



UKBA ENTITLEMENT TO UKBA SUPPORT / LOCAL AUTHORITY SUPPORT- SCOTLAND

Entitlement to Support

Members of the CSMP will have noted the recent media attention on the costs to Local Authorities who support non-UK nationals under the Social Work (Scotland) Act (S12 and S22). The media has claimed that Local Authorities have experienced an undue burden due to difficulties with the Home Office.

UKBA wish to address 2 issues, namely

- Entitlement to Local Authority Support, and
- Members are invited to note the consequences of a recent High Court judgement (Slough Judgement).

1. Local Authorities are asked to note that S99 of the Immigration Act 1999 which allowed them to support those eligible for Asylum Support and to claim the refund from the Home Office was repealed in 2006 and Local Authorities are no longer eligible to support those who are entitled to UKBA Support.

2. The Slough Judgment

The recent judgement in the House of Lords (case M v Slough Borough Council) has redefined the interpretation of Local Authorities responsibilities to provide support to individuals who require additional support.

Local authorities provide residential accommodation to individuals who by reason of age, illness, disability or any other circumstances are in need of care and attention. As a consequence of the judgement, to now qualify for support, an individual has to have a care need which requires some additional help over and above provision of accommodation, for example, assistance with personal care or household tasks. As a result, a number of individuals currently supported are no longer eligible, and some of these may be eligible for asylum support (section 95/4).

In Scotland, Yvonne Robbie is the UKBA representative who will liaise with local authorities within the region to:

- * provide advice on sections 95 & 4 support, such as the eligibility criteria for this support and how to apply; and
- * ensure that asylum support applications made as a result of the Slough Judgment are flagged up as being sensitive cases. (The forms should be submitted with a covering letter explaining that the applicant wishes to transfer from Local Authority support to asylum support as a result of the Slough Judgment);

The assessment of eligibility of Slough Judgment applicants for asylum support will be undertaken in line with normal procedures, and as the applicants will have health care needs, caseworkers must ensure that appropriate dispersal arrangements are undertaken (Referring to UKBA Policy Bulletin 85 - Dispersing Asylum Seekers with Health Care Needs).

Glasgow City Council has been applying the Slough criteria since the inception of the Westminster judgement therefore it will have little effect in this area of Scotland. Other Local authorities are asked to apply the same criteria to the support structure.

As an additional point to note, UKBA (Yvonne Robbie) has been working with a few Local Authorities and has expressed concern about some of the people who are currently supported by council tax payers. In some instances the clients have

- **never claimed asylum and are in the UK illegally**
- **are a dependant on a visa overstayers status e.g. wife of a student who has not returned on completion of study**
- **already have status in the UK and should be on DWP benefits and in receipt of social housing**
- **have claimed asylum but have not pursued their asylum claim due to the fact that they have ceased contact with the UKBA**
- **have an active asylum claim and be fully entitled to UKBA support.**

We would advise all members that they should be working with the relevant authorities who have the remit for support of non EU nationals. This ensures that:

- **the Local Authority is not acting ultra vires**
- **the client is fully engaged with the immigration process, and**
- **that the correct authority supports the person both through accommodation and finance.**

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