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16 September 2013

Dear Ms Harvey,

**RE: HC 1039 AND LIMITED LEAVE AS AN UNACCOMPANIED CHILD SEEKING ASYLUM, EFFECT ON ELIGIBILITY FOR HOMELESSNESS SERVICES AND HOUSING ALLOCATIONS**

Thank you for your note regarding the impact of incorporating the policy on granting limited leave to unaccompanied asylum seeking children into the Immigration Rules on the 6<sup>th</sup> April 2013. Apologies for the delay in replying to your letter.

We have been discussing the relevant housing and benefit regulations with officials in the government departments responsible for them and understand that consideration is being given to some changes. For further details you may wish to contact the relevant government departments.

The wording of the regulations did not cover the type of leave awarded to unaccompanied asylum seeking children even before the incorporation of that leave into the immigration rules. However, it is important to mention that the wording has not in practice prevented young persons granted discretionary leave accessing mainstream benefits when they reach 18, subject to other general requirements. (Before the age of 18 they would fall to be supported by local authorities). A person granted the present form of leave (or "Discretionary Leave" under previous arrangements) may not fall within the regulations, but will still be able to access benefits if they meet the Habitual Residence Test. Guidance for decision makers on the factors/issues they have to consider when determining whether someone is factually habitually resident is available on the Department for Work and Pensions website.

In respect to the housing regulations, we have not received any reports from local authorities that the incorporation of the leave into the immigration rules has resulted in an extra financial burden being placed upon them. Unaccompanied children in the asylum system are referred to local authorities for support under the Children Act 1989, with the funding provided by the Home Office. We are not aware of any cases where the local authority has decided to assist them through homelessness legislation. We will of course keep the matter under review and consider any evidence that the changes have had a financial impact. Given our funding responsibilities we do of course discuss these matters with local authorities regularly.

I hope that this response sufficiently answers your concerns. If you require further clarification on the points raised, please do not hesitate to contact me or a member of my team

Yours sincerely,



Lynne Spiers