


 SPICe

 The Information Centre
 An t-Ionad Fiosrachaidh

Social Justice and Social Security Committee

**6th Meeting, 2022 (Session 6), Thursday,
3rd February**

Refugees and Asylum Seekers

Introduction

The Committee will hold two evidence sessions on asylum seekers and refugees in Scotland on 3 and 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

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

On 3 February, the Committee will hear from:

- Andrew Morrison, Chief Officer, COSLA Migration, Population & Diversity
- Maggie Brünjes, Chief Executive, Homeless Network Scotland
- Councillor Jennifer Layden, City Convener for Community Empowerment, Equalities and Human Rights, Glasgow City Council
- Pat Togher, Assistant Chief Officer, Public Protection Complex Needs, Glasgow City Health and Social Care Partnership
- Alistair Dinnie, Refugee and Migration Programme Manager, City of Edinburgh Council
- Calum Maciver, Director for Communities, Western Isles Council.

The Committee has received written submissions from COSLA, Bridges Programmes, Scottish Refugee Council and Maryhill Integration Network.

Background and context

Immigration and asylum are reserved matters. However, the Scottish Government supports asylum seekers and refugees in Scotland, as set out in its [New Scots refugee integration strategy 2018-2022](#) (January 2018).

Asylum seekers are people who make a claim to the UK Government for protection (asylum) under the [UN Refugee Convention 1951](#) and are waiting to receive a decision from the Home Office, or from the Court in relation to an appeal.

Refugees are people who have been recognised as having a well-founded fear of persecution in their country of origin for reasons of race, religion, nationality, membership of a particular social group, or political opinion under the UN Refugee Convention 1951. They will be granted five years limited leave to remain and can apply for indefinite leave to remain after five years.

What refugees and asylum seekers are entitled to in Scotland

Table 1 summarises, from the [New Scots strategy](#), what refugees and asylum seekers are entitled to in Scotland.

Table 1: What refugees and asylum seekers are entitled to in Scotland		
	Refugees	Asylum Seekers
Work	Yes	No, though there are exceptions
Right to volunteer	Yes	Yes
Welfare benefits	Yes	No
Housing	Yes	No
School education	Yes	Yes
Further and higher education	Yes, and can apply to have tuition fees paid by the Student Awards Agency for Scotland, if they are studying full time for a first degree or equivalent.	Higher education - There is no legal restriction, however, they will need to support themselves financially or secure a scholarship or bursary, as they are not eligible to apply for student support.

		Further education – Scottish Funding Council waives fees for asylum seekers attending college to study part-time or non-advanced courses. This also applies to full or part-time English for Speakers of Other Languages (ESOL) courses.
Postgraduate education	Yes	Yes - but asylum seekers will need to be able to support themselves financially or secure a scholarship or bursary to cover the costs of tuition and living expenses.
Health	Yes - asylum seekers and people whose claim for asylum has been refused can access health services. Both refugees and asylum seekers living in Scotland are entitled to register with a GP, to access emergency health services, to register with a dentist and to have eye tests. They can access specialist healthcare, as any other patient can, often through a GP referral. This includes maternity care, mental health services and any other services for specific conditions.	

No recourse to public funds (NRPF) is a condition that can be applied to a person's permission to enter (also known as leave to enter) and permission to stay (also known as leave to remain) in the UK¹. It applies to people who are 'subject to immigration control', i.e. people with the immigration status types specified in the table below².

Immigration status	Examples
Requires leave to enter or remain in the UK but does not have it (is without leave)	<ul style="list-style-type: none"> • Visa overstayer • Illegal entrant • Asylum seeker
Has leave to enter or remain in the UK which is subject to a condition that they have no recourse to public funds (NRPF)*	<ul style="list-style-type: none"> • Spouse of a settled person • Tier 4 student and their dependents • Leave to remain under family or private life rules

¹ Home Office (August 2021) [Public Funds: Migrant access to public funds, including social housing, homelessness assistance and social care](#)

² This table is available from Migration Scotland's guidance on [Migrant's Rights and Entitlements](#)

Has leave to enter or remain in the UK that is subject to a maintenance undertaking	Adult dependent relative of a British citizen or person with settled status for first five years they are in the UK
---	---

* When a person has leave to remain with NRPF, 'no public funds' will be written on their immigration document. If there is no such statement then it can be assumed that a person does have recourse to public funds, although they would still need to satisfy the relevant benefit or housing eligibility requirements in order to access these.

Not all temporary migrants are subject to a NRPF condition, including refugees and those granted humanitarian protection.³

The following key points are from [COSLA Migration, Population & Diversity guidance on NRPF](#):

Key points

- The 'no recourse to public funds' (NRPF) condition prevents people from accessing most mainstream social security benefits, homelessness assistance and a local authority allocation of social housing, although there are some exceptions which may mean a particular benefit can be claimed by a person with NRPF.
- A person with NRPF is not prevented from accessing other publicly funded services, although their immigration status or length of residence may be a relevant factor in establishing entitlement to certain services.
- Local authorities have duties to safeguard the welfare of children, young people leaving care and vulnerable adults, which can include providing accommodation and financial support when a person has NRPF and is prevented from accessing mainstream benefits and social housing by their immigration status.
- Local authority staff working across all first points of contact should be aware of the support options that a person with NRPF may have, so that an appropriate referral can be made to the relevant social work team when a family or vulnerable adult is at risk of homelessness.

Eligibility for other benefits

- A person with 'no recourse to public funds' (NRPF) is not prevented from accessing other publicly funded services due to having this condition. However, their nationality, immigration status or length or residence may be a relevant factor in establishing entitlement to some other services.
- Local authorities have the discretion to provide free school meals to children in low-income families that do not meet eligibility requirements due to parents' immigration status. There is also local discretion to provide school clothing grants.
- Many NHS services in Scotland are provided free of charge regardless of a person's immigration status.
- Social services' duties to safeguard the welfare of children, young people leaving care and vulnerable adults may be engaged in order to alleviate destitution when

³ Home Office (August 2021) [Public Funds: Migrant access to public funds, including social housing, homelessness assistance and social care](#)

a person or family is prevented by their immigration status from accessing social security benefits and requires accommodation and financial support.

Theme1: Statistics

The Home Office publishes a range of data on asylum, although there is limited detail based on the settled location of asylum seekers.

The only data available on the location of asylum seekers is for those who are receiving government support. Data is available by region and Local Authority.

Section 95 support

The figures in Table 2 relate to asylum seekers who are in receipt of [Section 95](#) support, under the Immigration and Asylum Act 1999. Section 95 support is available to asylum seekers who would otherwise be destitute. It provides asylum seekers with [housing and £39.63 a week](#) for each person in the household on a debit card (ASPEN card). An asylum seeker who has housing, can apply for the financial support (subsistence) only.

Glasgow is the only Scottish local authority to take part in the UK Government's asylum seeker dispersal scheme. However, it announced a [temporary ban](#) on receiving new asylum seekers in July 2020, to ease pressures, following a stabbing attack at a Glasgow hotel.

Table 2: Those in receipt of section 95 support by Scottish local authority, as at 30 September 2021

Local authority	Dispersed accommodation	Subsistence only	Total
Angus	0	2	2
City of Edinburgh	5	13	18
Clackmannanshire	0	1	1
Dundee City	0	1	1
East Lothian	0	1	1
East Renfrewshire	0	1	1
Falkirk	0	2	2
Fife	0	1	1
Glasgow City	3,481	92	3,573

Midlothian	0	2	2
North Lanarkshire	0	4	4
Renfrewshire	2	3	5
South Lanarkshire	0	4	4
West Lothian	0	1	1
Scotland	3,488	128	3,616

Source: Home Office: Section 95 support by local authority, available at:

<https://www.gov.uk/government/statistical-data-sets/asylum-and-resettlement-datasets>

Resettlement

In addition to dealing with asylum applications for people already in the UK, the UK can grant asylum and other forms of humanitarian protection to people living outside the UK, who are then resettled to the UK.

As explained by the [House of Commons library](#) (September 2021), resettlement to the UK operates through different schemes, rather than one overarching system:

- UK Resettlement Scheme (UKRS) (2021 – present)
- Community Sponsorship (2021 – present)
- Mandate Resettlement Scheme (1995 – present).

Between 2014 and March 2021, three additional resettlement schemes operated:

- Gateway Protection Programme (GPP) (2004- 2021)
- Vulnerable Persons Resettlement Scheme (VPRS) (2014 – 2021)
- Vulnerable Children’s Resettlement Scheme (VCRS) (2016 – 2021).

The UKRS and Community Sponsorship schemes are open to refugees in all parts of the world. The Mandate Scheme is for recognised refugees, anywhere in the world, who have a close family member in the UK willing to accommodate them. The [UK Government works with the UNHCR](#) (United Nations High Commissioner for Refugees), the global refugee agency, to identify refugees who would benefit most from resettlement to the UK under the criteria for each scheme.

The VPRS was specifically for Syrian nationals and the VCRS was for children from the Middle East and North Africa.

For further background, including how the Covid-19 pandemic interrupted the UK’s refugee resettlement activities and led to uncertainty over its future resettlement plans, see the [House of Commons library briefing on refugee resettlement](#) (January 2021).

The UK has resettled 26,969 refugees under the six schemes listed above, between 2014 and 2021.

The number of people resettled under the VPRS, VCRS, and the new UK Resettlement Scheme is available by region and Local Authority. Most of these are Syrian nationals resettled under the VPRS.

The [House of Commons library](#) (September 2021) states that as of June 2021, Scotland had resettled the most refugees relative to its population (10 resettled for every 10,000 inhabitants), compared with other geographic regions.

Table 3 shows the number of refugees that have been resettled in Scottish local authorities.

Table 3: Resettlement by local authority (cumulative), 2014 Q1 to 2021 Q3

Local authority	Vulnerable children resettlement scheme	Vulnerable Persons Resettlement Scheme	UK Resettlement Scheme	Community Sponsorship Scheme	Total
City of Edinburgh	5	484	67	6	562
Glasgow City	155	366	0	0	521
North Ayrshire	0	201	5	0	206
Dundee City	29	170	3	0	202
Aberdeenshire	16	176	6	0	198
South Lanarkshire	0	161	11	0	172
Renfrewshire	8	162	0	0	170
North Lanarkshire	0	154	4	0	158
Fife	0	138	7	0	145
Argyll and Bute	0	128	0	0	128
Aberdeen City	0	108	4	0	112
Clackmannanshire	0	106	0	0	106
West Dunbartonshire	0	105	0	0	105

Inverclyde	13	91	0	0	104
Highland	0	95	0	0	95
Dumfries and Galloway	0	79	0	0	79
East Lothian	0	70	0	0	70
West Lothian	0	66	0	0	66
East Ayrshire	10	51	2	0	63
Falkirk	0	61	0	0	61
East Renfrewshire	0	47	0	0	47
South Ayrshire	0	45	0	0	45
Angus	3	37	0	0	40
Scottish Borders	0	40	0	0	40
Stirling	15	23	1	0	39
Na h-Eileanan Siar	0	34	0	0	34
Perth and Kinross	2	32	0	0	34
Midlothian	0	32	0	0	32
East Dunbartonshire	0	21	0	0	21
Moray	0	20	0	0	20
Orkney Islands	0	18	0	0	18
Shetland Islands	0	7	0	0	7
Scotland	256	3328	110	6	3700

NRPF data

There is no central data on the number of people with NRPF. COSLA and the Scottish Government said in their [submission to the Work and Pensions Committee](#),

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 theme 1, statistics, Members may wish to ask the panel:

- 1. What efforts have been made to improve the data on asylum seekers, refugees and people with no recourse to public funds?**
- 2. Are there figures available on the number of EEA nationals who have no recourse to public funds?**
- 3. What benefit would there be to having more accurate data on asylum seekers, refugees and people with no recourse to public funds?**

Theme 2: 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 takes a human rights-based approach, “including recognising the fundamental right to an adequate standard of living – in particular the right to food, housing and social security, which is essential to ending destitution”.

It builds on the evidence from the former Equalities and Human Rights Committee report on [Hidden Lives - New Beginnings](#) (May 2017), as well as the risks of destitution created by the COVID-19 pandemic and the UK’s exit from the EU.

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.

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)

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.

On theme 2, no recourse to public funds, Members may wish to ask the panel:

4. There was increased pressure on the public and third sector to support people with no recourse to public funds during the pandemic, how have things changed now that Covid-19 restrictions have changed?
5. 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?
6. How is the Ending Destitution Strategy progressing? COSLA has suggested there should be coherence with other strategies, such as Ending Homelessness Together. What is the view of other panel members?
7. While immigration is reserved, COSLA has illustrated examples where funding has been made available in Scotland that supports people with no recourse to public funds, some of this was during the pandemic, but also applies to the Young Carers Grant, and for under 18s, the Best Start Grant and Baby Payment. What other possible ways do you think there are to provide financial support to people with no recourse to public funds, within devolved powers?
8. 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 how they manage to balance resources, and what role the third sector plays to provide assistance to people with NRPF?

Theme 3: 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 ARCS 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.

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.

On [2 September 2021](#), the Cabinet Secretary for the Constitution, External Affairs and Culture, updated the parliament on resettlement under ARAP in Scotland. He said that before June 2021, five Scottish local authorities had welcomed 400 people under the locally employed scheme since 2014. When arrivals were stepped in late June 2021 to the end of August, a further 160 people (43 families) arrived in eight Scottish local authorities. A further 70 individuals (20 families) were expected in the first few weeks of September.

A total of 18 local authorities had confirmed their commitment to resettlement when the statement was made, while others were going through the process of confirming their position. The Cabinet Secretary said that local authorities need more detail on the ACRS to make further decisions on longer term commitments and participation.

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 for the Committee 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 and the implications of this for their future access to rights, entitlements and protection. It suggested the Committee monitor whether resettlement and relocation programmes meet the needs and protect the rights of people seeking refuge in the UK.

On theme 3, Afghan Citizen Resettlement Scheme, Members may wish to ask the panel

8. **How local authorities are supporting Afghan families that have already arrived, and how they are preparing to support future Afghan families?**
9. **COSLA highlighted that there are issues around matching and transfer processes from bridging hotels to local authority accommodation. How does this process work? What are the issues?**
10. **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?**
11. **COSLA has said there needs to more clarity on the implications of different immigration statuses, and what this means for people's rights and entitlements. Could COSLA explain this further, and what is the view of other panel members?**

Theme 4: 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.

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 [First Minister said on the 20 January 2020](#) the Scottish Government is considering the impact of the Bill on devolved areas:

“If we conclude that there is an impact on the legislative competence of this Parliament, we will lodge a legislative consent memorandum, setting out the relevant provisions. There is no doubt, however, that the bill will have significant impacts on devolved services, local authorities and communities.”

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.”

COSLA said that the Committee may want to assess:

- the extent to which local authorities and partners will be able, and are supported, to mitigate these risks
- the ways in which changes impact on devolved safeguarding and protection duties.

On theme 4, Nationality and Borders Bill, Members may wish to ask the panel:

- 12. There has been concern about the impact of the UK Government's Nationality and Borders Bill. The Scottish Refugee Council described it as a threat to refugee rights. What are your specific concerns about the Bill and how might the Bill impact on support provided to asylum seekers and refugees in Scotland?**
- 13. COSLA suggest that there is already an increasing role in supporting Unaccompanied Asylum-Seeking Children, EEA nationals, and other migrants, including new arrivals from Hong Kong. What is the panel's experience of support for this diverse group, and how will the new Bill affect that?**
- 14. What preparations are you able to make to take account of the potential impacts of the Bill?**
- 15. COSLA suggests the Bill might affect devolved safeguarding and protection duties. Can you explain that further?**

Theme 5: Other issues raised

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

They both raised concern about Glasgow's withdrawal from the dispersal scheme. This followed the "tragedies in Glasgow in 2020 where some people lost their lives in institutional asylum accommodation". The concern is how this 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.
- 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.

On theme 5, other issues raised, Members may wish to ask:

16. 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. Can you provide further information on this situation and its impact to asylum seekers and the provision of support?

17. The two submissions from Maryhill Integration Network and Bridges Programme 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
31 January 2022**

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

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