

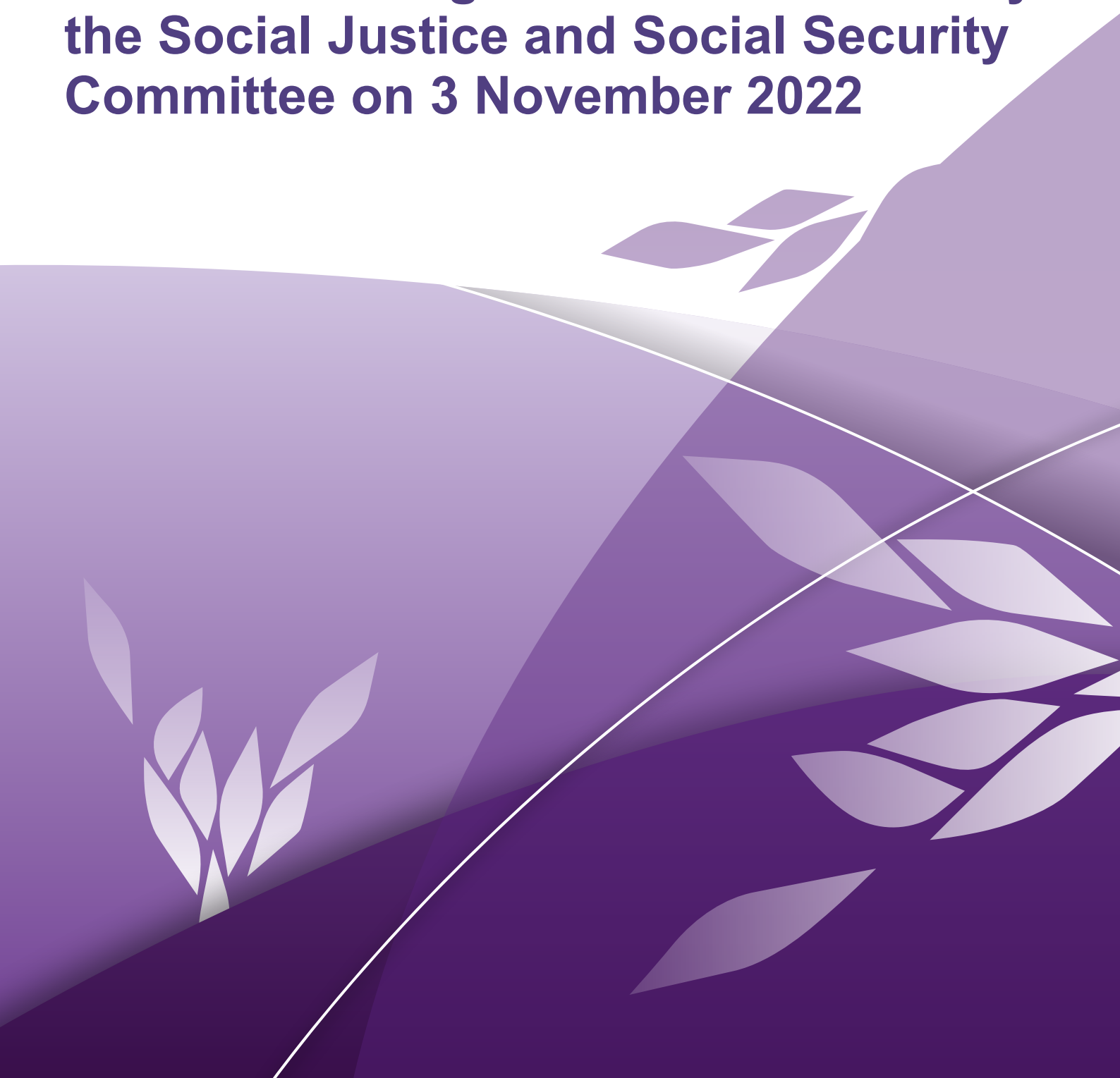


The Scottish Parliament  
Pàrlamaid na h-Alba

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## **Social Justice and Social Security Committee**

# **Subordinate Legislation considered by the Social Justice and Social Security Committee on 3 November 2022**



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# Contents

<b>The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022</b>	<b>1</b>
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# **Social Justice and Social Security Committee**

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice, Housing and Local Government, excluding matters relating to local government, housing and planning.



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# Committee Membership



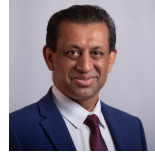
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Scottish National Party

# The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022

1. This report sets out the Social Justice and Social Security Committee's consideration of [The Homeless Persons \(Suspension of Referrals between Local Authorities\) \(Scotland\) Order 2022](#) (28th meeting, 2022). [The minutes of the meeting](#) have been published on the Committee's web page<sup>i</sup>. The [Official Report](#) of the meeting is available on the Scottish Parliament's website.
2. The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022 [draft] was laid on 21 September 2022. This Scottish Statutory Instrument (SSI) was made in exercise of the powers conferred by sections 150(9) and 150A(6), and 189(1) and (4) of the Social Security Administration Act 1992 ('the 1992 Act'). This instrument is subject to the affirmative procedure, which means it is for the Committee to recommend to the Parliament whether the draft regulations be approved.
3. According to the [Policy Note](#), the instrument aims to suspend the discretionary power of all local authorities to refer a homelessness applicant (person or household) without a local connection to another local authority on the basis of the applicant's local connection status to that area.
4. The Scottish Government says that the rules on local connection are changing to allow individuals and households in housing crisis to settle where they choose and with the support they need. This Order would uphold the belief that people who are homeless or are at risk of homelessness generally have good reasons to present to a particular local authority and that these reasons should be acknowledged.
5. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [27 September 2022](#), and made no recommendations in [its report](#) in relation to this instrument.
6. At its meeting on 03 November 2022, the Social Justice and Social Security Committee heard from Shona Robison MSP, Cabinet Secretary for Social Justice, Housing and Local Government.
7. When asked about the reasoning behind the chosen approach, the Cabinet Secretary explained that as local connection powers are currently discretionary, practice and services received by households could be inconsistent across local authorities. She added that changing the rules of referral on local connection is a long-standing commitment of the Scottish Government and is informed by experts.
8. During the evidence session, Members asked questions about potential capacity issues arising from aspirational applications for some local authorities that may not be able to cope with demand. The Cabinet Secretary explained that applications from households without a connection to a local authority are very low at about 5%

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<sup>i</sup> Evelyn Tweed attended the meeting on 3 November as a substitute.

of all applications. She added that a monitoring and reporting framework has been developed and the Scottish Government would engage with local authorities should they require support with capacity issues. The Cabinet Secretary offered to come back to the committee in due time with an update on the performance of the framework.

9. Some Members expressed concerns about the availability of homeless accommodation in cities such as Edinburgh and Glasgow and asked if an impact assessment was carried out to understand what extra accommodation and support services would be needed. The Cabinet Secretary explained that referral numbers from another local authority are relatively small with 10 made in Edinburgh and 20 in Glasgow in 2021-22 and solutions need to be considered as part of a wider housing system with different challenges in different local authorities. She added that she is working with local housing conveners to bring forward relevant proposals and solutions.
10. A Member noted that the Order is a suspension rather than a removal of the discretionary power of all local authorities to refer a homelessness applicant.

Micheila West, Solicitor, Housing Branch, Scottish Government explained that for all 32 local authorities —

” We have used that language because the suspension is specific to Scottish local authorities and referrals between them. In the provision, we have kept in place the ability to refer elsewhere. The language is specific to the local authority.

And that it still leaves the power in relation to someone from a local authority out with Scotland as —

” There is alternative legislation in England and Wales that deals with referrals between local authorities across England, Wales and Scotland. Therefore, if you had a connection with Scotland and were to present to an English local authority, you might, at its discretion, be referred back up here, although I cannot completely talk to the English legislation.

11. Following the evidence session the Cabinet Secretary for Social Justice, Housing and Local Government moved motion S6M-05955—That the Social Justice and Social Security Committee recommends that The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022 [draft] be approved.
12. The motion was agreed to without division.

The Social Justice and Social Security Committee recommends that the Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022 [draft] be approved.

