 of these issues were related to homeless assessments, processes and procedures, including the local connection and intentionality rules.

Commencing the local connection provisions in the Homelessness etc. (Scotland) Act allows Scottish Ministers to modify referrals relating to local connection. The Homelessness and Rough Sleeping Action Group (HARSAG) has recommended that referrals should be suspended between all local authorities for all groups. Do you think we should:

- **Suspend all local connection referrals**
- **Modify local connection referrals in another way**
- **Not commence these provisions**

Please explain your answer.

CAS agrees that referrals should be suspended between all local authorities (LAs). CAB case evidence suggests that both the local connection rule and referrals serve only to prolong the amount of time that a person experiencing crisis has to wait before they can access support. This can increase both financial and mental distress for the individual, which, in turn, can exacerbate physical and mental health conditions. In the worst cases, it can prevent some of the most vulnerable members of our society from accessing any support at all. CAS understands the need to balance LA capacity. However, we believe that people should not be turned away from crisis support simply because they have limited or no connection to the area. We also agree that homeless people often have very good reasons for wanting to live in a chosen area

and that they themselves are best placed to make the judgement as to which area will best meet their needs. Allowing a person to exercise this choice should lead to better outcomes, for example, a higher likelihood of permanent resettlement and avoiding repeat homelessness.

CAB evidence also suggests that a number of LAs overuse local connection rules and referrals. For example, we have seen evidence of some LAs actively discouraging people from exercising their statutory right to make a homeless application as they are 'unlikely to meet the local connection criteria' before a client has been able to explain their circumstances. Others do not conduct a full and proper assessment of a person's circumstances before (sometimes incorrectly) declaring that they do not have a local connection and subsequently referring them to another LA. CAS is also very concerned by evidence of some LAs requiring applicants to move out of temporary accommodation before a referral has been made or accepted by another LA. This risks people receiving no support at all, sometimes leaving them with no choice but to sleep rough. These problems are demonstrated in the case evidence below:

A west of Scotland CAB reports of a local authority that attempted to prevent a client from making a homeless application on the basis that he had no local connection, even though the client had been working in the area for the past two years. The LA then promised him an assessment but did not provide him with temporary accommodation, so he was forced to spend all of his remaining funds on a hotel room. The LA proceeded to refer him to the neighbouring LA, again supposedly on the grounds of no local connection. He feels that he is being passed from pillar to post and states the lack of support is causing him significant distress and impacting on his already poor mental health.

A north of Scotland CAB reports of a client with no fixed abode who had been refused assistance from a number of local authorities on the basis that he has no local connection. The client had struggled to settle anywhere throughout his life and has spent many years travelling round Britain as a result. He now wishes to settle in the north of Scotland as he felt a connection to the area and could see himself living there long-term. He had never felt that about any other area. However, again, he was denied the right to make a homeless application as he had not lived or worked in the area for any length of time.

Please tell us about any potential impacts of suspending referrals relating to local connection for people who are homeless or at risk of homelessness on the following groups:

- **People with multiple and complex needs:**

Suspending referrals may help more people with multiple and complex needs to access support as soon as they require it, rather than forcing them to wait (or, in some cases, preventing them from accessing it at all). This is important as people with such needs already face numerous difficulties in their day-to-day lives and our evidence suggests that any barriers to crisis support

may compound these difficulties. In the worst cases, this may lead to some extremely vulnerable people dropping out of public services altogether, potentially leaving them with no support at all:

An east of Scotland CAB reports of a vulnerable seventeen year-old client with serious mental health problems who was turned away by the local authority as she had no local connection. The client has no parental support and came to the area because she has some extended family and a friend here. The local authority did not offer her temporary accommodation whilst they carried out a homeless assessment, nor did they refer her to another local authority when she was found to have no local connection. She has no money and has been sleeping rough for months. When she presented at the CAB for assistance, she was extremely weak as she had not eaten for days. The CAB was concerned that both her life and health were in danger, so referred her to the Social Care. She also needed a foodbank voucher and a Crisis Grant.

A north of Scotland CAB reports of a client and his wife whose homeless application was declined and referred to the neighbouring local authority, despite having family in the area (two half-brothers, two nephews and a niece). The client's wife, who suffers from learning difficulties, ADHD, a personality disorder and severe anxiety and depression, is extremely distressed and says she cannot cope with the prospect of moving away, as she both likes and feels settled in the current area. This is very important for her mental wellbeing. The local authority neglected to issue written notice of the decision before referring the clients to the neighbouring local authority and also referred the clients before the twenty-one day review period had started.

- **Families with children:**

CAB evidence suggests that the local connection rule and referrals can sometimes be prohibitive for family reunion. Suspending referrals may help to ensure that families can support one another at a time of need, as well as ensure better long-term outcomes for both parents and children:

An east of Scotland CAB reports of a vulnerable client with severe mental and physical health problems who was denied the right to make a homeless application in the Local Authority where his 16 year-old daughter lives on the grounds that he had no local connection. He had actually lived there with his wife and daughter for a number of years before his wife died. His daughter returned to the area two years ago to live with his sister-in-law. The client wants to build a stronger relationship with his daughter and, having recently attempted to take his life, feels he needs her support, as well as that of his sister-in-law. The client has no money, no food and nowhere to go.

A north of Scotland CAB reports of a single parent with two dependent children (aged five and three) who was denied the right to make a homeless application on the grounds that she had no local connection, despite the fact that her children's father lives in the area, as do her extended family. The client was very keen that her children live near their father so that he can be involved in their lives as they grow up. However, she was told that she should return to the area she was living previously, which is at the opposite end of the country.

- **People experiencing domestic abuse:**

CAS does not have case evidence of the impact of local connection referrals on people experiencing domestic abuse. However, if victims know that they have choice in where they can make a homeless application, and if they know they definitely will not be referred back to the same, or perhaps a neighbouring, LA as the perpetrator, it may give them more safety, security and peace of mind to start to rebuild their lives, particularly if it is important for the victim that they are as far away from the perpetrator as possible.

- **People experiencing poverty, disadvantage and/or multiple deprivation:**

The majority of the case evidence detailed above concerns people who have experienced some form of poverty, financial hardship or other form of disadvantage. Commencing these provisions should help to ensure that more people in such circumstances can access the support they need.

- **Local authorities and partner organisations:**

LAs across the board will inevitably face increased demand for services if these provisions are commenced. Some LAs may also experience more demand than others. For example, large urban centres with many employment opportunities may experience more demand than other areas if people decide to move to seek work and no longer need to prove a local connection in order to receive assistance. However, despite these obvious challenges, it is important to note that other social services will likely experience reduced demand if more people are able to access homeless support when they need it. This will also help to ensure better outcomes for individuals, and society as a whole, in both the short and long terms.

Commencing the intentionality provisions in the Homelessness etc. (Scotland) Act 2003 gives authorities a discretion (rather than a duty) as to whether to investigate whether or not a household is intentionally homeless. Do you think we should:

- **Remove the duty on local authorities to assess households for intentionality**
- **Not remove the duty on local authorities to assess households for intentionality**

Please explain your answer.

CAS agrees that Scottish Government should remove the duty on LAs to assess households for intentionality. As with local connection, CAB evidence suggests that the intentionality rule can act as a barrier to vital support for those who have reached crisis point. At worst, this may lead to some extremely vulnerable people dropping out of public services altogether, potentially leaving them with no support at all. Our evidence also suggests that a number of LAs overuse the intentionality rule. For example, some LAs actively discourage (and in some cases prevent) people from exercising their statutory right to make a homeless application as they are 'likely to be found intentionally homeless'. Others do not conduct a full and proper assessment of the person's circumstances before (sometimes incorrectly) declaring them intentionally homeless. CAS is also very concerned by evidence of the many CAB clients who have been forced out of their homes by circumstances that are ultimately out-with their control, but who have been classed as intentionally homeless by the LA. In all cases, it would appear that the LAs have not investigated whether it would actually be reasonable for the person to stay in the accommodation:

An east of Scotland CAB reports of a client who was deemed intentionally homeless, even though regular threat of violence in her neighbourhood meant she could no longer reasonably stay in her accommodation. She also has an extremely volatile relationship with her mother (with whom she shared the accommodation), which further complicated the situation. The client had actually been removed from the accommodation by the Police and was advised not to return for her own safety. However, the client was still classed as intentionally homeless and so was refused any help. She had no money and nowhere to go.

A west of Scotland CAB reports of a vulnerable 67 year-old client who was discouraged from making a homeless application because he would 'likely be classed as intentionally homeless'. The client had recently given up his private tenancy because he had accrued rent arrears and other debts. He was also struggling to afford bills and food (the client's only income is state pension). He did not want to get into any more debt and felt that it would be in every party's best interests for him to give up the tenancy. However, the LA stated that 'it was a complete waste of time as the application would fail at first hurdle' and that it would 'take at least two weeks to get an interview'. The client has numerous physical and mental health conditions and addiction issues. He has no real social connections or support, bar one friend with whom he is currently staying. He states that his housing situation is making his already poor mental health worse.

A north of Scotland CAB reports of a client with learning difficulties and serious mental health problems who was deemed intentionally homeless because he gave up a tenancy that he did not feel safe in. He was then admitted to a psychiatric hospital as his mental health was further declining. Upon discharge, he decided that he wanted to have a fresh start and move to the north of Scotland as he liked the area. However, he was denied any support and forced to sleep rough. He had just £15 to last him until the end of the month.

Please tell us about any potential impacts for people who are homeless or at risk of homelessness, of commencing the intentionality provisions in the Homelessness etc. (Scotland) Act 2003. Please include any positive or negative impacts.

- **People with multiple and complex needs:**

Commencing the intentionality provisions may help more people with multiple and complex needs to access support. As discussed above, our evidence suggests that the difficulties that people with such needs face in their day-to-day lives may be compounded when they face additional barriers to crisis support. In the worse cases, this can leave them in dangerous situations:

An east of Scotland CAB reports of a vulnerable client with learning difficulties and serious mental health problems who was denied the right to make a homeless application as she would 'not meet the criteria' (intentionality and local connection). The client had given up a tenancy in the neighbouring local authority because she did not feel safe there and was experiencing suicidal thoughts (she had attempted suicide in the past). The client was extremely concerned for her personal safety and felt that she would be safer in the city where she had spent most of her life and where she knew some people, so decided to present as homeless there. However, she was automatically deemed to be intentionally homeless and was forced to sleep rough as a result.

A north of Scotland CAB reports of a vulnerable client who had to leave his community due to threat of violence. His mental health was also rapidly deteriorating and he felt he needed the support of his extended family, so decided to move to be near to them. The client was deemed to be intentionally homeless and was told that he should 'return to where he came from', despite the threats to both his personal safety and his mental health. The client also received no written notification of the decision, no formal referral to his previous local authority and no housing options advice.

- **Families with children:**

More families with children may be able to access vital support if the intentionality provisions are commenced. As discussed above, our evidence suggests that LAs do not always fully investigate a family's circumstances before declaring them to be intentionally homeless. This includes whether or not it would actually be reasonable for children to stay in the accommodation. This would help ensure better long-term outcomes for children in particular:

A north of Scotland CAB reports of a vulnerable client and his young son who were automatically classed as intentionally homeless without investigation into their circumstances. They were suffering from harassment at their accommodation, with strangers knocking the door and shouting through the walls about drugs at all hours of the day and night. The client wanted to remove his son from this potentially harmful environment, as well as protect himself from relapse (he is a former addict but has been clean for many years). He had discussed his concerns with his Housing Officer in the hope of arranging a tenancy transfer, but had gotten nowhere, so he felt that he was left with no choice but to leave the tenancy. The client suffers from dissociative identity disorder, depression, spinal problems and Crohn's disease and states that the stress of the situation is exacerbating his health conditions significantly.

- **People experiencing domestic abuse:**

Our evidence suggests some LAs overuse the intentionality rule, which can prevent victims of domestic abuse from accessing crisis support. This can have very serious consequences for the victim, including forcing them to return to the perpetrator, or leaving them with nowhere to go at all. Giving LAs discretion rather than duty to investigate intentionality may help to ensure that this does not happen:

An east of Scotland CAB reports of a young victim of domestic abuse who was deemed intentionally homeless by her own local authority and then by the neighbouring local authority (where she has family) because she has a joint tenancy with her abusive ex-partner. He forced her out of the flat, has both sets of keys and is denying her access to the property. She is scared to return to the property, even just to collect some clothes, and certainly cannot stay there. The client is currently staying with a friend but this is not sustainable.

An east of Scotland CAB reports of a victim of domestic abuse who was informed that she and her three children would be classed as intentionally homeless because she owns a house (her ex-partner was still living there). This left her with no choice but to return to the family house and force her ex-partner to move out so that her children would have somewhere to live. However, he continues to turn up at the house and is emotionally and physically abusive towards her. Similarly, whilst she is now on the waiting list for local authority housing, she will not be given priority points until the family house is sold. She suffers from anxiety and depression and her eldest suffers from ADHD and autism. The client states that her housing situation is exacerbating her mental health conditions.

- **People experiencing poverty, disadvantage and/or multiple deprivation:**

As discussed above, the majority of the case evidence in this response concerns people who have experienced some form of poverty, financial hardship or other form of disadvantage. Commencing these provisions should help to ensure that more people in such circumstances can access the support they need.

The HARSAG recommended narrowing the definition of intentionality to focus only on instances of deliberate manipulation. Please provide your initial views on the advantages and disadvantages of amending the definition. As noted in section 2, we intend to carry out further work on this at a later date and your initial thoughts will help inform this.

CAS agrees that the definition of intentionality should be narrowed to focus only on instances of deliberate manipulation. We recognise that this may lead to increased pressure on already stretched LA homelessness services. However, crucially, it would help to ensure that more people who are genuinely in need of support can access the system. This would be particularly beneficial for people who are declared intentionally homeless but who are actually forced out of their homes by circumstances out-with their control, or for those who already experience multiple barriers and difficulties in their day-to-day lives. It would also help to prevent people from taking advantage of the system, thus ensuring that support is available to those who need it most.

While we are in a position to commence these provisions in 2019 we would welcome your views about the most effective timing, including reasons for your response.

CAS would welcome these provisions in 2019. As discussed above, our evidence suggests that these provisions would help more people to access support when they need it most. This would both reduce pressure on other social services in both the short and long terms, as well as help to ensure better outcomes for individuals, and society as a whole, in both the short and long terms.

Please give us your views on the impact of these proposed changes on people with protected characteristics (age, disability, gender, reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation)

CAS does not have sufficient case evidence to demonstrate the potential impact of the proposed changes on people with protected characteristics. However, as with other groups discussed above, we expect that the proposed changes would help to ensure that more people across the board can access the support they need, including those with protected characteristics.



In relation to local connection and intentionality provisions in homelessness legislation, please outline any other comments you wish to make, including whether you think there may be unintended consequences (you have not mentioned elsewhere) related to commencing these provisions.

We recognise that LAs are already under significant pressure to meet demand for homelessness services and that they will most likely experience increased demand if these provisions are commenced. In order for these provisions to meet their overall policy objectives, they should be complemented by a wider programme of affordable house building, as well as increased resources for LAs to provide temporary accommodation and support to people.